



# 11.255 Negotiation and Dispute Resolution in the Public Sector

Spring 2021

Class #5



## Let's discuss...

- The \$20 Bill Auction, would you participate?

# MUTUAL GAINS APPROACH TO NEGOTIATION

## PREPARE

*Clarify your mandate and  
define your team*

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*Estimate Best Alternative  
to Negotiated  
Agreements (BATNA)—  
yours and theirs*

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*Know your own interests  
and think about their  
interests*

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*Improve your BATNA  
(if possible)*

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*Prepare to suggest  
mutually beneficial  
options*

## CREATE VALUE

*Suspend criticism*

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*Invent without  
committing*

---

*Generate options that  
exploit differences*

---

*Bundle options into  
multiple packages*

## DISTRIBUTE VALUE

*Behave in ways that  
build trust*

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*Identify standards/  
criteria for dividing value  
that all sides can support*

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*Keep at least two  
packages in play*

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*Use neutrals to suggest  
possible distributions*

## FOLLOW THROUGH

*Design nearly self-  
enforcing agreements*

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*Specify mechanisms to  
deal with "predictable  
surprises"*

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*Agree on monitoring  
arrangements, including  
metrics*

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*Keep working to improve  
relationships*



# What is **successful** negotiation?

- Satisfying outcome
  - Works for all parties
  - Long-term commitment
- Efficiently reached
  - Time not wasted
  - Nothing left on table
- Amicably ended
  - Relationship enhanced
  - Future dealings easier

# + Creating value

- Explore interests on each side
  - Suspend criticism
  - Play “what if...” to invent without committing
- Generate options that “make the pie bigger” by exploiting differences
  - Keep playing “what if...?”
- Bundle options into “packages”
  - Build more than one package

# + What it sounds like to explore interests:

- “What are the key things you need from an agreement?”
- “Why is that important to you?”
  - Listen for interests, principles, and assumptions
- “What else is important to you?”
- “Would you prefer [option X] or [option Y]?”
- “Could you live equally with [option X] and [option Y]?”
- “You’ve mentioned [X][Y][Z] as things that matter to you... among these, which is most important?”
- “Would we be moving in the right direction if...?”

# + Distributing value

- Behave in ways that build trust
- Discuss standards or criteria for dividing the “pie”
  - What reasons or criteria are compelling to both sides?
- Keep at least two packages in play
  - Avoid getting positional; keep working with choices and trade-offs
- Use third parties to discuss possible distributions

# + What it sounds like to explore **criteria:**

- “How did you arrive at that?”
- “What makes that fair?”
- “How can I justify this to my people?”
- “What kind of argument would your people need to hear to support this?”
- “How are others (people, organizations) handling this problem?”





## Scenario #2

# The Consensus Building Approach

- Residents of East Side face serious health and environmental risks no one (including the city) left accountable for cleanup
- A new player (a developer) wants to build a new shopping mall
- Residents are concerned about three things:
  - (1) the city will not keep the developer accountable for cleanup prior to development taking place
  - (2) residents were hoping for neighborhood oriented facilities built on site (such as affordable housing, teen recreation center) instead of a mall (primarily for out-of-town shoppers)
  - (3) community should have the final say over what happens
- How would you design a consensus building approach for the decision making process around redevelopment of this site?

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