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*If you are going to collaborate with other nonprofit organizations,
you need to know how to negotiate.*

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Introduction

Many if not most nonprofit organizations employ a strategy of collaborating with other organizations on programs or projects. Many funding sources – foundations and government agencies – encourage collaboration. In the for-profit sector people speak in terms of competitors. In nonprofits, competitors are often seen as potential collaborators.

The benefits of collaboration may include a more efficient use of resources, making use of complimentary skills, and extending the reach of the program to the constituents of both organizations. A prerequisite should be that the organizations have missions that align, so that the collaboration does not divert either organization from its most important work.

Sometimes collaborations don't work out. Divergent goals, interpersonal differences, distinct organizational cultures – such disparities make it difficult if not impossible for the two organizations to work together efficiently and effectively.

Failed collaboration is rooted in a failure to negotiate an effective agreement between the two parties before anyone commits to the project. Nonprofit leaders usually enter into a collaborative arrangement without going through the rigorous process of deal making that is practiced in the for-profit world. Deals – that is, agreements between two parties to exchange something – require each party to understand its own interests, and to negotiate with the other side in finding a mutually acceptable arrangement. In some cases the deal is simply financial, but often it includes an ongoing relationship, in which each party continues to work with the other.

The practice of negotiation is widely studied. This management briefing presents two approaches. The first, *Getting to Yes: Negotiating Agreement Without Giving In*, by Roger Fisher and William Ury, presents negotiation as a process in which two parties work together to solve a problem. The concepts have been used not only in business deals, but also in major negotiations such as those between the Palestinians and Israelis.

The second approach is presented in *Start with No: Why Win-Win is an Ineffective, Often Disastrous Strategy, and How You Can Beat It*, by Jim Camp. Camp argues against the underlying assumptions in *Getting to Yes*. Instead of conceiving of two parties working together to solve a common problem, he sees adversaries – respected opponents – maneuvering to satisfy their respective interests. Camp's experience is primarily in for-profit deal making, where financial exchange is the paramount consideration. Still, his techniques would be very useful to nonprofit leaders as they prepare to negotiate an agreement to collaborate on a project.

GETTING TO YES

Soft Negotiation	Hard Negotiation	Principled Negotiation
Friends seeking agreement	Adversaries seeking victory	Problem solvers seeking a wise solution (1)
Make concessions to cultivate the relationship	Demand concessions as a condition of the relationship	Separate the people from the problem
Soft on people and problem	Hard on people and problem	Soft on people, hard on problem (2)
Trust others	Distrust others	Process not dependent on trust
Change position easily	Dig in	Focus on interests, not positions (3)
Make offers	Make threats	Explore interests
Find single answer that they will accept	Find single answer that you will accept	Develop multiple options; decide later (4)
Accept one-sided losses to reach agreement	Demand one-sided gains as the price of agreement	Choose options for mutual gains (5)
Insist on agreement	Insist on your position	Insist on using objective criteria (6)
Try to avoid a contest of wills	Try to win a contest of wills	Try to reach a result based on standards independent of will
Yield to pressure	Apply pressure	Reason and be open to reason; yield to principle, not pressure

1. What is a wise solution?

- One that meets the legitimate interests of each side, resolves conflicting interests fairly, is durable, and takes community interests into account.
- It should be efficient
- It should improve or at least not damage the relationship between the parties

2. How to be soft on people (and hard on the problem.)

- Separate the people from the problem. Treat them with understanding, courtesy, and respect.
- People have emotions, values, different backgrounds and view points. They are unpredictable. So are you.
- In a partnership or collaboration you have an interest in the substance of the agreement; you also have an interest in the relationship. In fact the ongoing long term relationship may be more important than the outcome of a particular negotiation.
- Show you are attacking the problem, not them: listen to them with respect, show courtesy, express your appreciation for their time and effort, emphasize your concern with meeting their basic needs.
- People assume they need to know more about the issue at hand; what you need to know more about is how the other side views the issue at hand.
 - Don't assume. Discuss each other's perceptions. "This is how I see the situation...how do you see it?"
 - If they have a negative perception of you, look for opportunities to act inconsistently with their perceptions.
- Face saving: people want to avoid the appearance of backing down. Phrase the solution so that it appears a fair outcome. Make your proposals consistent with their values.
- Emotions: recognize and understand theirs and yours. Ask yourself what is producing the emotions. Acknowledge them as legitimate. On both sides.
 - If necessary, allow the other side to let off steam. Listen quietly. Ask the speaker to continue until he has spoken his last word. Don't react to emotional outbursts. Later, set ground rules, acknowledging that emotions are valid, but can be expressed differently.
- Communications: here are some common issues when parties are attempting to communicate, and what you can do about them

- Speaking to impress third parties: in private seek to understand why the other person needs to impress others, and seek to find a solution that addresses that interest as well as yours.
- Speaking but not listening: practice active listening, repeat back what you heard.
- Misunderstanding: Say “Did I understand correctly that” Phrase it positively from their point of view
- If they appear to misunderstand you: “I’d like to make sure you understood me correctly, tell me how you see my point of view on this....”
- Speak about yourself, not them: I feel, I understand....
- Use symbolic gestures: apologize for misunderstandings; thank them for their time and participation
- Get in step with one another:
 - Pacing – fast or slow
 - Formality – high or low
 - Physical proximity while talking – close or distant
 - Oral or written agreements: which are more binding and inclusive
 - Bluntness: direct or indirect
 - Time frame – short term or long term
 - Scope of relationship – business-only or all-encompassing
 - The expected place of doing business: public or private
 - Who negotiates – equals in status or the most competent for the task
 - Rigidity of commitments – written in stone or meant to be flexible
- Prevention – build a working relationship independent of agreement or disagreement; meet informally
- Face the problem, side by side, not face to face; sit on the same side of the table.
- Create cognitive dissonance: get them to say “Although we disagree, he is a nice person. Let’s see if we can work together.” A rule of thumb: give positive support to the human beings on the other side equal in strength to the vigor with which you emphasize the problem.

3. How to focus on interests, not positions

- A position is a concrete expression of what a party wants. An interest is why the party values that position. For every interest, there are several possible positions.
- The more someone clarifies and defends a position, the more she becomes committed to it.
- Behind opposed positions lie shared and compatible interests, as well as conflicting ones.
- Shared interests, and different but complimentary interests, are the building blocks for wise agreement

- Complimentary interests: Jack Sprat and his wife.
- Each side has multiple interests.
- Every negotiator has constituents to whose interests he must be sensitive
- The most powerful interests are basic human needs
 - Security
 - Economic well being
 - A sense of belonging
 - Recognition
 - Control over one's life
- How to discern and discuss the interests behind the positions of each party:
 - Ask why: what is your basic concern?
 - Ask why not: think about their choice, ask yourself why they have not chosen a position they think you would most likely take – what interest of theirs stands in the way?
 - Make a list of the various interests on each side
 - Talk about your interests, make them come alive, be specific, establish the legitimacy of those interests
 - Acknowledge their interests; people listen better if they feel they have been understood; begin by demonstrating that you appreciate their interests
 - Give your interests and reasoning first, before you present your conclusions or solutions. This avoids making them defensive.
- You will satisfy your interests better if you talk about where you would like to go rather than where you have come from
- Be concrete but flexible – open to fresh ideas. Be firm about your interests, but open about your position.

4. Develop multiple options

- To convert your interests into concrete options, ask yourself: if the other side agrees to go along with me, what do I now think I would like them to go along with? Treat each option as simply illustrative. Commit to your interests, not your position.
- Obstacles to generating multiple options
 - Premature judgment
 - Searching for single answer
 - Assumption of a fixed pie
 - Thinking that “solving their problem is their problem.” We’ve got enough problems of our own; they can solve their own problems.
- What to do about the obstacles:

- Separate inventing options from judging them; separate developing options from decisions
- Have a brainstorming session – with the other side
 - To protect yourself, distinguish the brainstorming session from a negotiating session
- Make a habit of advancing at least two alternatives at the same time
- Use a diagnosis process:
 - Define problem: what’s wrong, symptoms, contrast to preferred situation
 - Analysis: sort symptoms into categories, suggest causes, observe what is lacking, note barriers to resolving the problem
 - Options: possible strategies or prescriptions, theoretical cures, broad ideas about what might be done
 - Action ideas: what specific steps might be taken to deal with the problem?
- Get the perspective of different experts, professions, disciplines

5. How to move from inventing options to making commitments

- Before you even begin to negotiate, envision what a successful agreement might look like for both parties. Imagine what it might be like to implement the agreement. Keep this in mind as you negotiate. Reshape and fill in your vision as more information becomes available.
- Ask for their preferences among several invented options – what is preferable, not merely acceptable.
- Try drafting a few possible agreements, as an aid to clear thinking. Prepare multiple versions, most simple first. What are terms that would be most attractive to them as well as to you.
- Try drafting a framework agreement, with blank spaces to be filled in.
- Dovetail differing interest
 - Look for items that are low cost to you and high benefit to them
- Move toward agreement gradually. As you proceed, agree that all commitments are tentative until you have reached a final, comprehensive agreement. Remember to persist in pursuing your interests, but not in pursuing any particular solution.
- Make their decision easy for them
 - Ask yourself how the other side might justify the agreement to their constituents.
 - No matter how complex the other side’s decision process is, see the problem from the point of view of the person you are dealing with.

- Strengthen that person's hand. Give her arguments that she will need to persuade others. Your job is to give them an easy decision.
- Look for precedent as a way to make the agreement more acceptable.
- Write out what the other side's most powerful critic might say about the decision you are thinking of asking for. Then write out a defense for the other side, just a few sentences. Appreciate their restraints. Helps you generate options that will meet their interests so that they can make a decision that meets yours.
- If you cannot agree
 - Try a provisional agreement
 - Second order agreement – agree on where you disagree
 - Narrow the scope – more manageable units, fewer parties, selected subjects
 - Widen the scope – sweeten the pot

6. Insist on using objective criteria...independent standards

- Some possibilities
 - Fairness
 - Efficiency
 - Scientific merit
 - Precedent
 - Community practice
 - Market value
 - Costs
 - What a court would decide
 - Moral standards
 - Tradition
 - Reciprocity
- Fair procedures – I divide, you choose
 - Taking turns
 - Drawing lots
 - Letting someone else decide
- How to present some objective criteria and procedures to the other side
 - Frame each issue as a joint search for objective criteria
 - Reason and be open to reason as to which standards are most appropriate
 - Never yield to pressure, just to principle

7. BATNA – Best Alternative To a Negotiated Agreement

How far will you go? You need to know your BATNA TO Protect yourself.

Your BATNA: What you will do if you fail to reach an agreement – not the same as your bottom line.

Trip wire – identify an agreement that is far from perfect, but better than your BATNA; when that is reached, take a break and reexamine the situation

Relative negotiating power depends primarily upon how attractive to each is the option of not reaching agreement – not the relative size of budgets, political clout – but by each side's best alternative.

How to generate your BATNA

1. Invent a list of actions you might take if no agreement is reached
2. Improve some of the most promising ideas and convert them into practical alternatives
3. Select the one that seems best.
4. Judge every offer against your BATNA

If your BATNA is extremely attractive, it is in your interest to let the other side know.
If your BATNA is worse for you than the other side thinks, don't disclose it.

Consider their BATNA. The more you can learn of their alternatives, the better prepared you are for negotiation.

The more easily and happily you can walk away from a negotiation, the greater your capacity to affect its outcome.

8. JUJITSU and other means of dealing with unfair tactics

What if they won't play – they insist on positional negotiation rather than principled negotiation.

They attack: asserting their position forcefully, attacking your ideas, attacking you

Sidestep their attack and deflect it against the problem

- Look for the interests behind their position. Treat their position as one option. Seek ways to discuss the principles underlying their position. “Why do you think...”
- Discuss with them hypothetically what would happen if one of their positions was accepted.... Help them to see the downside.
- Invite criticism of your ideas, and examine their negative judgments to discover their underlying interests so that you can improve your ideas from their point of view.
- Turn the situation around and ask their advice. Ask them what they would do in your situation. Lead them to confront your half of the problem.
- Personal attack: allow them to let off steam, show you are listening and understand what they are saying; then recast the situation as an attack on the problem
- Ask questions and pause.
- Consider a third party, one text procedure – shifts from positional bargaining, simplifies process of creating options and deciding jointly – especially useful for multi-party negotiations. (This was used at for the Camp David accord.)

Good phrases to remember:

“Please correct me if I’m wrong”
“We appreciate what you’ve done...”
“Our concern is fairness...”
“Trust is a separate issue...”
“Could I ask a few questions to see whether my facts are right?”
“What is the principle behind your position?”
“Let me see if I understand what you are saying.”
“Let me get back to you.”
“Let me show you where I have trouble following some of your reasoning.”
“One fair solution might be...”
“If we agree...If we disagree....” – BATNA
“It has been a pleasure dealing with you.”

If they use dirty tricks...

General response: Recognize the tactic; raise the issue explicitly; question its legitimacy and desirability; question the tactic, not their personal integrity; insist on using objective criteria.

As a last resort, turn to your BATNA and walk out

Tricks:

- Phony facts – verify what they say

- Ambiguous authority – they let you think they have full authority – then after you have come to an agreement they say they have to check with someone else. Your response should be: “Alright, we will treat this as a joint draft.”
- Physical circumstances – if you feel stress, suggest a change – seating, location, time
- Good guy bad guy – insist on standards; just because the good guy makes a better offer than the bad guy, judge the offer against standards.
- Threats – best response is to be principled
 - Warnings are more legitimate and not as vulnerable to counter threats, and can be useful – “should we fail to reach an agreement it seems highly likely that ...”
- Refusal to negotiate – find out their interest in refusing, talk about their refusal, suggest options, insist on using principles
- Extreme demands – ask for principled justification
- Escalating demands – call it to their attention, take a break, consider the basis for continuing negotiations
- Lock in tactics – public commitment to a position – de-emphasize the commitment so that the other side can more easily back down.
- Calculated delay – consider creating a fading opportunity for the other side – starting talking to another potential collaborator
- “Take it or leave it” – ignore at first, offer options, let them know what they have to lose if not agreement is reached, look for a face saving way for them to change their mind

START WITH NO

1. Your Respected Opponent

Recognize that even if you are hoping to conduct a principled negotiation, the other side is likely to be playing hard. There is a tiger across the table.

Rather than conceiving of a negotiation as two sides sitting at a table trying to solve a problem that has been placed on the table, it is really all about the two sides, you and your adversary. Think of the other side as your adversary, your respected opponent.

Your job is to understand your adversary and manage the negotiation to reach an agreement, without you having to make unnecessary compromises.

Taking a win-win approach often leads to compromises from the start, which may not be necessary.

2. Why you should start with “No.”

Starting with “yes” does not lead to negotiation. Until you know where you and your adversary differ, there is nothing to negotiate. “Maybe” is a mushy word. It doesn’t say where you or your adversary stands.

Only “no” leads to something to talk about. No is a decision that can be explored. No gets the adversary into a rational mode. “No” moves the discussion from emotion to thinking. “No” gets to the essential issues.

“No” is reversible.

Make it clear that you do not take no as a personal rejection, but as an honest decision that can be discussed and possibly reversed. This is preferable to “maybe” which tells you nothing, and to “yes,” which is a nonstarter.

So you must get to a point where you and your adversary disagree, where you say “no” to each other.

3. Focus on what you can control – the means, not the ends

You have no control over results; only means. Think behavior; forget result.

You cannot control the other party’s decisions. You *can* control your own behavior; you *can* control your assessment of their situation, and you *can* control your own decisions.

Your behavior: you do not NEED this deal; you want it, but you do not NEED it. Avoid being needy.

What’s wrong with this exchange: “Hi, I’m Frank Jones.” “Hello Mr. Jones.”
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Talking can be an overt showing of need. So do less talking and more listening.

Don’t worry about rejection. There is nothing you need from them, so they cannot reject you.

Take the Colombo approach: appear to be imperfect, human, vulnerable. By letting your adversary be a little more okay than you, you start to bring down barriers. Let him show off. When the other side feels “un-okay”, the barriers go up.

Respect and politeness are essential, but your adversary does not have to be your friend. Indeed, friendships grow out of long term effective dealings, not the other way round.

Rid yourself of assumptions and expectations about the negotiation and your adversary. Do less talking and ask more questions.

4. Know your mission and purpose

Setting your mission and purpose in the adversary's world allows them to see clearly the benefits that you have to offer them.

Make sure you can clearly articulate your mission and purpose in terms that the other side can understand and appreciate.

5. Tactics for getting information from your adversary

Make a habit of asking questions.

Inhabit your adversary's world, about which you need information

Their answers to your questions build the vision that they need to make decisions. Help them make decisions through your questions.

Good questions are led by an interrogative, not a verb.

Is this the biggest issue we face? v. What is the biggest issue we face?

Is there anything else you need? v. What else do you need?

Do you like what you see? v. What are your thoughts?

Nurturing will keep the negotiation going through thick and thin. Use body language. Relax. Soft on people, hard on issues.

Reversal: answer a question with a question. Combine nurturing and reversal:

That's a good question. Before we get into that, what's the biggest challenge you're facing in this area?

We definitely have to talk about that, but before we go there....

Never answer an unasked question; don't interpret a statement as a question; never reply to random statements. The best way to reply to a provocative statement or leading "unasked" question is to use a connector.

Adversary: "This is way out of line with what I can do."

You (instead of defending or offering a compromise: "Annnnd?")

These tactics help focus the discussion on the real issues.

You should develop the ability to remain with a question until it is answered at least three times. Give your adversary multiple times to look at their decision – to verify, justify, or change it.

You don't want your adversary to get too excited about a proposal – the excitement won't last.

If your adversary is too negative about something, counter by agreeing with them. This opens the door to further discussion.

Win-win is often win-lose because it invites unnecessary compromise, is emotion based not decision based, plays to the heart not the head.