

Toward a Process View of Negotiations

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Background

Back in 1980, Greg MacFarlan and I were training middle managers in General Electric's Aerospace Division in Utica, New York. We were traveling there quite often to teach a course on Government Procurement and Ethics. During breaks, and over dinner, Greg and I regularly discussed the theory of negotiations. On one occasion, Greg stated:

Negotiation is a process. It is not an event. Negotiators must use a process that has a patina of both emotional engagement and detachment in order to be successful. There are numerous examples of negotiations that fail because the players involved just couldn't resolve how to get the negotiation process completed.

Later, in 1995, Greg reviewed and commented on a book that Michael Walker and I wrote entitled "Negotiations: Six Steps to Success." That book was about following a process to complete the negotiation.

Twenty-six years after these discussions, I am writing this article to build on the idea of following a process to become successful in negotiations.



Current Negotiating Situation

The financial success of most organizations greatly depends on the performance of suppliers and subcontractors. For most organizations, more than 50% of costs are associated with the acquisition of products, components, subcontracted services, subassemblies, and other materials. The ability of contracting and procurement staff to negotiate effectively influences costs, schedules, quality, responsiveness, innovation, and supply chain flexibility.

Most organizations have created policies and procedures manuals to cover the activities of the acquisition process, and the negotiation is typically described in terms of negotiation preparation, negotiation summaries, and inclusion in procurement documentation. In some cases, these manuals include suggested negotiation strategies and tactics. This paper examines various theories and writings about negotiation strategies and accompanying tactics, and presents a comprehensive melding of these approaches for possible use by contracting and procurement staff in their negotiating efforts. Literature published during the period of 1980-2006 will be considered. This will aid in the adoption of legacy and current negotiating approaches to today's acquisition challenges such as increased outsourcing, low-cost-country sourcing, strategic sourcing activities, and total cost management.

Literature Review



The body of knowledge for negotiations includes many different and unique approaches to the negotiation process. Negotiating can be viewed as coordination in an environment of diverse interests and conflicts (Ahdich, 2006). It can also represent how the interrelationship among interests, rights, and power are managed between / among parties (Ury et al, 1988). Completing negotiations using collaboration can address both the relationship and outcome desired by the parties (Lewicki, 1996). Huxham and Vangen (2004) similarly identified collaborative behavior as the best way to ensure that both parties achieve their objectives. Focusing on interests of both parties to the negotiations could lead to a higher level of perceived success (Stepp, 1998). The landmark book “Getting to Yes” (Fisher & Ury, 1980) presented the use of a principled approach to managing negotiations and the expectations of parties versus a positional approach of dividing risks / benefits based on setting forth mutually beneficial options. Concepts such as rational negotiations (Neale & Bazerman, 1992) and breakthrough negotiations (Kolb & Williams, 2001) recommend a more structured, transparent process to achieve effective results.

These approaches can be categorized into three distinct groups:

- Collaborative
- Rational
- Principled.

There are common elements in these approaches, primarily in the area of sharing information.

To implement these approaches to negotiation, theorists devise strategies and tactics. Ury et al (1998) provided criteria to assess the appropriate approach based on



transaction costs, satisfaction with outcomes, effort in the relationship, and durability of negotiated solutions. Using these criteria, the negotiator can choose among approaches tied to interests of the parties, rights of the parties to specific solutions, and power of the parties to influence the outcome. Craver (1988) guides the negotiation through the management of the process by sequentially completing the information phase (data gathering and sharing), followed by a competitive phase (using principled offers, appropriate styles, and targeted arguments), and then reaching a cooperative phase where underlying interests are explored to map against tradeoffs among solutions. Lewicki et al (1996) describes three steps along with tactics, beginning with identifying the problem, understanding the problem, creating alternative solutions, and then selecting the appropriate solution.

Fisher & Ury's (1980) work is deeply embedded in these approaches, particularly in how negotiations define the problem, develop lists of solutions and prioritize the best options for agreement. Further, their concept of the Best Alternative to a Negotiated Agreement (BATNA) provides the negotiator a perspective about potential situations if negotiations are not completed.

Neale & Bizerman (1992) advise negotiators to create a more positive focus in negotiations by sharing how proposals can achieve mutual gains and emphasize the inherent risk in not reaching a satisfactory conclusion. Stepp et al (1998) describes a six step process starting with bargainers defining the issues and ending with crafting options into comprehensive solutions.

Kolb and Williams (2003) define five strategic moves that negotiators should undertake to reach agreement, including enlisting support, providing incentives,



establishing authority and exerting control. In an earlier work, Kolb and Williams (2001) define power, process, and appreciative moves to achieve results.

McKenzie (2005) advocates the use of a standardized negotiating approach. Once key issues are identified, negotiators create a written summary that summarize their points of view. These points are then evaluated for acceptance, modification, or rejection.

A Process Unearthed: The Start and End of the Negotiations Process

The writings over the last 25 years (since “Getting to Yes” by Fisher and Ury was first published) expound on the need for process, techniques, planning, and for decision-making. Can a new process be created based on the writings and learning about negotiations? This new process will be uncovered in the balance of this paper.

Where does the negotiation process truly start? Although it could start at the point where a previous negotiation ended (for common products or services with common participants), it doesn't start there since, in today's business world, everything changes. The negotiation process could start when a seller submits a proposal to the buyer. This could result in surprises, false starts, and quick negotiations (historically not the optimal pacing for a negotiation).

The negotiation process starts at the point where the buyer or seller begins to develop a plan. The plan can be expressed as “complete negotiations by the end of September 2007” or it could include specific negotiation objectives, such as “push for less than a 3% overall reduction in price.”



Theoretically, the negotiation could start in allocating future resources for upcoming negotiations, but this is not realistic and actionable by negotiators. Negotiators need tangible data such as a submitted proposal or a set of sourcing projects that are pre-Request for Proposal (RFP). Time can be allocated more effectively in this case.

Planning entails the development of a plan that determines how the negotiation process will unfold and includes specific ways (techniques) to attempt to achieve these objectives. Negotiators are then given the authority to complete the negotiation within these plans.

When does the negotiation end? It could end at the signature to the contract, or it could end once the record of negotiations is signed by the parties. Theoretically, it could not officially end at these times, as contract changes occur during the life cycle of a procurement. I would like to take a more practical approach, given the average negotiator and the average negotiation, and advocate the following:

The negotiation process ends when the parties have a record of the negotiations (contract, amendment, sales agreement) or have decided that it is not in their best interest to continue.

I would suggest that the negotiators celebrate the closing of negotiations and the signature of the contract.

Filling the Gaps: The Intermediate Steps

Now that the start and end points of a negotiation have been determined, the gaps can be filled with sequential activities. The writings covered earlier speak to



strategy, tactics, and flow. I would like to keep to the big picture, since many of these writings encompass solid thinking and can be used as appropriate.

After a negotiator has begun to develop a plan, the probable next step is to share information with the other party. Based on the literature, the more information about objectives, goals, and reasoning that is shared the better. You can't feel successful about a negotiation unless you have developed a sense of trust with the other party. Deep trust requires multiple negotiation cycles, so a nice beginning to trusting the other party seems appropriate in every negotiation and sharing information can provide this beginning.

Share Information

Enough information should be shared at the outset of the negotiation so that either party can understand the background information associated with the products or services being sold. This could include:

- Sales Philosophy
- Procurement / Acquisition Philosophy
- Financial / Technical / Management Goals
- Timeframe to Complete
- Background of Negotiators

Check with the other party to ensure they have a deep understanding of how you are approaching the negotiation.

Collaboration is the next logical step in the process. The literature review supports this assertion. For parties to collaborate, they must have adequate information



to work with so that data can be assimilated, processed, and combined to evaluate and react to the negotiation environment.



Collaborate

To collaborate means that both parties commit the required resources and time in order to provide support to viewpoints, follow-up on key actions, and jointly perform due diligence. Areas for collaboration include:

- Cost / Price Backup
- Margins
- Technical Fit / Readiness
- Project Management and Quality
- Shared Resources

Ask the other party if they believe that you are effectively collaborating together.

Since most negotiations are complex and deal with multiple diverse factors, the parties must then problem-solve to create workable solutions. Problem solving requires time and resource commitment, dedication of subject matter experts, use of a common methodology, and considering options based on facts and data.

Problem Solve

Many problem solving methodologies are available to use as guides to developing options to satisfy both parties' goals. Key aspects of these types of processes are determining potential solutions to satisfy needs, the use of criteria to judge options, and the creativity and innovation used to uncover potential options.

Important areas to cover include:

- Costs / Benefits
- Return-on-Investment (ROI)
- Cost / Performance



- Trade-off Analysis
- Implementation Scenarios

Track your progress using a problem-solving method jointly with the other party.

The last step before a round of negotiation is complete relates to making decisions. Decisions must be made on the appropriate solutions, options, next steps, and contract terms. A decision to stop negotiating may also be appropriate if the solutions don't meet the needs of the parties.

Decision Making

Ultimately, closing negotiations directly relates to decisions and the solutions that meet the negotiators' goals and objectives. Decision making requires effective criteria, an open environment, near-perfect knowledge of issues / environment, and input from stakeholders. Typical areas needing decisions are:

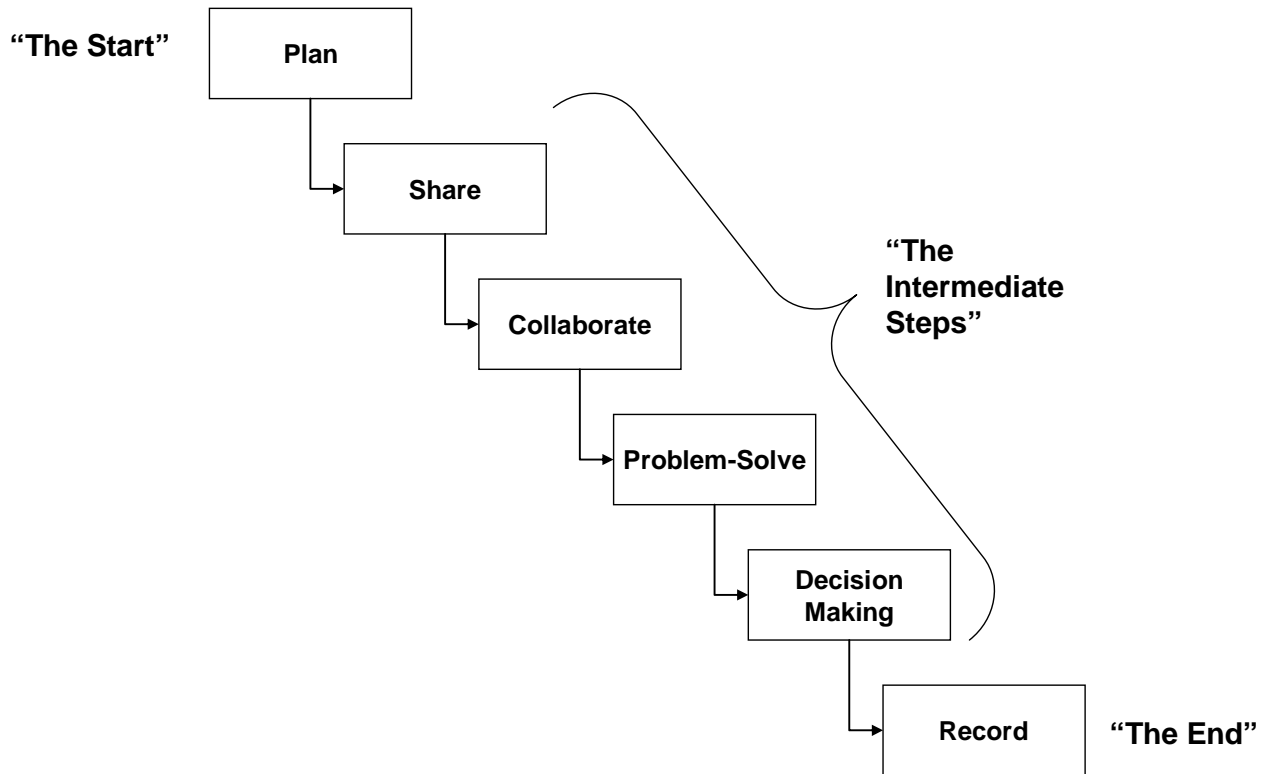
- Total Cost of Ownership
- Project Plan
- Resource Utilization
- Communications Planning
- Change Management

Rank the options against decision criteria. Don't be afraid to tell the other party why you requested a specific option.



The Complete Model

The full model of this process is provided below:



Summary

The literature review supported the need for an effective negotiation process. A new negotiation process has been advocated in this paper that combines the body of knowledge and the author's experience. This process has been offered as a simple, sequential process that combines best practices and logic.

Greg MacFarlan would appreciate this process. If he were to participate, he would say, "By George, I think that you have greatly contributed to the body of knowledge for contracting and procurement professionals worldwide."



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Bibliography

Robert B. Ahdrich, "The Strategy of Boilerplate," *Michigan Law Review* (Volume 108, Issue 5, 2006), p. 1033.

Charles B. Craver, "Negotiation Techniques: How to Keep Br'er Rabbit Out of the Brier Patch," *TRIAL* (June 1988).

Roger Fisher and William Ury, *Getting to Yes – 2nd Edition* (Penguin Books, 1991).

Chris Huxham and Siv Vangen, "Doing Things Collaboratively: Realizing the Advantage or Succumbing to Inertia?," *Organization Dynamics* (No. 2, 2004), pp. 190-201.

Deborah M. Kolb and Judith Williams, "Making Strategic Moves," *Everyday Negotiation* (San Francisco: Jossey-Bass, 2003).

Deborah M. Kolb and Judith Williams, "Breakthrough Bargaining," *Harvard Business Review* (February 2001).

Roy J. Lewicki, Alex. Hiam and Karen W. Olander, "Implementing a Collaborative Strategy," *Think before You Speak* (New York: John Wiley, 1996), pp. 99-119.

Roy J. Lewicki, Alex. Hiam and Karen W. Olander, "Selecting a Strategy," *Think before You Speak* (New York: John Wiley, 1996), pp 54-75.

Roy J. Lewicki, David M. Sauders and Bruce Barry, "Best Practices in Negotiation," *Negotiation* (McGraw-Hill/Irwin, 2005), pp. 517-526.

Diane J.P. MacKenzie, "Controlling the Chaos: A New Approach to Streamlining Outsourcing Negotiations," *IP and Technology Law Journal* (Volume 17, Issue 11, 2005), pp. 1-6.

Margaret A. Neale and Max H. Bazerman, "Negotiating Rationally: The Power and Impact of the Negotiator's Frame," *Academy of Management Executive* (No. 3, 1992), pp. 42-51.

John R. Stepp, Kevin M. Sweeney and Robert L. Johnson, "Interest-Based Negotiation: An Engine-Driving Change," *The Journal for Quality and Participation* (Sep/Oct 1998).



William L. Ury, Jeanne M. Brett and Stephen B. Goldberg, "Three Approaches to Resolving Disputes: Interests, Rights and Power," *Getting Disputes Resolved*, pp. 3-19.

Yajima Yie, Chetan S. Sankar and Victor W.A. Vbarik, "Information Technology Outsourcing and Virtual Teams," *Journal of Computer Information Systems* (Volume 45, Issue 32, 2004/2005), p.p. 9-16.

