Lessons From the Field:

A Practitioner's Guide to

Interest-Based Negotiation

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U.S. Department of Health and Human Services

ACKNOWLEDGMENTS

This Guide has been in development for at least 5 years, beginning with the first HHS interest-based negotiation (IBN) experiment in 1991. There were many individuals who contributed to its development.

Michael Walsh, the Labor Relations Officer for the Multi-Regional Bargaining Unit, and his counterparts at the National Treasury Employees Union (NTEU) were the daring pioneers who blazed the trail for IBN at HHS. They took a chance in allowing Maria Mone and the author, Doris Campos-Infantino, to serve as facilitators in the first experiment.

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EXECUTIVE SUMMARY

Background

The level of interest in cooperative approaches to Federal labor-management relations has increased substantially since the issuance of Executive Order 12871 on Labor-Management Partnerships. As a result, more and more union and management groups are experimenting with using interest-based negotiation (IBN) to negotiate collective bargaining agreements. However, these groups are having mixed success. Since 1991, managers and union representatives at the U.S. Department of Health and Human Services (HHS) have successfully negotiated four collective bargaining agreements using an HHS adaptation of facilitated IBN. HHS union and management negotiators and their IBN facilitators successfully completed these negotiations only after overcoming barriers they encountered when applying in practice what were generally accepted tenets in IBN theory. Their process and their lessons learned are captured in this results-oriented Guide for those seeking a practical and flexible way of negotiating using IBN.

What Is IBN?

IBN is a collaborative approach to joint labor-management problem solving. It involves bringing labor and management together to make consensus decisions regarding jointly defined issues in a structured, group problem-solving context. IBN entails a departure from traditional, often adversarial, bargaining to negotiating on the basis of interests without exchanging written proposals. The goal of IBN is to address the concerns of the parties and to improve their relationship in the process. As such, it is an acknowledged, effective means of developing Labor-Management Partnerships. Guiding principles and key tools and techniques characterize the IBN process.

Why Use IBN?

There are many potential advantages to using IBN as an alternative to traditional labor-management negotiations. Using IBN offers the parties the opportunity to:

- Achieve more creative solutions.
- Reach more informed decisions, because the focus is on understanding the interests that must be addressed through the agreement.
- Develop more durable agreements, because the parties buy in to the solutions through consensus.

Why Use IBN? (continued)

- Achieve more satisfying outcomes through solutions generated by getting interests addressed, not by compromise.
- Improve relationships through consensus-building and mutual understanding.
- Make joint decisions that more effectively address the interests of both parties rather than exercising power or rights to achieve an outcome.

Why This Guide?

In their first IBN experiments, HHS management and labor negotiators had difficulty applying the widely taught textbook approach to IBN. HHS negotiators learned that the process could and should be adapted to meet their needs as well as to achieve practical results. This Guide describes the HHS approach to IBN by linking together the theoretical IBN framework with the lessons learned from using IBN at HHS.

The HHS Approach to IBN

The HHS approach is one that balances structure and flexibility, both of which are critical to successful outcomes. To achieve this balance, there are four key factors to the HHS approach that are NOT emphasized in textbook approaches to IBN:

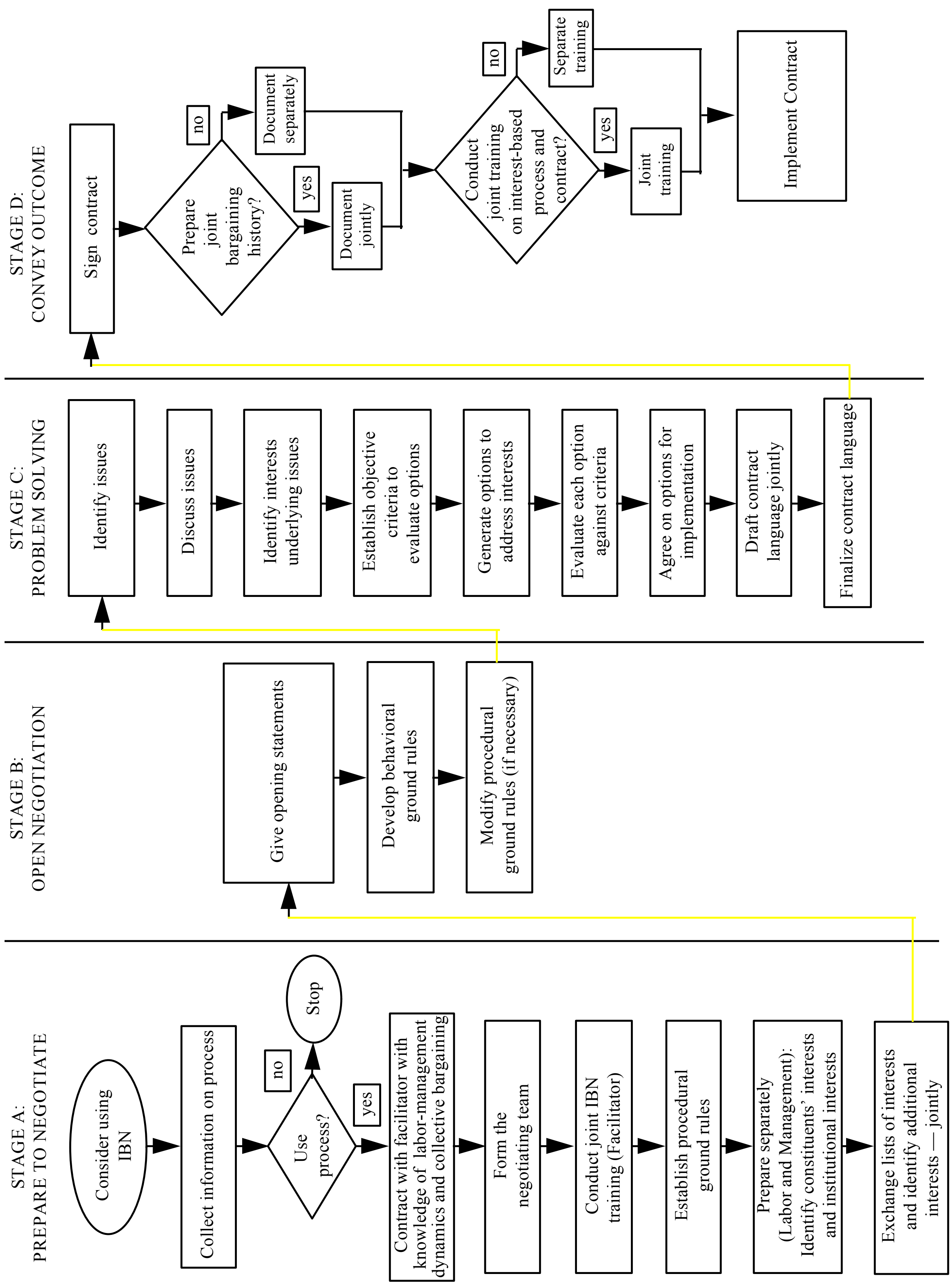
- Emphasis on separate union and management preparation to involve constituents in the process.
- Flexibility in approach as to how the process is applied in order to suit the needs and experience of the parties (e.g., allow elements of traditional negotiation to be used with the IBN process).
- Directive facilitation controlled by the parties to guide them to their goals.
- Strong emphasis on group process tools to isolate expeditiously the areas of agreement and disagreement and to work through the disagreement to build joint solutions.

The flowchart on the next page is a summary of the HHS approach to the IBN process.

For more information on HHS's approach to IBN, including the four key factors, contact the HHS Office of the Assistant Secretary for Management and Budget (ASMB). You can reach HHS on the Internet using one of the following addresses:

- DCAMPOS@OS.DHHS.GOV
- http://www.os.gov/progorg/ohr/lerdhome.htm (home page)

The HHS Approach to the Interest-Based Negotiation (IBN) Process



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PART I: INTRODUCTION

This Guide is intended for parties who wish to negotiate using an interest-based process. It assumes that the parties may be starting out with the experience of having negotiated using traditional, adversarial techniques and are seeking different methods in order to improve both their work products and their relationship.

HHS Experience With Interest-Based Negotiation (IBN)

This Guide is based on the collective experience of several union-management teams who have used interest-based negotiation (IBN) to negotiate collective bargaining agreements for U.S. Department of Health and Human Services (HHS) bargaining units. This Guide presents a practical approach that builds upon the lessons learned by these union-management teams. The following information summarizes the teams' experiences:

- The National Treasury Employees Union (NTEU) and the HHS Multi-Regional Bargaining Unit first experimented with IBN by applying a process initially used in the Government by the U.S. Department of Labor (DOL). HHS and NTEU experimented with the process to negotiate two articles. Later, these HHS and NTEU negotiators built on and modified that IBN process to negotiate an entire agreement.

- The process was further adapted and used by another group of HHS and NTEU negotiators in developing the first collective bargaining agreement for the new Administration for Children and Families (ACF) headquarters bargaining unit.

- Most recently, the American Federation of Government Employees (AFGE) Local 3430 and the Centers for Disease Control and Prevention's (CDC's) National Institute for Occupational Safety and Health (NIOSH) used the process in Morgantown, WV, to negotiate their collective bargaining agreement.

In each of these instances, the IBN process was adapted to meet the parties' needs. As a result, this HHS Guide brings together the practical lessons learned from these experiences with the theoretical framework.

HHS Experience With Interest-Based Negotiation (IBN) (continued)

In their first experience applying the interest-based model used by the DOL, the HHS-NTEU Multi-Regional Bargaining Unit negotiators learned that it is not a seamless transition to move from positional to purely interest-based interaction. In the field of labor-management cooperation, instructors and consultants sometimes convey the impression that when parties decide to use interest-based processes, they must begin to use interest-based techniques and behaviors exclusively. Often, if the parties do not act exclusively in an interest-based manner, or simply if there is contentious disagreement during the negotiations, the parties' perception is that the other is acting in bad faith. Initially, the HHS-NTEU negotiators found that trying to act exclusively "cooperative" led them to avoid conflict on important issues that needed to be resolved in order to make progress.

It is important to make note of two points:

- First, using an interest-based process does not mean the elimination of conflict in the collective bargaining process and/or relationship. In fact, the contrary is true. IBN processes use techniques that focus the parties on their areas of disagreement in order to constructively facilitate their problem solving. IBN works to build agreement through the identification of common ground and joint problem solving. The techniques focus on working through the conflict constructively — in a way that builds cooperation between the parties.

- Second, parties attempting to move toward an interest-based relationship should recognize that there will be a transitional period that might be characterized by some as traditional, positional behavior combined with some interest-oriented behavior. As the parties progress through the process, they build trust and learn to build agreements that meet both parties' needs. Acknowledging the transitional nature of the relationship can help parties be more aware of and patient with their deviations, and help them remind each other to stay focused on the principles they commit to in using the IBN process.

About This Guide

This Guide recognizes the validity of a labor-management relationship in transition. To that end, the reader will notice aspects of the process that include activities more frequently associated with traditional bargaining, such as the use of caucuses. Using such techniques in the context of a labor-management relationship in transition anticipates that the parties will use them differently than they did before — sparingly, and in good faith, rather than often or to irritate, as it can occur in traditional bargaining.

In order to be useful, a guide must be adapted to the needs of the parties. This IBN Guide incorporates many of the adaptations made by HHS and NTEU, as well as CDC and AFGE, during their respective applications of the process. We highly recommend that the process described in this Guide be used as a starting point and then modified by the users to the extent that adaptations will further the accomplishment of their objectives. This Guide includes pointers on where variations or modifications to the process might be useful.

It is important to realize that this Guide is not intended as a stand-alone tool for using IBN. There are two essential complements to using this Guide:

- The assistance of a skilled, neutral facilitator.
- Highly interactive, experiential joint training for the negotiators in IBN concepts, skills, and techniques.

This Guide assumes that the parties will use an experienced facilitator who:

- Is skilled in group problem-solving techniques.
- Has some general knowledge of the dynamics of labor-management relations and collective bargaining relationships.
- Can assist the parties in adapting the IBN process to meet their needs.

Three resources were instrumental in the development of this Guide:

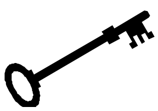
- DOL's "Interest-Based Negotiations: Participant's Guidebook" provided the core process used in this Guide.

About This Guide (continued)

- "The HHS-NTEU Multi-Regional Interest-Based Negotiations Experience — A Case Study" documents the lessons learned by the HHS Multi-Regional Bargaining Unit and NTEU using an interest-based negotiations process.[1]

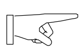
- Getting to Yes by Roger Fisher and William Ury sets forth the principles that provide a conceptual foundation to this interest-based process.

This Guide uses the following icons throughout to help orient you to the type of information you are reading.

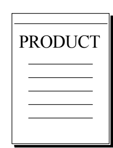


Key pieces of information

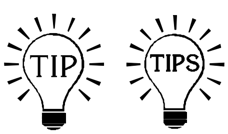
An alternative way of doing something



Other areas of the Guide that contain additional information

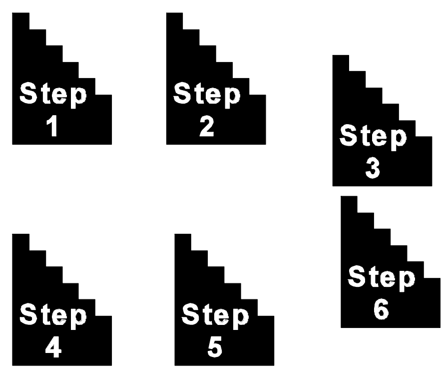


The finished product or output from completing one of the problem-solving steps

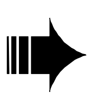


Tips or pointers that are helpful when using IBN

List of activities that are completed in one of the stages or steps of IBN



The problem-solving steps completed in Stage C of the IBN process



One of the activities

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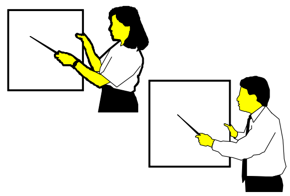
[1] This case study is available by request. Please contact Tom Parrett, Office of Human Resources, ASMB, HHS, at (202) 690-8611, or at TPARRETT@OS.DHHS.GOV on the Internet.

completed in IBN

About This Guide (continued)



How and/or when a facilitator can or should be used in IBN

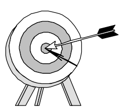
The next part of this Guide discusses the basics of IBN.

PART II: THE BASICS OF INTEREST-BASED NEGOTIATIONS

What Interest-Based Negotiation Is

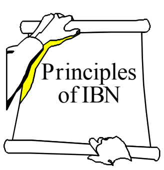
Interest-based negotiation (IBN) is a collaborative approach to joint problem solving. Guiding principles and key tools and techniques characterize IBN.

Goals of IBN



IBN helps the parties get what they need and improves the parties' relationship in the process.

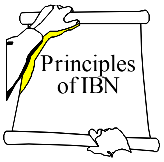
IBN is a move from traditional, positional bargaining, often characterized by adversarial behaviors, to negotiating on the basis of interests. The principles of IBN support the process and suggest how the negotiators should deal with each other.



Principles of IBN

The principles of IBN are presented in the table below:

Principle	Description
Focus on the issue.	Focus on the problem to be solved rather than on the person expressing it. Another way of saying this is to attack the problem, not the person or the constituency he/she represents. This is the "what" to be addressed by the parties.
Explore all interests underlying the issue.	Look for the needs, interests, and concerns underlying the issue. In understanding the interests, the parties will gain the ability to address the concerns more directly in their problem solving. This is the "why" of the problem to be addressed.



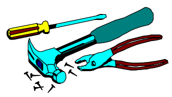
The Principles of IBN (continued)

Principle	Description
Be open to possibilities and opportunities.	Try to look for creative, alternative solutions. These ideas may be a big shift in your usual way of thinking. This is the "how" to address the problem; it differs from predetermined proposals that parties exchange and counter in traditional bargaining.
Satisfy others' interests as well as your own.	Work toward solutions that satisfy the other party's interests and yours, and select those that address both mutual and separate interests.
Use agreed-upon criteria to reach the best solution.	All decisions are made using certain criteria. Reaching a common understanding of criteria to use to jointly evaluate the options is an important part of this process. The "best" solutions will be measured by how well they meets both parties' needs and whether they are acceptable within the known constraints of both parties.

Stages and "Problem-Solving" Steps of IBN

The four stages of IBN correspond to activities that might seem familiar to individuals experienced in traditional bargaining. In the third stage, however, the IBN process includes six problem-solving steps; the majority of the face-to-face negotiating occurs in this stage. These stages and steps are shown in the table below:

Stage A	Prepare for Interest-Based Negotiations.
Stage B	Open Negotiations.
Stage C	Negotiate Using the IBN Problem-Solving Process: Step 1. Select an issue. Step 2. Discuss interests behind the issue. Step 3. Establish criteria used to evaluate options. Step 4. Generate options to address interests. Step 5. Evaluate options using the criteria. Step 6. Develop the solutions and put agreement in writing.



Stage D	Prepare for Implementation of the Agreement.

Tools and Techniques Used in IBN

The tools and techniques used in this IBN Guide are drawn from those commonly used in other group problem-solving methods. They are:

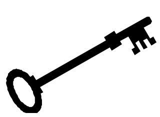
- Consensus
- Brainstorming
- Prioritization processes
- Criterion matrix
- Parking lot
- Caucus
- Projection technology

(See Appendix A, pages A-1 through A-8, for more information on the tools used in IBN.)

Used in the IBN context, these tools and techniques are aimed at:

- Generating a large number of ideas, tapping on each individual's creativity.
- Creating a large pool of choices from which to draw possible solutions.
- Reducing many ideas to a vital few — quickly, with minimal discussion.

These tools and techniques enable the negotiators to focus their analysis and discussion on the issues where the parties have the most differences. This leads to solutions that meet the needs of both parties, to the greatest extent possible. The process is designed first to broaden the number and type of ideas for consideration, then to quickly narrow them to a critical few.



Key Terms Used in IBN

The key terms used in IBN are defined in the table below:

Term	Definition
Issues	The topics or subjects of negotiation, the problems to be solved; often identified as contract articles, sections, or provisions within them.

Positions	One party’s solutions or answers to an issue; they make a demand and set up confrontation before the problems have been defined clearly.
Interests	The concerns, needs, and desires behind an issue; the reasons a party cares about an issue.

Key Terms Used in IBN (continued)

Term	Definition
Criteria	The standards, limits, or parameters used to evaluate and compare options.
Options	The ways of addressing interests, stated as potential solutions or parts of solutions.
Solutions	The outcomes that the parties agree on; those that satisfy as many of the parties' interests as possible.

One of the most important aspects of IBN is making the distinction between positions and interests (especially when developing the lists of interest statements). The table below highlights the significant differences between the two terms:

A position statement:	An interest statement:
Focuses on a particular solution and/or one party's desired solution.	Focuses on the problem.
Makes a demand.	Articulates a concern or a range of needs.
Sets up confrontation before the problem has been defined clearly.	Establishes a climate and common language for discussion so that the real issue or problem can be understood, discussed, and negotiated.

(See pages III-8 and III-10 for some examples of issues, interests, and positions.)

Roles and Responsibilities in IBN

There are several key players in IBN. Each person involved must understand fully his/her role and responsibilities. The key players of IBN are:

- Bargaining Team Coordinator
- Bargaining Team Member
- Advisory Committee Member
- Constituent
- Facilitator
- Notetaker
- Technical Expert
- Third-Party Neutral

(See Appendix B, pages B-1 through B-4, for specific information on roles and responsibilities.)

How IBN Differs From Traditional Bargaining

Fundamentally, IBN and traditional bargaining differ in two ways:

- The negotiators' approaches to the negotiations.
- The assumptions behind the two processes.

Appendix C shows a comparison of the approaches and assumptions behind the two types of negotiating. Note that the term adversarial is often used to describe traditional bargaining. It is described here as such because traditional bargaining is fundamentally adversarial; however, we are not suggesting that traditional, adversarial bargaining is not at all useful. The two types of negotiating offer very different approaches to solving problems.

The users can best decide whether one type of negotiation or the other, or a combination of both types, would best meet their needs in any particular situation. When reading Appendix C, keep in mind that using IBN is a fundamentally different approach — a radical change — in the way parties choose to address their concerns and their relationship.

(See Appendix C, pages C-1 and C-2, for information on the differences in approaches and assumptions of negotiation.)

Why Use IBN?

IBN is strongly encouraged by Executive Order 12871 on Labor-Management Partnerships and is recommended by the National Partnership Council. As a result, a number of Federal agencies and unions have experimented with IBN as a tool to help them establish and/or build partnerships.

Many of these agencies and unions, including HHS, found that using the process is not as easy as it is often theoretically presented. While there are examples of using the IBN process successfully, there are many instances where interest-based negotiations reverted to positional bargaining, or completely broke down. So, why should labor and management consider using IBN?

Labor and management need to consider the potential benefits of using IBN. The IBN process should be looked at as an alternative to the traditional labor-management negotiation process. Using the IBN process provides parties with several potential advantages:

More creative solutions

A traditional solution reached through trade-offs and compromise usually involves both parties settling for something in between their two opposing positions. Solutions reached through the IBN process are not constrained by being tied to positions. IBN solutions are developed creatively by considering multiple options to address as many of the interests of the parties as possible.

More informed decisions

Information is power. In traditional bargaining, where you get what you want by exercising your power and minimizing the other party's power, information (power) is less likely to be shared. This lack of information sharing is often reflected in the quality of agreements reached. In IBN, the parties' goal is to understand each other's interests as completely as possible to generate options that satisfy those interests. In this environment, information sharing is maximized to ensure that each party understands the interests of the other party, and both parties are better able to satisfy their interests.

Why Use IBN? (continued)

More satisfaction with the outcome

When the parties reach agreement by compromise, the agreement is often "half a loaf" to everyone. The parties rarely have a high level of satisfaction with such an agreement. Agreements reached through consensus using the IBN process are much more likely to produce a high level of satisfaction.

More durable agreements

Problems in administering a traditionally negotiated agreement can quickly arise because information often is not fully shared, and an agreement merely reflects some not well-defined middle ground between the parties' two positions on an issue. An IBN agreement has the potential to result in more information sharing and to reflect fully discussed and refined, creative solutions that address the interests of the parties. For these reasons, it is more likely to be a more easily administered and durable agreement.

Improved relationships

The traditional negotiation process can be very adversarial, resulting in more damage than good to the parties' relationship. On the other hand, a key to the IBN process is consensus building, which by its nature involves better mutual understanding and the potential for improved relationships. This benefit is derived from the IBN principle of focusing on the problem to be solved, not the person expressing it. In addition, while IBN may not take less time to complete than traditional negotiation, the savings in time and money from the improved relationship and less problematic contract administration provide a long-term benefit.

Turns the power/rights/interests equation upside down

In traditional labor-management negotiations, most decisions are made by the parties exercising whatever power and rights they have vis-a-vis the issue. The underlying interests of the parties are rarely given much consideration. The IBN process turns this equation upside down. The focus of the process is identifying the interests of the parties and then jointly working to develop options vis-a-vis the issue that address as many of the parties' interests as possible. Of course, the parties still have rights; they do not go away just because IBN is being used. But these rights, and the power possessed by the parties, are not the focus of the parties' search for consensus. This changed focus of the IBN process more effectively gets the parties what they need and provides them an excellent opportunity for the parties to improve their relationship.

Getting Started Using IBN

IBN involves a major shift in thought and behavior. As a result, teams that plan to use IBN to negotiate collective bargaining agreements (or agreements developed in other contexts, such as through partnership council proceedings) must be trained in IBN. Ideally, the facilitator(s) who is (are) selected should conduct the training for the teams.

The union and management team members involved in the process should be trained jointly, because the training is the first step the parties take toward changing the nature of their relationship through IBN. In addition, the training must be experiential, giving the parties the opportunity to practice on an issue of minor importance (or a hypothetical issue). In this way, the parties gain an understanding of the process prior to applying it on high stakes subjects of negotiation.

(See pages III-13 through III-15 for more information on joint training.)

TIP

This IBN Guide is not a stand-alone product! Its effective use requires both negotiators who are jointly trained in IBN, as well as an effective, trained facilitator who has an understanding of the dynamics of labor-management relations and collective bargaining relationships.

PART III:
THE INTEREST-BASED NEGOTIATIONS PROCESS

The information in the box below is a summary of each of the Interest-Based Negotiations (IBN) process stages and steps. Though at first glance this process may seem familiar to the experienced negotiator as generic problem solving, it is applied differently than in traditional bargaining.

Stages and Steps of IBN

Stage A	Prepare for Interest-Based Negotiations.
Stage B	Open Negotiations.
Stage C	Negotiate Using the IBN Problem-Solving Process: Step 1. Select an issue. Step 2. Discuss interests behind the issue. Step 3. Establish criteria used to evaluate options. Step 4. Generate options to address interests. Step 5. Evaluate options using the criteria. Step 6. Develop the solutions and put agreement in writing.
Stage D	Prepare for Implementation of the Agreement.

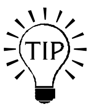
The stages, steps, and associated activities are detailed next.

Stage A. Prepare for Interest-Based Negotiations

The purpose of this stage is to prepare the parties to fully participate in the IBN process and to effectively conduct their representational responsibilities throughout the process. Completing this stage is not something that is simply nice to do; it is crucial to IBN. The degree to which the parties prepare for negotiations will directly affect the ability of the parties to:

- Work effectively together throughout the negotiations.
- Develop mutually acceptable options.
- Successfully implement their agreement.

In this stage, an important aspect of preparation is that both parties be equally prepared for the negotiations, so that there is not an imbalance of participation in the process.



The more effectively a group prepares, the more comfortable the group will be with participating in the process. The power the parties feel is directly related to their degree of preparation. A less prepared team is likely to feel disadvantaged and therefore more suspicious of the other team and of the process. Members of such a team will be less able to make suggestions, on either content or process, and will be more likely to resist the ideas of others (e.g., more informed team members who seem in control, or the facilitator). The perception of neutrality of the facilitator is especially important when the parties are less familiar with the process and less prepared in general.

In this stage, both separate and joint activities are completed:

Activities That Are Completed Separately

Educate yourself on the process and seek information on the other party's interests related to the negotiations process.
Form the team out of representatives of appropriate constituencies, interested parties, and process experts.
Inform key constituents of the process to be used and elicit their input on the issues to be negotiated.
As a (union or management) team, use the information collected from your constituents to develop the list of issues for negotiation.
Develop lists of interests for each of the issues.
As a team, prepare as you would for any collective bargaining.

Stage A. Prepare for Interest-Based Negotiation (continued)

Activities That Are Completed Jointly

Engage a mutually acceptable neutral facilitator or a facilitation team (union, management) to assist the teams in the IBN process.
Jointly train the negotiation teams on the process.
Jointly develop the written ground rules for the negotiations.
Exchange the lists of issues and interests with the other party.
Develop opening remarks expressing a commitment to the IBN process.

TIPS

- These activities are not necessarily sequential. Some of the activities that are completed jointly can be completed at the same time as activities that are completed separately. In other words, the activities do not need to be completed in the order which they are shown, and more than one activity may be completed at one time.

- This Guide differentiates between those activities that are separate and those that are joint. The sooner a skilled facilitator(s) is (are) identified and selected, the more helpful the person(s) can be to the process. Facilitators are often skilled at many of the preparation activities identified here and, when involved at this early stage, can help the parties set the groundwork for successful negotiations.

- For Stage A, also keep in mind the role of the team coordinator. The team coordinator for each party is likely to have the lead role in doing the groundwork for the negotiations, unless he/she delegates the work to others on the team or to the team's support staff.

Educate yourself on the process and seek information on the other party's interests related to the negotiations process.

Although it is important for all those involved in the negotiations to be educated about IBN, this activity usually is completed first by the team coordinator in the process of deciding whether and how to use IBN.

The team coordinator should:

✔ Seek information from other negotiators who have experience using an IBN process.

Educate yourself on the process and seek information on the other party's interests related to the negotiations process. (continued)

- ✔ Elicit their lessons learned and any other information they can offer to parties getting started with IBN.
- ✔ Find out what the other party expects out of the IBN process as well as any concerns they have about proceeding with it. You can ask questions such as:

> - Is either party concerned about the process?
> - Do they want to use the process experimentally first (e.g., other than a term agreement)?
> - Do they want to jump into IBN fully or do they want to take a transitional approach to it, combining elements of traditional bargaining and elements of IBN?

- ✔ The parties' team coordinators then should use this information to jointly decide whether and how to use IBN.

For labor-management groups deciding on their readiness to engage in consensus decision making, a helpful reference is the Committee Effectiveness Training materials developed by the Department of Labor (DOL) and the Federal Mediation and Conciliation Service (FMCS). These materials are available through the Government Printing Office (GPO). Because the IBN process is such a shift from the traditional way of doing business, it is important that the parties (negotiators as well as "principal" constituents) are committed to the change, and fully understand the implications of making the change. This commitment and understanding will also ensure success with IBN.

Form the team out of representatives of appropriate constituencies, interested parties, and process experts.

Negotiation teams are the parties that do the negotiating. To complete this activity,

- ✔ Form the team in the traditional manner.

Bring together representatives of various constituent groups from each organization who will implement the resulting agreement. This is significant because meeting the interests of constituents and successfully implementing the agreement are important elements of the IBN process.

Form the team out of representatives of appropriate constituencies, interested parties, and process experts. (continued)

✔ Include members with both a subject-matter and a group-process focus.

This balance helps a team's ability to keep track of all aspects of the negotiations.

✔ Ensure the parties in the negotiations have the authority to make decisions during the negotiations.

Who sits at the negotiation table often raises the question of authority: Does the negotiators' authority to make decisions differ between traditional negotiations and IBN? It is important in IBN that the negotiation team members have the authority to make decisions during the negotiations. While it is the same in traditional bargaining, it is also generally understood and accepted that the parties check decisions with their principals throughout the negotiations, often during caucuses. Because the IBN process uses consensus decision making at the table, it is essential that the parties entering into consensus decisions can commit to making them. This makes communication with key constituents prior to engaging in the IBN process even more important than in traditional bargaining.

Inform key constituents of the process to be used and elicit their input on the issues to be negotiated.

✔ Identify constituents who have an interest in the outcome.

✔ Inform constituents of the process to be used as well as its supporting principles and expected outcomes.

For the union, these are the representatives and members of the affected bargaining unit and regional or national officials. For management, these are the senior managers, supervisors, general counsel, and non-bargaining unit employees of the affected organization.

It is important that the key constituents understand that the IBN process:

- Requires different inputs (issues and interests vs. positions).
- Ideally yields different outcomes (an agreement that meets both parties' needs vs. "wins" and "losses" for one side or another).
- Uses consensus to arrive at decisions at the table.

Inform key constituents of the process to be used and elicit their input on the issues to be negotiated. (continued)

The team coordinator can share this information with the key constituents through briefings.

✔ In preparing for the negotiations, it is critical that each of the negotiating teams elicit:

- The input of constituents on the issues to be negotiated.
- Their interests concerning these issues.
- Possible criteria to be used in evaluating alternative solutions.
- Options that would satisfy their interests.

✔ Use surveys, focus groups, or other data collection methods to elicit this information.

The most commonly used inputs include information related to disputes with the existing agreement and/or problems implementing the existing agreement. These inputs help define the problem to be solved and the needs (interests) that must be addressed in the new agreement.

✔ Constituents should communicate their interests (i.e., needs, concerns) about the problems to be addressed in the new agreement.

This information will be used by the negotiators in the process. Instead of presenting a single position on an issue, negotiators must represent diverse constituent interests accurately, explaining them in unambiguous, clear language that everyone can understand.

In some of the HHS negotiations, the teams set up "advisory committees" comprised of a broader representation of the constituency than were present on the negotiation team. In a large, diverse organization, it will be difficult to get all the stakeholders or organizations represented "at the table." In this case, it could be helpful to have a group of these representatives available to offer input on interests, criteria, and options throughout the process. However, this is not to be construed as a group that formulates proposals or rebuttals for the negotiation team or as a body from which the team has to get permission.

(See Appendix B, page B-2, for other information on advisory committees.)

Inform key constituents of the process to be used and elicit their input on the issues to be negotiated. (continued)

TIP

If the parties have a ground rule regarding confidentiality, they will need to discuss how they will treat discussions between the teams and their advisory committees or other constituents. These communications could be perceived to be in conflict with a confidentiality agreement. As long as the parties have an understanding about this, they can obtain input on subjects being discussed without revealing confidential information about the actual discussions taking place.

As a (union or management) team, use the information collected from your constituents to develop the list of issues for negotiation.

✔ Develop a list of all of the issues to be addressed during the negotiations.

✔ DO NOT develop positions, or even options for dealing with the issues being negotiated.

It is an important part of the preparation stage that each of the parties compile the input received from their constituents in the form of issues. The teams do this separately at first, as part of their team's substantive preparation for negotiations.

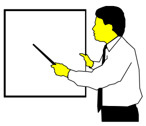
As defined earlier, issues are the problems to be solved in the new agreement. The issues can be listed using any of the following methods:

Method	Example
By article number and/or section	"Article 16 " "Article 16, sections 2(a), 2(b), and 16(F)"
By subject matter	"Official time for union officials" (Article 16)
By a problem statement	"To address problems caused by stewards having insufficient time to handle representational duties. Article 16, sections 2(a), 2(b), and 16(F); and Article 17, section 3(c)."

TIP

The issue statement also should reference places in the current collective bargaining agreement to which the issue applies (see the last example above). The purpose of this is to give the other party a sense of the scope of the topic to be negotiated.

As a (union or management) team, use the information collected from your constituents to develop the list of issues for negotiation. (continued)



Facilitation can be helpful in separate union and management preparation sessions. The facilitator for the negotiations can provide this assistance (as long as he/she is equally available to both parties), or the parties can acquire additional facilitators to use for these sessions.

Develop lists of interests for each of the issues.

✔ Identify the interests behind the issues.

The interests are the reasons why the issue is a concern. The interest statements that are developed should give the reader a sense of why the issue is being raised, that is, why it is a problem. This is difficult to do but essential to the IBN process.

✔ Develop interest statements using brainstorming, and document them on sheets of chart paper. Each interest statement should be a brief phrase (enough to be clear, but not so much that it conveys analysis or a position).

(See Appendix A, pages A-2 and A-3, for more information on brainstorming.)

The list of interest statements below follows the “official time for union officials” example used previously in this section, page III-8.

INTERESTS
(Issue: Official time for union officials)

Quality and timeliness of representation must be improved

Stewards need relief from official duties to process paperwork

The process for approving official requests needs improvement — should be faster

The process for advance approval of official time should be clearly understood by supervisors and union officials

Develop lists of interests for each of the issues. (continued)

✔ Review the list of interests to see if there are any items that sound like positions, solutions, or options. Rewrite these items so that they are stated more clearly as interests (i.e., needs, concerns).

✔ Convert any items that are position statements to interest statements.

The following items are examples of position statements that were raised as interests. However, because they are position statements, they would have to be converted to interest statements.

> Positions Raised As Interests
>
> Provide each steward with 4 hours per week of official time for representational duties.
>
> Establish new procedures for authorizing official time.

Ask the following question if you are having trouble converting a position statement to an interest statement:

> < What need/concern does this satisfy?
> < Why is this important?
> < How is that useful?
> < What will having this do for you?
> < What is that good for?

(See page II-4 for distinctions between position statements and interest statements.)

The interests list should then be typed from the sheets of chart paper, and shared with the other party in the next activity.

Develop lists of interests for each of the issues. (continued)

- Do not worry about capturing every possible interest. At the first face-to-face negotiation session, the parties will have the opportunity to clarify interest statements and to brainstorm additional interests for both parties' issues lists.

- The lists SHOULD NOT contain proposals or proposed "agreement language." If an interest is written in sentences and/or as a paragraph, it is probably overstated and possibly positional.

As a team, prepare as you would for any collective bargaining.

✔ Conduct the legal and regulatory research on the issues being negotiated; the implications of possible options; the legal, regulatory, and fiscal constraints; etc.

IBN negotiators often make the mistake of assuming that all information gathering will be jointly conducted in the IBN process (because it is a joint process). In addition, IBN negotiators often assume that having a technical expert (such as a personnel specialist and/or labor relations specialist) at the table will suffice as a resource for information that may be needed during the negotiations.

Experience indicates that although having technical expertise on the team is extremely valuable to keeping the process moving, it does not replace prenegotiations research. If there is no documentation to share at the table regarding a regulation in question, the negotiators (on the same or other team) are left to "trust" the word of the technical experts, who are often perceived as not neutral.

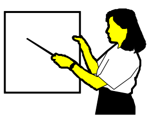
✔ Ensure that documented information (such as copies of applicable rules, regulations, statutes, cases [or summaries], written agreements, departmental, agency-wide, and Government-wide policies, etc.) should be readily accessible during the negotiations so that it can be shared "across the table."

An idea for sharing documentation comes from the experience of one of the HHS teams: prepare a binder for each of the subjects (or articles) being negotiated. In it, place copies of relevant statutes, regulations, and policies. Bring the binder to the negotiations so that information can be shared when it is needed.

Engage a mutually acceptable neutral facilitator or a facilitation team (union, management) to assist the teams in the IBN process.

✔ Identify possible facilitators from available sources and jointly select one facilitator or a facilitation team.

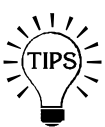
This is an activity team coordinators usually perform. Facilitation can be conducted by either one mutually acceptable neutral facilitator or a facilitation team (union, management). In either case, both parties must agree to the facilitator(s). In the discussion below, the term "facilitator" is used to refer to a single person; however, the same information applies for a facilitation team.



The facilitator is the one who guides the parties through the process and has the opportunity to assist the parties in improving their relationship throughout the process. The acceptance of the facilitator is critical to his/her ability to assist the parties with the IBN process. If the parties do not accept the facilitator, they may resist the IBN process. The facilitator must:

- Be perceived as both neutral and competent for the parties to accept him/her.
- Be skilled in group process, problem solving, and the IBN process.
- Have an understanding of the dynamics of labor-management relations.

✔ The negotiation teams or representatives of the teams should meet jointly with the facilitator and discuss the group's needs as well as roles and responsibilities.



- The ideal facilitation resource is a joint union-management team. A joint facilitation team engenders credibility from both parties and acceptance of the neutrality of the process. The parties will be concerned about the neutrality of the process and of any staff that might influence it. Parties who customarily bargain using a traditional approach and have not had experience with interest-based processes are likely to lack trust in the process and in the use of facilitation.

- Joint facilitation helps the parties trust the process because the assistance provided is more likely to be perceived as not favoring one side over the other. In practice, however, a party may not be able to afford the time needed to make a staff member available to facilitate extended negotiations.

Engage a mutually acceptable neutral facilitator or a facilitation team (union, management) to assist the teams in the IBN process. (continued)

For facilitation of the HHS negotiations mentioned earlier, the parties used experienced HHS facilitators from a component organization, separate from the management team. These facilitators were perceived as sufficiently neutral and acceptable to the union — because they did not have an investment/stake in the agreement to be negotiated and acted independently of both parties.

The alternative to using a joint facilitation team is using a mutually acceptable neutral facilitator. If the parties can only enlist the services of one facilitator, the parties MUST agree on that choice.

(See Appendix D, pages D-1 through D-3, for information on the facilitator's role, selecting a facilitator, and how to manage the facilitation.)

Jointly train the negotiation teams on the process.

It is critical that management and union negotiators receive training together. It provides the parties with a common process, language, etc. It also builds understanding and expectations, because it is the first step toward (re)forming the relationship.

The training itself serves as a kick-off to the negotiations, providing a forum for the negotiators to familiarize themselves with the process and with each other before beginning to negotiate on substantive issues — two elements essential to building trust. In addition, the joint training offers the parties the opportunity to become familiar enough with the process so they can modify it to meet their needs. There are a variety of ways to accomplish joint training.

✔ The facilitator jointly trains the negotiation teams on the IBN process.

Based on the HHS experience, we recommend that the facilitator train the negotiation teams jointly on the process. This method works well because the facilitator already should have been trained in the process. One important benefit of the facilitator conducting the training is that it provides the group and the facilitator an opportunity to:

- Get acquainted with one another.
- Establish rapport and communication channels.
- Begin to sort out group dynamics issues prior to the negotiations.

Jointly train the negotiation teams on the process. (continued)

An alternate way to jointly train the negotiation teams on the process is to have an outside resource conduct the training. This resource can be an instructor or instructors from:

- Federal Mediation and Conciliation Service (FMCS).
- Federal Labor Relations Authority (FLRA).
- Department of Labor (DOL).
- Another Federal agency experienced with IBN.
- A private-sector facilitator who meets the criteria discussed in this Guide.

✔ Include the negotiation facilitator as a co-trainer when an external IBN trainer is used.

This will help the facilitator begin building credibility and rapport with the teams while perhaps gaining some advantages of having an outside trainer. Using an external IBN trainer may lend greater credibility to the process and the tools and techniques used in it. Having "outside experts" instruct the group in IBN may lessen resistance to using the process during the facilitated negotiations. Using external trainers is especially useful when the group has selected an agency employee as a facilitator.

However, there is one caveat to using external IBN trainers. Many of these trainers are proponents of particular IBN models that may not work for the negotiators. If this appears to be the case, negotiators should set up an appointment with the external trainer to work through any differences they have regarding the IBN model to use for the negotiations. Negotiators must keep in mind that any process they use is their process, and it should be flexible enough to meet their needs.

If the facilitator cannot conduct or help conduct the training, there is one last option. The facilitator should at least be involved as a participant in the joint training course for the negotiators so that he/she acquires the common language and understanding of IBN that the negotiators acquire.

✔ The training should include the following:

- IBN principles
- IBN problem-solving process
- Tools and techniques used in IBN, particularly consensus
- Roles and responsibilities in IBN
- Establishment of ground rules

Jointly train the negotiation teams on the process. (continued)

TIP

The use of consensus as an IBN tool/technique should be covered in depth. In addition, the format should be interactive, providing participants with opportunities to practice what they learn as well as to interact with each other. A "just-in-time" training approach (i.e., training is delivered just before the tool/technique is used/applied) works best, because participants are able to immediately apply the concepts learned in the training to the actual negotiation process.

☞ (See Appendix E, pages E-1 and E-2, for more information on IBN training for negotiation teams.)

Jointly develop the written ground rules for the negotiations.

In this activity, two different types of ground rules are developed:

- Procedural ground rules.
- Behavioral ground rules.

Developing formal, written ground rules is a standard practice in labor-management negotiations. These formal, written ground rules generally focus on "procedural" aspects of the negotiations (e.g., scope of bargaining, bargaining schedule, size of teams, logistical issues). For parties transitioning from a traditional approach to an interest-based approach, the items that were historically negotiated into formal, written ground rules may still be negotiated as they have been.

In addition to standard procedural items, parties that are making this transition to IBN develop other procedural ground rules. These often include:

- Agreement to use the IBN process.

- Agreement to adhere to and act consistently with the IBN principles throughout the negotiations.

☞ (See Appendix F, pages F-1 and F-2, for subjects to consider for inclusion in ground rules.)

✔ Use the IBN process to develop procedural ground rules.

This is recommended for parties who wish to use IBN techniques to the maximum extent possible. In fact, the negotiators could get their first real-time practice using the process to develop ground rules.

Jointly develop the written ground rules for the negotiations. (continued)

✔ Use the IBN process to develop informal "behavioral" ground rules.

These ground rules are useful in defining behavioral expectations. Behavioral ground rules are also helpful in establishing the norms that the facilitator and individual team members can refer to when the group dynamics necessitate it (e.g., no side-bars, no interrupting, minimizing outside distractions such as beepers).

(See Appendix F, page F-2, for subjects to consider for inclusion in ground rules.)

TIP

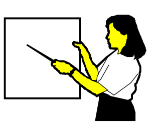
For parties transitioning to IBN, the team coordinators may prenegotiate the procedural ground rules. Then the teams develop the behavioral ground rules through a facilitated joint process.

Exchange the lists of issues and interests with the other party.

✔ Jointly set a date for the team coordinators to exchange the lists of issues and interests.

Exchanging the issues and interests lists before the negotiations gives each team time to prepare effectively. The parties then have time to identify their own interests regarding those issues identified by the other party. The exchange also allows the parties to collect information so that they are prepared to deal with issues and interests of importance to the other party.

✔ In addition to exchanging the lists, the parties can hold a pre-meeting of all the negotiators to present the lists of issues and interests and to clarify their meanings (not to judge their value).



A pre-meeting of this type should be facilitated and should end after the lists have been exchanged and clarified, unless the meeting is also being used to develop the ground rules for negotiation.

(See Step 2 activities on page III-26 for instructions on presenting and clarifying the interests behind the issues. See the information on page III-15 and above for guidance on developing ground rules for negotiations.)

Develop opening remarks expressing a commitment to the IBN process.

Making opening remarks is an important way to start the negotiations. Opening remarks set a tone for the negotiations, which should be positive and express the parties' goals for the negotiations. Each team should develop and present opening remarks, and anyone on the team can make the presentation.

(See Appendix G, page G-1, for suggestions on developing an opening statement.)

Stage B. Open Negotiations

Present the opening remarks to the other party, including your understanding of the subject(s) of negotiation.

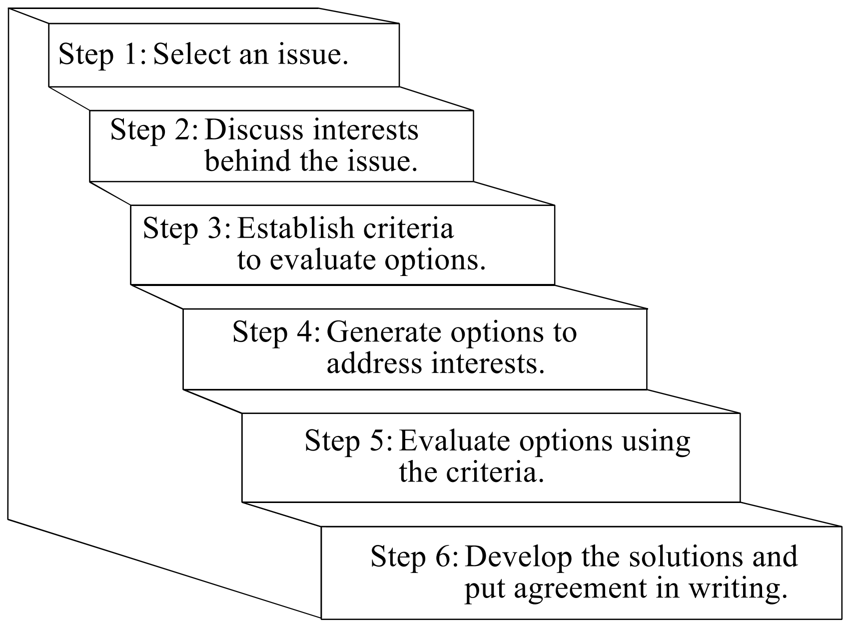
The objective of this stage is to set the tone for the negotiations, enabling the parties to state their commitment to using the IBN process for the negotiations. Frequently, this is the first substantive activity of the negotiations that takes place with all negotiators face to face; because of this, it is an important element in getting the negotiators started in good faith.

(See Appendix G, page G-1, for more suggestions regarding opening remarks.)

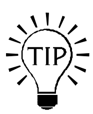
This is the opportunity for the parties to develop behavioral ground rules if they did not do so during joint training. The parties may also modify the procedural ground rules if necessary.

Stage C.   Negotiate Using the IBN Problem-Solving Process

Stage C involves the use of a six-step problem-solving process. Negotiators jointly work through these steps in order to negotiate their issues.



There are different methods of working through this problem-solving process. The method presented here is based on the experience of several union-management teams who used the IBN process to negotiate collective bargaining agreements for HHS bargaining units.



To complete Stage C, our recommended way to get started is to select a small group of approximately two to five issues with which to work (from the lists developed in Stage A). Then, with each of the issues you have selected, complete Steps 1 and 2. For example, take Issue 1 and complete Steps 1 and 2, take Issue 2 and complete Steps 1 and 2, etc. When you have done this for each issue in the group, then complete Steps 3 through 6, one issue at a time. That is, take Issue 1 and complete Steps 3 through 6, take Issue 2 and complete Steps 3 through 6, etc. When you have done this for each issue in the small group, you can go back to the original list of issues, and select another small group of issues with which to work.

The following pages outline Steps 1 through 6 of the problem-solving process. While parties may be working with small groups of issues, this Guide, for purposes of clarity, describes the process as if parties were working through the steps one issue at a time.

Stage C. Negotiate Using the IBN Problem-Solving Process
(continued)

We use the term issues here to describe “all angles” of a given topic/subject to be negotiated. For example, if the parties have chosen to negotiate over official time, there may be several aspects of official time to be negotiated. Each of these may be identified as a separate issue.

Steps 1 and 2 involve discussing the issues and interests developed during preparation, Stage A. This sequence has worked well in HHS experiences. However, an alternative way for the parties to develop lists of issues and interests is not to do so in advance, during the preparation stage, but for the parties to jointly develop a list of issues and interests through a facilitated brainstorming process. This approach tends to work best for smaller, informal groups (a total of six negotiators, for example) and/or with groups that have a trusting relationship.

(See Appendix A, pages A-2 and A-3, for more information on brainstorming.)

Select an issue.

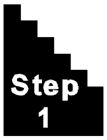
Purpose: The purpose of this step is for participants to decide, by consensus, what they are going to work on first and to reach a common understanding of what that is.

Principle: In this step, the parties apply the IBN principle “focus on the issue” by clarifying and defining the issue the parties will be negotiating.

Prework: Parties often identify an issue as a contract article, section, or provision within it. Or, an issue may simply be a problem that needs to be addressed. In Stage A, Prepare for Interest-Based Negotiations, the parties determined what the term “issue” would mean for their negotiations so that they would have the same expectations and be able to prepare in the same way. Also in Stage A, the parties separately developed a list of issues, based on constituent input and data/information gathering.

For Step 1, the group completes three activities:

Clarify and understand the scope of the issue(s).
Select an issue for negotiation.
Create a joint issue statement.



Select an issue. (continued)

Clarify and understand the scope of the issue(s).

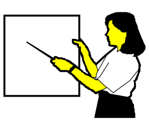
✔ On chart paper, teams display each of their issues in the form of a statement or descriptive phrase. The lists that were compiled during the preparation stage can be displayed as a point of reference.

✔ A member from one team describes the list of issues from his/her team. Other members of the presenting team can elaborate until they feel the information is conveyed adequately.

✔ Members of the other team ask questions and/or restate each issue to confirm their understanding of each issue as it was presented.

✔ Any clarifications are recorded on the chart paper.

✔ The presenting team continues until both teams feel that everyone understands each issue. Then, the second team presents each of their issues following the same procedures.



The facilitator may be helpful during this activity by ensuring that the discussion is open and constructive. The facilitator also serves as timekeeper, reminding the group of the amount of time being spent on the activity, and/or as recorder, capturing clarifications that are made through the discussion.

Even though we are describing the process as if the parties were working through the steps one issue at a time, the parties may wish to do a full review of all of the issues identified for negotiation during the preparation stage as part of beginning their first face-to-face negotiations. This could further clarify the issues prior to their negotiation.

In HHS negotiations, we found that clarifying the issues at several stages (e.g., during preparation, at first face-to-face meeting, and when completing Step 1, issue by issue) helped the parties focus on exactly what they were going to negotiate.

Select an issue for negotiation.

✔ The parties decide, by consensus, which issue to begin negotiating with. This activity may simply serve to clarify whether the parties are taking a large issue (an entire subject with all of its subissues), or if they are dividing up aspects of the overall issue and working through them separately. For example, official time may be the overarching issue. Subissues may be the request/approval process, time limits, documentation/forms/reporting.

As indicated in the above example, there are often similar or related issues on both parties' lists. These issues can be grouped by creating subject-category headings and recording the similar or related issues separately under the appropriate subject-category heading. Grouping similar or related issues together captures the different facets of each issue. (This method is especially helpful when teams are working with a large number of issues.)

Create a joint issue statement.

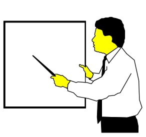
✔ Create a joint issue statement that "captures" and documents the parties' common understanding of an issue. The issue statement can be a phrase, a complete sentence, or several of each — whatever is necessary for achieving and documenting understanding.

✔ Strive to include all perspectives without focusing on the exact wording.

The goal of this activity is to have an issue statement (or several) that describes the area to be addressed — the issue as it is to be negotiated. This does not mean that the parties have to agree on the validity of each issue. Rather, both parties work jointly through this activity to address each issue and gain a common understanding of what each issue means.

TIP

Remember, parties are striving to include all perspectives without focusing on exact wording. Similar or related issues can be combined and simply reworded as one issue statement that captures the common aspects. Keep in mind, however, that grouping similar or related statements may be more helpful than trying to write a joint (combined) issue statement in the form of a sentence.



The facilitator can be helpful during this activity by keeping the group's focus on task. The facilitator should steer the group toward creating a statement or a list of phrases that captures the group's understanding of each issue. The facilitator should also help to minimize debates on semantics (a common problem at this point in the process).

Step 1 Select an issue. (continued)

PRODUCT

The final product of Step 1 is the list of issues as they are commonly understood by the parties, recorded as issue statements (complete sentences) or descriptive phrases. These might be categorized if there are a large number of issues or if the issues are broad and need to be sub-categorized. This product is the list of issues that the parties will address throughout the rest of the process. (This list is usually recorded on chart paper as well as on regular paper.)

During the development of ground rules, parties should have decided two things about their completed list of issue statements: 1) whether the overall list of issues can be supplemented, and 2) if so, how and when the parties may add to it. Parties may want to review their ground rules to ensure they follow the guidelines upon which they previously decided.

Step 2 Discuss interests behind the issue.

Purpose: The purpose of this step is to exchange the parties' lists of interests for each issue.

Principle: In this step, the parties apply the IBN principle "explore all interests underlying the issue." By doing so, the parties will be prepared to generate options that address these needs/concerns.

Prework: Before Step 2 (either in Stage A or between Steps 1 and 2), each party separately generated a list of interests for each of the issues. These interests reflect the needs, concerns, and problems identified through the constituents' input.

Step 2

Discuss interests behind the issue. (continued)

For Step 2, the parties jointly complete six activities:

Present each party's interests.
Seek clarification of expressed interests as needed.
Brainstorm additional interests.
Identify interests from any items stated as positions.
Restate the issue(s) when necessary.
Identify mutual and separate interests.

Present each party's interests.

- ✔ The parties identify the issue selected in Step 1 with which to begin.
- ✔ A member of each team presents the list of interests for the selected issue.
- ✔ Working with the selected issue, the parties alternate presenting the list of interests corresponding to the issue. (Lists of interests have been previously recorded on separate sheets of chart paper — one list of interests for each issue.)

Seek clarification of expressed interests as needed.

- ✔ Members of either team can ask clarifying questions so that they fully understand the interest(s) being expressed.
- ✔ Clarifications are captured on the chart paper.

Step 2

Discuss interests behind the issue. (continued)

Brainstorm additional interests.

✔ Negotiators can add interests to the lists. This is an opportunity to identify new interests as a result of the parties' presentation and discussion.

For this activity, the facilitator can lead a structured brainstorming process, if desired. At this early stage, it is generally helpful to use a structured process (going around to each participant in sequence), because the parties are in a trust-building mode.

(See Appendix A, pages A-2 and A-3, for more information on brainstorming.)

Identify interests from any items stated as positions.

✔ Review the list and identify any interests that sound like positions, solutions, or options.

✔ Parties convert position statements to interest statements.

This is an essential activity, because the interests drive the rest of the process. Success in the process depends largely on clearly expressed interests.

TIPS

Members of either party may offer suggestions for restating the position as an interest statement, as long as it captures the author's intent.

■ The following are some helpful questions that parties can use to successfully complete this activity:

< What need/concern does this satisfy?
< Why is this important?
< How is that useful?
< What will having this do for you?
< What is that good for?

■ In converting position statements to interest statements, there are some potential pitfalls. Questioning and restating must be done in a nonjudgmental manner, especially if the need for this clarification is in response to one or a few individuals who have a strongly held view. If this is not done in a nonjudgmental manner, it could result in the person(s) feeling badgered because he/she could not come up with "the right words."

Discuss interests behind the issue. (continued)

The facilitator's role here is to: 1) point out any statement worded as a position statement (a statement that is telling how), and 2) guide the process of rewording it as an interest statement (so that the statement is telling why).

The parties may need a just-in-time review of the definitions of interest and position statements, which the facilitator should then provide.

This activity can be a trouble spot if the discussion becomes a debate on semantics. The facilitator helps the parties stay focused on reaching understanding about the interests, but not agreement on their validity.

Restate the issue(s) when necessary.

Sometimes the parties lose sight of what the interests relate to. Restating the issue reminds parties of the big picture — the interests are those interests associated with the issue to be addressed through these negotiations.

Identify mutual and separate interests.

While this activity can be helpful to clarify the interests and to identify common ground, it is not a critical activity. Ultimately, when developing solutions, you will be working to address both mutual and separate interests.

The parties complete this activity as a group, in order to: 1) identify those interests that are mutual on both lists, and 2) acknowledge those interests that remain separate.

It is important for parties to recognize that separate interests are valid in this process. Separate interests are not necessarily bad, because they are often complementary, and beneficial to address in the context of the relationship. For example, some interests might be purely institutional interests, such as furthering a need of the union or of management. Addressing these interests will foster the relationship of the parties if, through the process, their needs in their respective roles are met.

Step 2

Discuss interests behind the issue. (continued)

✔ The lists of interests (for the same issue) are posted side by side.

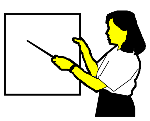
✔ A member of each party stands next to his/her party's list to serve as a recorder.

✔ All negotiators offer suggestions as to where they think interests are mutual. (Mutual interests may be same or similar interests found on both lists; however, the parties may also determine that an interest appearing on only one list is an interest that is also held by the other party.)

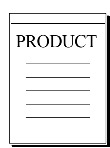
✔ Mutual interests are given a symbol such as *, #, ▸, ◂, ●, ○, ♦, etc. (It is recommended that letters of the alphabet and numbers not be used, because they can indicate priority, sequence, etc.)

TIP

Sometimes during this activity, participants suggest using a combining process in which duplicated interests are combined. Because the interests will not be prioritized or eliminated, this combining process is only useful for clarification purposes.



The facilitator must manage this process since it could distract the parties from the main activities. A general guideline to follow is this: if there is a lot of discussion and there are several different points of view on whether or not interests are the same and/or whether or not they should be combined, leave the interests as separate items. The discussion will have served to clarify the differences.



At the end of Step 2, parties will have a complete list of the joint and separate interests that need to be addressed by the agreed-upon solutions at the end of the process.

The parties will also have a sense of the mutual and separate interests that must be addressed in order to solve the problem(s) identified as issues. Parties usually begin building trust at this stage, by recognizing their commonalities and also by acknowledging and validating interests unique to each party.

Step 2

Discuss interests behind the issue. (continued)

Keep in mind also that the parties' current relationship will affect their interaction. If parties are making an effort to "get along" and be cooperative, they are more likely to try to avoid conflict. This could be a problem. For example, the constituents' interests will probably be in conflict on many of the issues. These conflicting interests must be raised, discussed, and understood (in the IBN forum), even if it means there will be some conflict.

Step 3

Establish criteria to evaluate options.

Purpose: The purpose of this step is to develop a set of criteria against which solutions will be evaluated to determine their viability.

Principle: In this step, the parties apply the principle "use agreed-upon criteria to reach the best solution."

Prework: Parties should have completed Steps 1 and 2 (for the issue(s) they have selected) before beginning Step 3. In Stage A, Prepare for Interest-Based Negotiations, the parties should have collected input from their constituents on possible criteria to be used in evaluating solutions.

In this step, the parties generate criteria, define them, and agree on a few by consensus. All decision makers have limits, or parameters for the decisions they make. This step makes explicit what these parameters are for each of the parties. This step also raises the parties' level of understanding about what will affect the parties' choices of options later in the process.

This step gives the parties the opportunity to develop jointly defined parameters for the outcomes of the negotiations. The list of options that will be generated through brainstorming in Step 4 will need to be reduced, because not all ideas are desirable, acceptable, or able to be implemented. Clearly defined, jointly developed criteria will be used to reduce the list of all possible options to a list of acceptable options. Later, in Step 6, the parties recast these options into solutions.

Step 3 Establish criteria to evaluate options. (continued)

TIP

Other IBN processes reverse the sequence of establishing criteria and generating options. The participants involved in the HHS IBN negotiations mentioned previously reported that generating options first biases the process of developing criteria. Participants may be placed in a position of proposing criteria to support their options. The parties are more likely to develop joint criteria objectively if they determine criteria prior to generating options.

For Step 3, the parties jointly complete four activities:

Generate a list of possible criteria, qualities of an acceptable solution.
Discuss and define possible criteria; combine overlapping criteria; reword criteria stated in the negative.
Reduce the list to four to six criteria.
Reach consensus on a final, reduced list of criteria (four to six) and on their definitions.

Generate a list of possible criteria, qualities of an acceptable solution.

✔ Using brainstorming, participants generate ideas of limits/parameters for solutions. Brainstorming can help get the list generated, but in this case, it may not be a long process.

The facilitator can be helpful during brainstorming by providing structure to the process, ensuring that all participants have the opportunity to offer ideas in their own words. This structured brainstorming process (going around to every participant in sequence) is highly recommended at this step because all participants should be involved in developing the criteria used to narrow the list of options. All ideas should be recorded on chart paper and posted visibly.

Step 3

Establish criteria to evaluate options. (continued)

To help focus the brainstorming activity, the facilitator may ask questions such as:

- What qualities must any solutions/outcomes to these negotiations have?
- What must the solutions/outcomes do/be to be acceptable to our constituents?
- What limits or parameters do we have in making decisions on this subject?

The following are examples of criteria that have been used in HHS negotiations:

- Meets both parties' needs
- Ratifiable
- Flexible
- Equitable and fair
- Practical
- Legal

TIP

Participants often are stymied by semantics here, by suggesting ideas that are either broader or narrower versions of the same criterion, or by suggesting similar criteria that are worded differently. During brainstorming, participants should not focus on defining the criteria. All ideas should be encouraged to surface. This helps with subsequent definition development, and generates discussion that helps the parties clarify what they see as important.

(See Appendix A, pages A-2 and A-3, for more information on brainstorming.)

Step 3

Establish criteria to evaluate options. (continued)

Discuss and define possible criteria; combine overlapping criteria; reword criteria stated in the negative.

✔ The parties ask each other clarifying questions to reach understanding on the meaning of the criteria listed.

✔ Criteria may be combined or eliminated if the participants who offer them agree that they have similar or the same meaning.

That is, one criterion can be crossed off the list with the understanding that another criterion includes it. In addition, the words in both criteria can be included as the same criterion; or a new word (phrase) that captures both criteria can replace both of them. It is up to the individual who offered the criterion to explain its meaning and determine whether it should be combined with another, or dropped because it duplicates another.

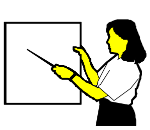
When participating in the brainstorming process, individuals offer their own ideas. It is the ideas of each individual that get clarified. If, during the clarification process, others see a different perspective on the item posted, that perspective can be added to the list as a separate idea. It is important to the integrity of the brainstorming process that an individual's ideas are not changed without that individual's agreement to do so.

TIP

Even though an individual's idea should not be modified without his/her agreement to do so, no ideas should be dropped unless the whole group agrees by consensus to do so. Once offered, ideas become the group's. That is, if an individual wishes to withdraw an idea he/she initially offered, it cannot be withdrawn unless there is consensus to do so. Others may have offered alternatives to the initial idea or may not have offered any ideas, having felt that the initial idea adequately addressed the interests.

✔ Criteria should be reworded as positive statements if initially worded in the negative.

It is confusing to evaluate options against both positive and negative measures. For example, checking an option against the criterion of "not implementable" may have a response of "yes." Having an option that is "not implementable" would be undesirable; but the response of "yes" is confusing, because it is positive.



The facilitator can be helpful in noting statements that need to be reworded, keeping the activity brief because the focus of energy should be on completing a final list of criteria.

Establish criteria to evaluate options. (continued)

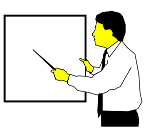
Reduce the list to four to six criteria.

✔ If brainstorming yields a large number of criteria, use a prioritization technique such as multi-voting or rule-of-reduction to reduce the list of criteria for consideration.

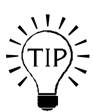
The outcome of prioritizing is not the final list of criteria; it is only to help guide discussion. (This needs to be clear to participants so they do not place a great stake in the mechanics of the prioritization process.)

☞ (See Appendix A, pages A-3 and A-4, for more information on prioritization processes.)

If the parties prefer (when there are not too many possible criteria), reducing the list of possible criteria can be done through discussion only, without using a prioritization process. In these discussions, it is important to focus on selecting criteria that both parties agree are significant limits to the options they can select. Also, the parties should focus on why the criteria are important parameters.



In these discussions, the facilitator's role can be to ensure even participation, seeing that everyone gets heard. The facilitator can also help to restate, paraphrase, and summarize comments to keep the discussion clear and focused and to capture points made.



Having more than six criteria is not recommended, because the evaluation process can become unwieldy. (Remember that every option will be evaluated against each of the criteria.)

Reach consensus on a final, reduced list of criteria (four to six) and on their definitions.

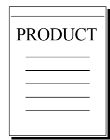
✔ The parties should agree by consensus on those criteria to be used in evaluating and reducing the list of options.

✔ The definition of each criterion should be restated and captured for the record, either on chart paper or as a handout.

✔ Not all criteria have to be used for each evaluation. The parties can agree by consensus not to use a given criterion for a given option (or set of options) to which the criterion does not apply.

Step 3

Establish criteria to evaluate options. (continued)



At the end of Step 3, the parties will have generated criteria, defined them, and agreed on four to six criteria by consensus. They also will have engaged in important discussions outlining the realistic boundaries for the outcomes of the negotiations.

Step 4

Generate options to address interests.

Purpose: The purpose of this step is to generate a broad list of options, or parts of options, that address as many of the interests as possible. The options are the solutions to the concerns that the parties have raised in negotiations.

Principle: In this step, the parties apply the principles "be open to possibilities and opportunities" and "satisfy others' interests as well as your own."

Prework: There are two prework components to this step. First, in Stage A, Prepare for Interest-Based Negotiations, the parties should have collected input from their constituents on possible options that would satisfy their interests. Second, in Step 3, the parties established criteria before generating the options to address the interests.

In this step, the parties generate as many ideas as possible, encouraging creativity in problem solving and variation in possible outcomes. Then the parties systematically reduce the list of options that will be evaluated against the criteria.

Step 4

Generate options to address interests. (continued)

For Step 4, the parties jointly complete eight activities:

Generate as many options as possible to address the expressed interests.
Review options to determine if all interests are addressed.
Clarify options for understanding.
Combine options that are obviously the same.
Categorize large numbers of options. (optional activity)
Add new options that surface through discussion.
Number or letter options for identification in subsequent activities.
Reduce large numbers of options to a smaller number that will be evaluated against the criteria.

Generate as many options as possible to address the expressed interests.

✔ Using structured brainstorming, the parties generate options to address their interests as well as those of the other party.

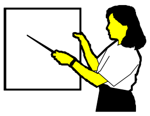
✔ The facilitator should record all ideas on chart paper and post the chart paper visibly in the room. (Remember, the brainstormed items should be neither numbered nor given a letter at this point.)

TIP

The focus here is on brainstorming options to address the interests identified for a particular issue. The brainstorming does not need to occur linearly, interest by interest. The parties may brainstorm options or parts of options to address one interest or multiple interests of the one issue.

Step 4

Generate options to address interests. (continued)



The facilitator should encourage the parties to offer options, partial or complete, that will satisfy the needs identified by one or the other party, or both. The parties should build on each others' ideas, offer alternative ideas, and even come up with off-the-wall and seemingly impossible ideas to spark creativity. (However, parties should NOT phrase their options in strongly positional terms.)

When participants start to pass on their turns, slow down, or stop for significant pauses, the facilitator should guide their focus to the posted lists of interests. The facilitator should encourage participants to review the lists of interests and think of how each interest, or a combination of interests, could be addressed. The facilitator can ask questions such as:

< How can that interest be addressed?

< Can multiple interests be addressed by one solution? What are some of those possibilities? What would that look like?

< What is a good way of doing that?

< What specifically do you mean?

< Are there at least several possible options for each interest posted? If not, how can those needs be met?

The last question shown in the box is particularly important. Because the parties will be selecting from among those options, they should have several options to choose from as a way of addressing a particular interest or set of (union and management) interests.

TIP

Remember to ask these questions in a supportive manner, so as not to elicit defensive behavior.

✔ The brainstorming session should then resume until participants' ideas are exhausted.

(See Appendix A, pages A-2 and A-3, for more information on brainstorming.)

Step 4 — Generate options to address interests. (continued)

Review options to determine if all interests are addressed.

✔ Review the lists of interests and the options to ensure that there are at least two (preferably more) options to address each interest.

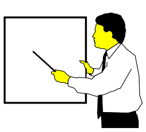
✔ The facilitator asks the parties, "Are there at least two ways of addressing each interest?" If so, the parties should move on to the next activity. If not, or if the options that are listed are options that do not meet a party's interests, participants offer additional options that meet both parties' stated interests.

Clarify options for understanding.

✔ The facilitator records clarifications on the chart paper.

✔ Participants should check for understanding by asking questions about the options posted. This does not mean questioning the items posted, as in analyzing or evaluating them, but clarifying the meanings of the items.

It is important that all participants feel they understand the meaning of the items listed. In later activities, they will be evaluating them and making decisions about whether to accept or reject them as part of a final agreement.



The facilitator's responsibility here is to keep the parties focused on clarifying and away from the tendency to evaluate options at this point. If the parties do not ask clarifying questions, the facilitator should use an option as an example and state his/her understanding of it to check the parties' assumptions. This could start off the process.

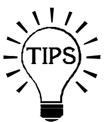
Step 4

Generate options to address interests. (continued)

Combine options that are obviously the same.

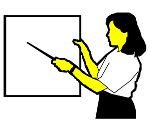
This activity is basically the same as the combining activity completed with the criteria in Step 3.

✔ Options that are very similar, or have the same meaning as determined by the person who offered the idea, can be combined, or the duplicate can be dropped.



- This activity should be completed quickly. The guideline is: if there is a lot of discussion about whether options should or should not be combined, then the options are not similar enough to do so, and the items should be left on the list separately.

- Individuals who favor those similar options may protest that leaving them separate will “split the vote” when the group prioritizes the items. This is possible in theory; however, in the HHS experience, the effect of leaving similar (but not identical) items separate did not have a negative effect on the items during prioritization. In prioritizing options, participants will be indicating the degree of acceptance and support for those items (both items will get either very low or no scores, or moderate scores that can be totaled). The items often get grouped or combined after the prioritization process.



The facilitator should remind participants that this is a consensus process and all decisions, including the decision to further consider or to eliminate options, are up to the group as a whole. (As in all stages and steps of IBN, participants should be reassured that the process is designed to be modified to meet the needs of the parties.) Participants can expect that the results will be the options most acceptable to the parties. This can help the participants trust the process.

Step 4

Generate options to address interests. (continued)

Categorize large numbers of options. (optional activity)

TIPS

- Even after similar options have been combined, there may still be a large number of options. In this situation, while it is not critical, it can be helpful to categorize the options.

- As indicated, this activity is optional: complete this activity when there is a large number of options (e.g., 100) and when there are many/several options that deal with a particular topic. This activity is not helpful when there is a relatively small number of options (e.g., only 20 options and/or only 3 options per subtopic). The goal is to complete this activity when it would be helpful to keep track of the options from which the parties will be selecting.

In some cases, there may be many options that address a specific interest (or a category of interests). Categorizing the options may facilitate the process of selecting options to meet particular interests; this ensures that each interest gets addressed.

✔ Participants can offer suggestions about possible categories for the options. (The categories can correspond to one interest that the options address or to several interests that the options address.) The categories will be helpful by segregating the items for prioritization. That is, participants will be able to establish priorities for options within each category.

The following box shows an example of options in categories of corresponding interests.

Step 4

Issue: Official Time

Amount	Approval Process	Documentation
(Option)	(Option)	(Option)
(Option)	(Option)	(Option)
(Option)	(Option)	(Option)
(Option)	(Option)	(Option)
	(Option)	(Option)
	(Option)	

Generate options to address interests. (continued)

In the preceding example, there are three categories. In the first category, four options address the interest. In the second category, six options address the interest. In the third category, five options address the interest.

Add new options that surface through discussion.

- ✔ If participants come up with additional ideas as they clarify or categorize options, add these ideas to the lists.
- ✔ If a new idea involves a modification to an existing option, it is best to save the original option as it is and record this modification as a separate option.

The facilitator ensures that all participants have an opportunity to add additional options and encourages participants who may be holding back to offer their ideas.

Number or letter options for identification in subsequent activities.

This will make it easier to refer to a particular option in discussing, reducing, and reaching consensus on the options.

Reduce large numbers of options to a smaller number that will be

evaluated against the criteria.

✔ Prioritize the list of options.

While a straightforward prioritization process (e.g., multi-voting) could be used to reduce the options, we recommend that parties use the rule-of-reduction, because it:

- Allows participants to rank the options.
- Ensures that each participant's highest priority is retained for discussion, even if it receives no other score.

Step 4 Generate options to address interests. (continued)

Remember that the IBN process is designed for parties to generate a large number of possibilities; use agreed-upon criteria to jointly evaluate and decide on adopting those that best address both parties' interests; and develop the options into a final agreement. This activity is the first of several where participants reduce the number of options, and are forced to make choices about accepting these options as real solutions.

- Keep in mind that the goal at this point in the process is to reduce the number of options that need to be evaluated. (In the first application of the IBN process between HHS and NTEU, the parties realized that if they did not undergo this first reduction of options, they would have 1,800 option-criterion comparisons. They had been reluctant to reduce the number of 18 criteria, and they had 100 options to evaluate against each of them!)

- It is critical that the decision to use or not to use a prioritization process (and if so, which one) is made by consensus. Any process decisions that involve identifying options for potential elimination must be decided in this manner or the integrity of this consensus-based process will be violated.

(See Appendix A, pages A-3 and A-4, for more information on the rule-of-reduction process.)

A shortcut way to do rule-of-reduction is to use colored self-adhesive dots. Using one color (e.g., blue), participants stick the dots on their priority options. Then, participants use a different color (e.g., red) to identify their highest priority. Options with the fewest number of dots are considered for dropping by consensus. Any options with a red dot are retained, even if it was the only score (dot) the option received.

✔ Use consensus to eliminate options having little or no support.

This is a first cut at the options. Identify the options with the lowest scores. Take a consensus check to drop those items. If there is not consensus to drop an item that received little or no support, ask the person who does not agree to consensus for his/her reasoning.

Step 4

Generate options to address interests. (continued)

If his/her concern is that he/she likes that option, review how the process works — the goal is that you are working toward solutions that: 1) address interests to the greatest degree possible, and 2) meet the joint criteria. There may be another, more workable option that addresses the same interests this person's favored option addresses. This way, the option isn't dropped from further consideration; the person's particular way of addressing the option is.

If the concern is that the person wants to keep the item "on the table" for further consideration, then stop. Parties can take up the option during the discussion phase of Step 5, when the parties evaluate the options against the joint criteria.

PRODUCT

At the end of this step, the participants will have agreed on those options that are retained for further consideration and those that participants agree do not adequately address the interests and can be dropped. The resulting reduced list of options is now ready to be evaluated against the criteria.

Step 5

Evaluate options using the criteria.

Purpose: The purpose of this step is to use the jointly developed criteria to evaluate the reduced list of options.

Principle: In this step, the parties apply the principle "use agreed-upon criteria to reach the best solution."

Prework: Parties should have established criteria (Step 3) and generated options to address the interests (Step 4) before beginning this step.

This is the final step in selecting the options that best address both parties' interests. The parties evaluate, discuss, amend, and combine the options. Then the parties adopt the options that best meet the identified interests and the agreed-upon criteria, and drop options that meet few or none of the interests or criteria.

Evaluate options using the criteria. (continued)

For Step 5, the group completes six activities:

Evaluate the options against the criteria.
Determine, by consensus, which options can be quickly adopted and developed as solutions and which can be quickly dropped.
Identify the options that require further discussion.
Discuss each option that fell in the mid-range to determine which will be adopted, combined, modified, or dropped.
Caucus (i.e., hold separate team meetings), when necessary, to identify and discuss team member concerns in private.
Table for further discussion the options that cannot be agreed upon by consensus.

These activities are not linear. In other words, they are not necessarily completed in the order in which they are shown.

Evaluate the options against the criteria.

Like the prioritizing process recommended in Step 4, the criterion matrix may be used here to collect and analyze participants' individual scores quickly. The scores are the participants' assessments of the degree to which each option meets each of the criteria.

The use of a criterion matrix enables participants to evaluate the options in a structured manner; this is extremely helpful in reducing the list of options in a more systematic, joint basis. When parties must review and come to consensus on a large number of options, they must engage in an expedited reduction process to develop a manageable number of options.

Evaluate options using the criteria. (continued)

The level of structure used in evaluating options depends on four variables:

- The level of trust between the parties: If the parties have a high level of trust, it is likely that they can discuss the limits or other reasons for their consensus vote (for or against a given criterion) as they are going through the consensus process. However, if there is a low level of trust and the criteria for decisions have not been discussed, those consensus votes could be seen as positional — especially if the votes involve rejecting the other team's preferred option.

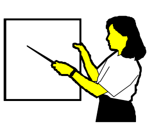
- The parties' relationship: It is even more likely that the consensus votes may be seen as positional if the parties have an adversarial history. In this case, fully completing Step 3 is advisable.

- The size of the group: If the group is relatively small, this may allow for more informal discussions, where criteria can be discussed easily as the participants discuss the options to be selected or rejected.

- The willingness of the parties to "keep the criteria in mind" when making consensus decisions: In this case, the parties must be committed to applying each criterion on an individual basis as they discuss consensus decisions. In other words, when discussing the merits of a proposed option, parties discuss how well the proposed option meets each of the agreed-upon criteria.

We recommend using a criterion matrix to reduce the list of options.

When using a criterion matrix, scoring sheets should be used.



✔ Each team member receives a scoring sheet, fills it out, and submits it to the facilitator.

✔ The facilitator tabulates the scores from all the sheets, compiles the results, and lists the options in rank order by total scores. The total scores indicate the options that were identified by the group ranging from those most closely meeting the criteria to those that least meet the criteria.

Step 5

Evaluate options using the criteria. (continued)

✔ Then the facilitator gives the participants the list of options and their rank based on the outcome of the evaluation.

(See Appendix A, pages A-5 and A-6, for more information on the criterion matrix.)

ALTERNATE ROUTE

Using a criterion matrix is not necessary when there is a small number of options to evaluate against the criteria. In this case, the parties can use a simplified matrix on chart paper — as opposed to filling out a form that gets tabulated. To do this, the facilitator asks, “How many rate this option a 3 against this criteria?” Once the ratings have been recorded, the facilitator enters the totals. The chart paper summary serves as a visual aid in discussing the overall ratings as well as which options to drop or adopt.

ALTERNATE ROUTE

Instead of using a criterion matrix, another way to evaluate the options against the criteria is for the parties to “keep the criteria in mind” during discussion. The facilitator can help the parties by asking throughout the discussion, “To what degree does this option meet the criteria?” or “How well does this option meet the criteria?”

Determine, by consensus, which options can be quickly adopted and developed as solutions and which can be quickly dropped.

This activity is aimed at quickly coming to closure on the areas of general agreement shown by the criterion matrix scores.

✔ Determine, by consensus, if any of the top-ranked options can be adopted and set aside to be developed as solutions during the writing step. Begin with the highest-ranked options.

✔ Determine, by consensus, which options can be dropped due to low scores that indicate collective agreement that they are not viable/do not meet the interests.

Consider an example where the scores of the options (the degree to which the options meet the criteria) range from 100 to 5, and there are five options with scores in the 90’s. Any participant may suggest that there is obvious general agreement that those five options highly meet the criteria; he/she may recommend their adoption by consensus for inclusion in part of the final agreement.

Step 5

Evaluate options using the criteria. (continued)

The decision to categorize options as either "to be kept" or "to be dropped" must be formalized through a consensus decision. Remember, the procedures in this Guide are aimed at generating many ideas; narrowing down the ideas to those that are worthy of full consideration as determined by all parties; identifying areas of agreement and disagreement; expediting decisions around the areas of agreement; and using a majority of discussion time working through the areas of disagreement.

✔ If there is no consensus, the person(s) who disagrees should state his/her interests or concerns and then suggest how his/her interests or concerns can be addressed.

If this leads into extended discussion about the option in question, it may be worthwhile to "table" this option for later discussion. (Usually there are a few people who cannot agree to adopt one or more of the options without extended discussion.) We recommend continuing the process by checking for consensus on the adoption of the other options.

The same type of procedure can be used with those options that received the lowest scores (i.e., those options that were generally seen as not meeting the criteria). Often parties tend to resist speeding up the process of eliminating options, because they will not be considered further for inclusion in the agreement.

Remember, the point of this process is to expedite decisions around the areas of general agreement as expressed in the ratings and to narrow the areas of disagreement in order to focus discussion.

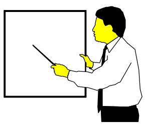
TIP

If this activity raises so much deliberation about a given option that someone cannot agree to end the discussion, it will save more time in the long run if that item is left "on the table" with the other mid-range options. We strongly suggest, however, that the parties use this evaluation activity to focus discussion on areas of disagreement. If all options are left on the table for individual consideration through discussion, then the evaluation process will not have been helpful. At any time, parties can resort to discussion on every item. However, discussing every option often takes a long time and does not yield clarity systematically around the areas of agreement and disagreement. Discussing every option individually also tends to encourage positional bargaining.

Step 5

Evaluate options using the criteria. (continued)

This IBN process enables the parties to identify areas of mutual agreement cooperatively and efficiently. It also enables parties to build on these areas and allows them to focus the majority of their efforts on the tough items.



The facilitator's role here is to:

- Manage the parties' discussions.
- Remind parties of the purpose of the activity and how it works.
- Remind parties of where they are in the process.
- Serve as the conversation gatekeeper.
- Keep decisions clear by distinguishing between consensus proposals, consensus checks, and problem-solving discussions.

Identify the options that require further discussion.

At this point, the participants should have agreed on some options for adoption into the final agreement and some to be dropped. This is significant progress upon which parties can build.

✔ In this activity, participants confirm the need to individually discuss options that received mid-range scores (or were not adopted/dropped by consensus in the expedited evaluation) in order to decide whether the options should be adopted, combined with others, modified, or dropped.

Discuss each option that fell in the mid-range to determine which will be adopted, combined, modified, or dropped.

In this activity, parties discuss each option that fell in the mid-range in the ranking (or was not adopted/dropped by consensus in the expedited evaluation activity). Parties determine if any of these options should be adopted, combined with other options, modified to better meet the interests, or dropped.

Step 5

Evaluate options using the criteria. (continued)

✔ The parties simply go down the list to consider each option — first looking at the score, then offering proposals to drop or adopt the option.

✔ For each option, the parties check to see if there is consensus on what should happen. It is almost certain there will be disagreement because there was no general agreement according to the ratings.

✔ If there is not immediate consensus, the parties then use the process of reaching consensus to discuss and decide the option's fate. For each option, the person(s) who could not live with the decision (to keep, combine, or drop) explains his/her reason (including his/her related interest or concern). The person(s) also states how the option could be modified or how his/her concern could be addressed in order to reach consensus.

✔ This process of reaching consensus involves much discussion, because other participants will ask clarifying questions and will express their reasons for supporting or not supporting a consensus decision. The discussion usually results in more clarification of interests, and more specificity about how an option is intended to work. It also involves generating alternate versions of the option(s) that address the concerns voiced. (These can be recorded on chart paper.)

The goal is to achieve consensus on a solution, meaning everyone can at least live with and support the suggested solution.

✔ Once the participants' concerns have been addressed and agreement is apparent, parties conduct another consensus check. (Usually, consensus is reached as a result of the extensive discussion that has taken place.)

There could be several rounds of discussion on a given option, if the modifications affect individuals' ability to agree to the proposal. This is fine, because the discussion continues to refine the decision and results in true consensus on the decision.

This activity is a painstaking one, but it is a central problem-solving component. Notice that this activity focuses the discussion on where the disagreement is and what the disagreement is about.

Step 5

Evaluate options using the criteria. (continued)

This process can become more complicated if several individuals disagree with the proposals for different reasons. There is a strong role for the facilitator here as a discussion traffic cop and consensus monitor. The facilitator must ensure that every person who wishes to be heard gets heard in an orderly fashion, and that each of the concerns that each person raises gets addressed.

That is, the facilitator can help the parties identify the differences by calling on each person who disagrees with the decision and by allowing the parties to discuss the proposals on how to address these differences. (These proposals can be recorded on chart paper.) The facilitator should ensure that this is done in a manner that isolates disagreement and builds agreement. The facilitator can also help keep track of what the parties have agreed on and what requires even further discussion.

Caucus (i.e., hold separate team meetings), when necessary, to identify and discuss team member concerns in private.

In some cases, there may be a need for the parties to break and hold separate team meetings. This may be prompted by disagreement among same-team members or by a need to check on where constituents stand on certain issues. A team can caucus to openly discuss an individual negotiator's concerns, institutional concerns, and possible options for addressing those concerns, keeping in mind the other team's concerns.

TIP

Caucusing in the IBN context differs from much of the caucusing in traditional bargaining in that it is less a bargaining strategy meeting and more within-team problem solving. Doing such problem solving on specific issues enables parties to continue to negotiate with each other on these issues. In traditional bargaining, caucuses can run from several hours to several days. In IBN, caucuses range from 15 minutes to an hour. The parties regularly check with each other to determine if more time is needed. These behaviors maintain the cooperative nature of the process.

Because the caucuses are private and focused on substance rather than process, the facilitator generally does not participate; this protects the facilitator's neutrality. Sometimes, however, facilitation can be helpful during caucuses. The parties can obtain other facilitators or use a team member to help facilitate the caucus.

(See Appendix A, page A-6 and A-7, for more information on caucusing.)

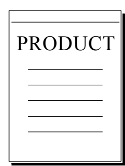
Step 5

Evaluate options using the criteria. (continued)

Table for further discussion the options that cannot be agreed upon by consensus.

Sometimes, even after a thorough discussion, differences will remain on some options. These options should be put in the parking lot until later in the process when they should be revisited with a fresh perspective. Often, parties come up with creative ideas for dealing with previous differences once they begin developing the actual agreement. This occurs when the differences are addressed while developing language on related matters.

(See Appendix A, page A-6, for more information on the parking lot.)



By the end of this step, the parties will have decided by consensus which options will be developed into solutions and written into the agreement in Step 6.

Step 6

Develop the solutions and put agreement in writing.

Purpose: The purpose of this step is to reach final consensus on the specific agreement language.

Principle: In this step, the parties continue applying the principle “use agreed-upon criteria to reach the best solution.”

Prework: Parties should have completed Steps 1 through 5 on the particular issue before developing solutions and writing the agreement language for that issue.

At this point, the parties have agreed to all of the options that will be part of a final agreement on the issue. Now it is time to expand on these options by drafting the language of a written agreement. During this final step, all the agreements made so far are captured. At the same time, the parties negotiate the details that are put in writing.

Step 6 Develop the solutions and put agreement in writing. (continued)

For Step 6, the group completes ten activities:

Review the meanings of the options that must be drafted as solutions and the interest(s) they are designed to address.
Categorize the options and begin writing the agreement.
Use a combination of word processing and projection technology to facilitate the final negotiating of agreement language, enlisting the parties' participation and ownership.
Focus on documenting the consensus-adopted options in acceptable language.
Keep it simple.
Road-test the language.
Revisit tabled options.
Use agreed-upon dispute resolution procedures to break an impasse.
Caucus, when necessary, to discuss possible agreement language or to clarify interests among team members.
Reach consensus on the final written product.

TIP

These activities are not linear. In other words, they are not necessarily completed in the order in which they are shown.

Review the meanings of the options that must be drafted as solutions and the interest(s) they are designed to address.

✔ The parties should go over the list of options that they have agreed to by consensus.

Parties also should review the meanings of the options, as well as the interest(s) that they address. This is most important to do when a lot of time has elapsed since the options were agreed-upon.

Step 6

Develop the solutions and put agreement in writing. (continued)

Categorize the options and begin writing the agreement.

✔ If there are several adopted options that address a given issue, categorize them by subject matter for writing purposes.

These categorized or grouped options will give the negotiators a place to begin writing out parts of the agreement.

✔ If the parties are modifying an existing agreement, the categories can be matched to the relevant section in that agreement.

In most cases, parties agree to use the existing agreement as the basis for the new agreement. This is often a good starting point for drafting the options into writing. If the parties do not agree to use the existing agreement as the basis for the new agreement, they need to clarify the starting point for writing the new agreement. They may agree to develop an agreement that includes only the options that were developed through the IBN process. In any case, parties must be clear on whether or not anything agreed to in prior collective bargaining agreements will be kept in the new agreement.

✔ After the options are grouped by category, individuals propose contract language. The language must capture the agreed-upon options and must be consistent with previous discussions.

Use a combination of word processing and projection technology to facilitate the final negotiating of agreement language, enlisting the parties' participation and ownership.

✔ Using the projection screen, the options should be displayed on the screen directly below the relevant text of the existing agreement. That is, the relevant options are listed below the paragraph in the appropriate contract article and section that is being added or changed.

There are benefits and drawbacks to using projection technology to draft agreement language as a group. Based on our experience, the benefits significantly outweigh the drawbacks in this consensus-based process.

Step 6

Develop the solutions and put agreement in writing. (continued)

Because this is a consensus-based process in which participants represent constituents, participation in the development of the final product is crucial. Projection technology enables all participants to have input and to understand the final agreement.

ALTERNATE ROUTE

We strongly recommend using projection technology; however, if it isn't available, the parties will have to use their tradition means of creating language. Caution: in doing this, the parties should avoid positional practices.

(See Appendix A, page A-7, for more information on the use of projection technology.)

Focus on documenting the consensus-adopted options in acceptable language.

Especially at this stage, the language must focus on the interests the adopted options address.

TIPS

There are a few possible trouble spots at this stage:

- First, parties might start to renegotiate things that were decided earlier. It is important not to fall into this trap, especially if the outcome was one that was not the most preferred by one party but that met the most needs of both parties. However, it is important that the parties listen to each other, in case the issue being presented is one that the parties had not previously discussed or considered.

- Second, minor differences over wording could degenerate into an adversarial contest. If this kind of conflict emerges, try to back off the wording, discuss it rationally, and consider how to proceed. It could be helpful to table the writing for the part in question until later that day or the next day. Sometimes negotiators are able to come up with good, creative ideas after a time-out period.

Develop the solutions and put agreement in writing. (continued)

Keep it simple.

Avoid writing legalistic language that requires interpretations from a battery of lawyers. Use plain language, short sentences, and words that are used in everyday conversation. Remember, everyone will need to have a common understanding of the agreement.

Road-test the language.

Once the parties have written a particular provision, have a few people who were not involved in the negotiations read it, if possible. An ideal review team for this purpose is a joint union-management team. One idea is to have one or two members of each (union, management) advisory committee pair up for this purpose.

Ask a joint team of technical people (e.g., a labor-relations officer and a union steward or officer) not involved in the negotiations to read the language. They have significant expertise in how agreements are carried out and can anticipate interpretation and understanding issues.

Whoever it is that makes up the review team:

✔ They should review the language, make comments, and then jointly present the feedback to the negotiators.

✔ They may also apply the provision to a hypothetical situation to see if they come up with the answer you had in mind. If they don't, the language may need further fine-tuning to accurately reflect the intent of the agreement.

Revisit tabled options.

At this point, it would be helpful to continue the discussion on items placed on the parking lot or otherwise tabled. By now, some of the earlier differences may have been addressed as other options were dealt with, or someone may have come up with a different way of looking at the problem that could help the discussion.

Step 6

Develop the solutions and put agreement in writing. (continued)

TIP

Consider the following discussion guidelines:

- Clearly identify the interests or concerns the option addresses.
- Identify how the option best addresses both parties' needs to the fullest extent possible.
- Identify possible ways the option could be modified to still address both parties' concerns and be acceptable to you (so you can at least live with it).

Use agreed-upon dispute resolution procedures to break an impasse.

If the parties do get into a disagreement and cannot resolve it after a time-out period and several attempts at revisiting the issue, they may consider resorting to the impasse procedure (if any) that they agreed to in the ground rules. At this point, the area of disagreement should have been narrowed significantly, because the parties should have focused on addressing the interests, needs, and concerns of both parties throughout the IBN process.

We recommend that the parties do not invoke the impasse resolution procedure until the very end of negotiations. At that time, any options from any of the contract articles for which there was no consensus can be put into the impasse resolution procedure.

TIP

Some groups using IBN choose not to define an impasse or establish an impasse procedure because they are wholly committed to using the IBN process until all of the differences are resolved. In fact, some practitioners believe that having an impasse procedure is counter to the IBN principles. They believe that having impasse procedures undermines the process, because the parties can and will use it as a fall-back if they do not get what they want (their position or specific proposal). In this case, rather than using an impasse procedure, the parties can continue to work through the IBN process until they can agree on a solution that best meets both parties' needs to the greatest extent possible.

Step 6

Develop the solutions and put agreement in writing. (continued)

Caucus, when necessary, to discuss possible agreement language or to clarify interests among team members.

Remember that the use of caucuses in IBN is often different than in traditional bargaining. Caucuses should be brief, and the discussion should focus on the interests of the parties, not on strategizing.

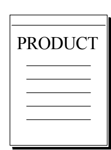
If there is strong disagreement among members of the same team, that team may wish to call a caucus to get an understanding of the underlying concerns of the team members. This setting allows the members of a particular team to openly air concerns that affect their constituents or organization. In addition, the teams can try to come up with ideas that will address both parties' concerns and bring those ideas back to the larger group.

(See Appendix A, page A-6 and A-7, for more information on caucusing.)

Reach consensus on the final written product.

✔ The parties should adopt, by consensus, each section of the agreement as it is written, then adopt the document as a whole.

Sometimes the parties wish to adopt the document as a "final draft" until it can be edited for grammar, etc. Keep in mind, though, that even grammatical and minor editorial changes should be made by the whole group (using projection technology, if possible) because some editorial changes, such as commas, affect substance.



The end result of this step is a written agreement that captures the solutions, the interests and needs they address, and the spirit of the process.

Stage D. Prepare for Implementation of the Agreement.

Develop an implementation plan.

Preparing for implementation of the agreement means making a plan. Planning should address the following:

- Joint training on process and contract
- Bargaining history
- Effective dates
- Distribution of the written product
- Method and cost of printing

TIP

We recommend development of a jointly signed bargaining history to minimize subsequent questions about interpretation of specific contract language. The bargaining history can be compiled from notes made by the negotiators throughout the process or from notes taken by a designated notetaker, if there was one. It is best for parties to make this decision about bargaining history as early in the process as possible, for example, in Stage A. However, we have found that parties are reluctant to agree to joint bargaining history until they have some experience with IBN.

Joint training on the agreement logically follows this process. IBN is a joint problem-solving process that often results in improved or changed relationships. It is important to communicate the effect of the process, as well as the outcomes, to those people who are affected by the agreement and the labor-management relationship. Conducting the training on the new agreement as a joint effort to a joint audience (union officials and stewards, supervisors, managers, and bargaining unit employees) strongly conveys commitment to an interest-based relationship.

APPENDIX A:
TOOLS USED IN IBN

The group process and problem-solving tools included here are those used most frequently in the HHS approach to IBN. This appendix does not provide specific instructions on how to use each of the tools. Rather, it provides a brief description of the tools and how they can be used in the process, based on our practical experience. The tools are:

- Consensus
- Brainstorming
- Prioritization Processes
- Criterion Matrix
- Caucus
- Use of Projection Technology

The facilitator should introduce appropriate tools (those included here or others) when they are needed to accomplish a specific task or process goal. The facilitator should conduct just-in-time training on the tools, the purpose of each, and the specifics of how to use them.

Consensus

Consensus is the decision-making process used in IBN. By its nature, the IBN process is a group problem-solving process that requires that the solutions reached are solutions with which every negotiator can live. At a minimum, the agreement to use consensus to make all decisions should be stated in the written ground rules. In addition, prior to beginning the negotiations, the parties should clarify and agree by consensus on the following:

- What consensus means.
- How the parties will indicate consensus.
- The process for reaching consensus.
- What to do when consensus is not reached.

In our experience, consensus is best defined as an agreement that all parties can at least live with and support as a group decision. A consensus decision is one that gets the parties what they need, but not necessarily their most desired outcome. This definition of consensus presumes that participants are satisfied that all their concerns have been heard, seriously considered through discussion, and addressed appropriately.

Consensus (continued)

We recommend the following process for achieving consensus:

✔ The facilitator checks for consensus on the item being discussed.

✔ The participants respond using the sign of a thumbs-up for consensus, thumbs-down for lack of consensus, and thumbs-sideways for consensus that does not totally satisfy the individual's concerns but is a decision that the person can live with and support.

✔ The participants who could not agree to consensus (thumbs down) are asked to state their concern — and identify an alternative that would address their concern as well as the interests and needs the consensus decision was intended to address.

✔ The participants then work to address all concerns through:

- Explanation as to how they are satisfied by the current proposal.
- Offering and discussing modifications to the current proposal.
- Offering and discussing new proposals.

In our experience, the parties continue to work through this process until consensus is reached. If the objecting parties do not: 1) follow the process of identifying their concerns, offering alternatives to meet all stated interests, and 2) openly consider alternatives (as opposed to holding firm to their desired outcome), it could be perceived as bad-faith negotiating. If the parties reach this point, they need to revisit their commitment to use IBN and discuss how to proceed.

Brainstorming

Brainstorming is a creative process for generating a large number of ideas. It may be used to generate lists of issues and interests during the preparation stage as well as in Steps 1 and 2, generate a list of criteria in Step 3, and generate options in Step 4.

Brainstorming should be free-wheeling, because it is intended to generate a wide range of ideas that build on one another. Participants do not evaluate or criticize ideas during brainstorming, but continue to offer new ideas.

Brainstorming (continued)

In IBN, we recommend using a structured brainstorming process (where each participant is given the opportunity to offer an idea in sequence) when the parties do not yet have experience with IBN or with each other, when the subject matter is controversial, or when the group dynamics are contentious. When the parties are invited to offer ideas in sequence, they are more likely to participate in the process and to offer their own ideas with less influence from others. In structured brainstorming, all group members participate in the process but may pass if they do not have an idea to contribute.

When a less elaborate list of ideas is desired and/or when the parties are more comfortable with the process and with each other, an unstructured brainstorming process is usually more expeditious. In unstructured brainstorming, participants offer ideas as they wish — in no sequence. Keep in mind that the more extroverted or assertive individuals (or those with more strongly held views) are likely to determine the pattern of ideas offered and influence the participation of others having different ideas.

Prioritization Processes

The most commonly used processes to prioritize ideas in IBN are rule-of-reduction and multi-voting. The purpose of these processes is to identify those items that have general group support, for adoption or deletion, and those which require discussion and/or modification in order to be adopted or dropped by consensus. Rule-of-reduction and multi-voting are numerical techniques that yield scores that quickly identify differences and commonalities. The scores do not yield decisions. They are a starting point for the parties to use to work toward consensus. Decisions to drop or adopt items on the lists must be made by consensus.

Prioritization processes are used primarily in Stage C, Steps 3, 4, and 5, where the parties first generate lists of criteria or options through brainstorming and then must decide which to use. Because the IBN process relies on consensus decision making, it is helpful to identify quickly where there is general agreement in support for or against items and where there is disagreement, in order to work through each of the issues toward consensus. Of course, this result could also be achieved through discussion, but would be much more time consuming and could be extremely difficult to focus.

Multi-voting is the quickest, easiest prioritization process. It can be used to reduce a large list of options or criteria. It is most useful when the group dynamics and/or the issues are not very contentious.

Prioritization Processes (continued)

Multi-voting involves determining a set number of votes each person can use (either half or a third of the total number of items) to indicate their top priorities. Only one "vote" can be cast per person per item. The votes are totaled and reported to the parties, who use the scores to gauge the degree of collective support in favor of each item. In our experience, using same-colored dots with a self-adhesive side is a quick, easy, and visual way of multi-voting. Parties register their votes by placing their dots next to their priority items listed on chart paper.

Rule-of-reduction gives a more precise indication of individual as well as group priority, but does require more effort than multi-voting. It is best used where there are many items to reduce and when the group members are reluctant to make choices about options.

In the rule-of-reduction process, each participant assigns a rank to his/her priority items — the highest rank to the person's highest priority. One third of the total number of items are ranked. Scoring sheets are used to record the rankings. The scores that are tabulated are the total score (the sum total of all scores given), the frequency with which each item was ranked, and the number of items identified as a highest priority by anyone. These scores are used to identify the areas of agreement (items with high or low scores) and the areas of disagreement (items with mid-range scores). The scores are also used to identify those items that individuals wish to "keep on the table" for further discussion, even if they receive low scores (items given highest priority ranking by at least one participant). The table shown below is a sample scoring sheet used for the rule-of-reduction.

Rule-of-Reduction Sample Scoring Sheet

	Rater's Initials						Scores		
Items	DC	TP	ES	RW	CB	CM	Total Score	Frequency	Top Priority
1 Option 1			2			3	5	2	1
2 Option 2		3		2			5	2	1
3 Option 3	2		1				3	2	0
4 Option 4	3			1	2	1	7	4	1
5 Option 5		2		3			5	2	1
6 Option 6					1		1	1	0
7 Option 7						2	2	1	0
8 Option 8	1		3		3		7	3	2
9 Option 9		1					1	1	0

In this example, individuals ranked their three priority items, and ranked their top priority a "3."

Criterion Matrix

The criterion matrix is used at Step 5 to evaluate the options against criteria. A matrix is developed that lists each option along the left vertical column and each criterion along the top horizontal row. In each cell, participants allocate a number that expresses the degree to which the option meets the criterion. In our experience, a numerical scoring method is easiest to work with in IBN. Keep in mind that participants must agree on the range of scores that can be given and what each score means prior to using the matrix. In our experience, using a range from 0 to 3 works well, with 0 meaning the option does not meet the criterion and 3 meaning the option highly meets the criterion.

The table below is a sample criterion matrix, using a 0-3 scale and assuming 12 participants. For each criterion and each option, the matrix shows the number of participants who gave each rating level (0-3) and the total score. Option 1 was given a score of 0 by 2 participants, a score of 1 by one participant, and so on.

Sample Criterion Matrix

Range: 0 to 3 Participants: 12

	Criterion 1	Criterion 2	Criterion 3	Total
Option 1	0 x 2 = 0 1 x 1 = 1 2 x 2 = 4 3 x 7 = 21 (26)	0 x 3 = 0 1 x 2 = 2 2 x 4 = 8 3 x 3 = 9 (19)	0 x 1 = 0 1 x 5 = 5 2 x 2 = 4 3 x 4 = 12 (21)	66
Option 2				
Option 3				
Option 4				
Option 5				
Option 6				
Option 7				
Option 8				
Option 9				
Option 10				

Criterion Matrix (continued)

Using a criterion matrix is a somewhat subjective process because the individuals assign the scores based on their perception. However, it should be understood that the participants are serving as representatives who are knowledgeable regarding the subject matter and who have obtained input from constituents. As in the rule-of-reduction and multi-voting, the criterion matrix is a numerical technique yielding scores that are a starting point for the parties to work toward consensus. The difference is that criteria are used to evaluate the options rather than individual priority.

Parking Lot

A parking lot is a temporary holding spot. When the parties have reached a stumbling block, such as the need for more information on a topic or a perceived impasse after extensive discussion, the parties may place an item or subject on the parking lot. It is a way of keeping a subject open but on hold until the parties are better able to address the item.

This tool offers the benefit of giving participants time to "cool off" if a discussion is contentious, the opportunity to reflect on possible alternatives, and/or the time to gather more information on a subject. The facilitator records the parked item(s) on chart paper that is posted as a visual reminder of outstanding issues. There may be more than one parking lot used, with different categories of items listed in each parking lot.

Caucus

A caucus is a short session where the parties meet separately to discuss a certain topic. For example, a caucus can be used when:

- A bargaining team member requests it.
- There is disagreement within one of the parties.
- The whole group needs a break (to cool things down).

Caucuses may help participants to reach consensus. A caucus may also help keep participants in check and remind them of constituent interests. It's important for parties not to caucus too frequently or for too long. Parties should also keep in mind that caucusing could create positional attitudes and/or create perceptions that uncooperative strategizing is occurring. Procedures for caucuses should be covered in the ground rules.

Caucus (continued)

With these things in mind, caucusing in HHS negotiations has been structured so that initial caucuses last up to 15 minutes, after which time the parties regroup, or the party who initiated the caucus notifies the other party that they need more time. Caucuses are extended in this way (with notification) by increments of 15 minutes each time.

Use of Projection Technology

Projection technology is a technique where information is typed on a computer and the image is projected onto a screen or oversized monitor. Additionally, we recommend the use of a printer to provide the recorded information in hard-copy format to all participants.

Projection technology is very helpful to the group process. It enables the entire group to work on the same language simultaneously. Any team member may suggest new language or propose changes to existing language; the group sees the impact of the change immediately. It also enables participants to build upon others' ideas. Because all of the participants are working on the same document, there are no "management" or "union" proposals that must be defended — it minimizes positional negotiation.

The facilitator is responsible for managing the teams' use of projection technology to write contract language in a way that avoids the disadvantages of writing by committee.

Other Tools

Other tools used by the facilitator to keep the parties focused on and progressing toward their objectives are active listening and clarifying, recording, and process checking. Negotiators should be encouraged to use these techniques as well. As the group becomes more familiar with the process as well as with each other, the negotiators are likely to use these as well as other facilitation techniques to self-facilitate.

- Active listening: The facilitator models active listening by restating points made, summarizing, and paraphrasing. This helps to clarify issues, ideas, concerns, etc., that are shared by the participants. Using active listening gives the speakers the opportunity to correct and/or further clarify their points, and gives other listeners the opportunity to further their understanding of the ideas presented.

Other Tools (continued)

- Recording: The facilitator often records points of discussion and/or alternative ideas on chart paper. This often helps to focus the discussion; the facilitator can ensure that the recorded items are addressed. The facilitator should record the exact words stated unless the person agrees to a modification of his/her statement.

- Process checking: At the end of each day, the facilitator should conduct a process check, to elicit feedback about how the day went, and to offer group members the opportunity to identify whether and how the process could be improved. The facilitator should record the feedback in two columns, one labeled "What worked well," and another labeled "What could be improved." The facilitator should call on each participant in sequence to offer ideas in both categories. Participants should be encouraged to comment on the structure of the day, the process, facilitation, group dynamics, and anything else they feel is relevant to the negotiations. The facilitator should solicit feedback on his/her role and indicate a willingness to change style or approach if necessary to help the parties move toward their goals more effectively. The information is collected for all participants to see and use in improving the process and its products.

APPENDIX B:
ROLES AND RESPONSIBILITIES IN IBN

This appendix covers the responsibilities for the following roles:

- Bargaining Team Coordinators
- Bargaining Team Members
- Advisory Committee Members
- Constituents
- Facilitator(s)
- Notetaker
- Technical Experts
- Third-Party Neutral

Bargaining Team Coordinators

Each of the parties to the negotiation should have a bargaining team coordinator. (This corresponds with the bargaining team chairperson in traditional negotiations.) Generally, the team coordinators are responsible for:

- Coordinating with the other team's coordinator.
- Ensuring team discipline.
- Taking a lead role in making sure that the team and the constituencies they represent are properly prepared for the negotiations.
- Establishing effective means of communication with the team's key constituents for use throughout the process.

In addition, the team coordinators:

- Usually arrange for a mutually acceptable facilitator and may prenegotiate some procedural ground rules to get the process started.
- Usually present the opening remarks, but they do not serve as chief spokespersons for their teams during the negotiations. The IBN process requires participation of all team members.

Bargaining Team Members

Bargaining team members' full participation in the IBN process is their primary responsibility. They represent their constituency during the negotiations. They are responsible for obtaining input from their constituency on the issues to be negotiated. Bargaining team members are responsible for understanding the IBN process and being committed to it. They should demonstrate this commitment by applying the interest-based principles and actively participating in the process. Because consensus decision making is used, bargaining team members must have authority to make decisions for their constituents during the negotiations.

Advisory Committee Members

One method of communicating with constituencies is to establish an advisory committee. The advisory committee members:

- Represent constituencies interested in the negotiations.
- Participate in the preparations for the negotiations.
- Are available during the negotiations to offer input on interests, criteria, and options for issues being negotiated.

An advisory committee offers the possibility of more broadly reporting the constituencies represented by the negotiators on the team. The advisory committee is not a group that formulates proposals or rebuttals for the negotiation team, nor is the advisory committee a body the team has to go to for permission to take some action in the negotiations.

Constituents

Constituents should play a key role in the IBN process, as they should in traditional negotiations. They are the ones being represented in the process by the bargaining team coordinator and the bargaining team members. The constituents are those who will be working under the collective bargaining agreement that results from the process. For the union team, constituents include the bargaining unit employees, the union officers and stewards, regional and national office officials, plus the union as an institution. For the management team, constituents include the organization's managers and supervisors, the general counsel, plus the organization as an institution. Constituents must be involved in the preparation stage of the process (Stage A), and should be involved, as necessary, during the process when information/feedback is needed by the bargaining team. Constituents provide input on issues and interests of concern in the negotiations through negotiation team members.

Facilitator(s)

The facilitator guides the parties through the IBN process. He/she does this by:

- Conducting the bargaining teams' IBN training or participating in the bargaining teams' IBN training.
- Serving as the parties' process consultant.
- Assisting the parties in using the tools and techniques of IBN through each of the process stages and steps.
- Enforcing the group's ground rules when empowered to do so; intervening only when essential to the group's progress.
- Ensuring full participation in the discussion.
- Restating, paraphrasing, and summarizing to keep the discussion clear and focused.
- Keeping the parties focused on the process.
- Observing group dynamics and facilitating constructive behavior.
- Assisting the parties in improving how they work together throughout the process.

In addition, the facilitator must be:

- Neutral.
- Skilled in facilitation, group process, problem solving, and the IBN process.
- Flexible (e.g., continually checking with the parties as to what is working for them and what is not, and adapting the process and his/her actions to fit the needs of the parties).

The facilitator is more effective if he/she has an understanding of the dynamics of labor-management relations and collective bargaining relationships.

The facilitator should not be responsible for administrative arrangements (e.g., space, audiovisual equipment).

Notetaker

The notetaker serves as an assistant to the facilitator and works with the facilitator, not with one or both of the parties to the negotiation. The parties must mutually agree on the selection of the notetaker and his/her responsibilities. Usually, the notetaker captures, via a PC (portable computer) or laptop computer, results of brainstorming sessions and actions taken by the bargaining teams, including consensus decisions. The notetaker also uses word processing (and PC overhead projection technology, if available) to document the language-writing stage of the process, Stage D. We recommend the parties designate at least one alternate notetaker to ensure notetaker availability at each negotiation session.

Technical Experts

As with traditional labor-management negotiations, there is a role for technical experts in IBN. Subject-matter experts (usually from the personnel office, Equal Employment Office (EEO), safety office, etc.) can be very helpful to the negotiating teams by responding to questions about current procedures and by interpreting policies, regulations, and statutes. The decision to consult with a technical expert(s) must be made jointly by the parties.

Subject-matter experts can be invited to inform the negotiators as the need arises. On very technical subjects such as classification, it is often helpful to bring the expert in for a general discussion prior to beginning negotiations on that issue.

Third-Party Neutral

The third-party neutral is the person or agency (e.g., Federal Mediation and Conciliation Service, Federal Service Impasses Panel, or private mediator/arbitrator) that the parties have agreed to call on if they need help, outside of the interest-based negotiation process, to resolve an impasse. The third-party neutral must be mutually agreed upon by both parties. We recommend that the parties determine this in advance and incorporate it into their ground rules.

APPENDIX C: DIFFERENCES IN APPROACHES AND ASSUMPTIONS OF NEGOTIATION [2]

	Adversarial	Interest-Based
Approaches	View the task as a contest of wills. Follow rituals or rules.	View the task as one of intensive problem solving. Do whatever works.
	Focus first and primarily on threats of power and allegations of rights.	Focus first and primarily on surfacing and exploring interests.
	Attack individuals in an effort to discredit their positions by discrediting them.	Attack the issues, not the people. Separate people from the problem.
	Stake out and promote rigid adherence to (often extreme) positions. Search for, and defend, the one best solution, the only one you will accept. Dig in to your position. Decide now.	Focus on interests, not positions. Ask "why?" Generate a variety of solutions that might satisfy interests before evaluating alternatives or making decisions. Decide later.
	Focus on previous encounters, how much one party can extract from the other. Look backward.	Focus on possibilities and opportunities. Try creating value or benefits before attempting to claim value or benefits. Look forward.
	Focus only on self-interest. Demand one-sided gains as the price of agreement.	Help satisfy the other party's interests as well as your own. Invent alternatives for mutual gain.
	Distrust others. Emphasize the downside risks.	Emphasize the potential for mutual gain. Base judgments about trust on actual behavior as negotiation progresses.
	Apply pressure. Make threats. Mislead as to your bottom line.	Reason and be open to reason. Yield to principle, not pressure. Avoid having a bottom line. Rely on general parameters instead.
	Insist on your position.	Insist on objective criteria for evaluating alternative solutions.

[2] Adapted from materials developed originally by Sterling and Selesnick, Inc., Salem, MA.

DIFFERENCES IN APPROACHES AND ASSUMPTIONS OF NEGOTIATION [1] (continued)

	Adversarial	Interest-Based
Assumptions	Results in winners and losers (zero sum game) and added expense (time, $, stress).	Results in mutual gain and less expense (time, $, stress).
	Goal is victory and not the well-being of the organization. Obtain as much of your predetermined solutions as you can.	Produces creative solutions/wise outcomes that contribute to the success of the organization.
	Parties become polarized. Reliance on power and gamesmanship produces compromises neither party is satisfied with, inferior solutions, and compliance problems.	Produces superior solutions that the parties are motivated to uphold and greater likelihood of satisfaction with outcomes (WIN/WIN).
	Relationship is not the critical concern; objective is closure. Often results in damage to the parties' relationship.	Improves the relationship between the parties. Objective is maximizing mutual gains.
	Purpose is control over allocation of resources. Belief is that knowledge is power.	Purpose is contribution to creation of resources. Belief is that imagination is more powerful than knowledge.
	Deadlines are used as "leverage" to force movement.	Discussion time is allocated in relation to the importance and complexity of the issue.
	Looking for quick fixes and formula solutions (rules).	Looking for open-minded exploration and lasting solutions.

[1] Adapted from materials developed originally by Sterling and Selesnick, Inc., Salem, MA.

APPENDIX D:
MANAGING FACILITATION

The Facilitator's Role

The facilitator's role is to be the process guide for the negotiations, in two ways. First, the facilitator is responsible for guiding the negotiators through the IBN process. The facilitator does this by assisting the parties through the stages and steps of IBN, helping them use selected tools and techniques. In doing so, the facilitator serves as their process consultant. Second, the facilitator is responsible for observing the group dynamics and encouraging constructive behavior, helping the parties comply with the IBN principles and practices.

Selection of a Facilitator

To be effective in the IBN setting, the facilitator must have the following skill and knowledge competencies:

- Communication skills
- Negotiation skills
- Conflict management skills
- Group process skills
- Deductive problem-solving process skills
- Knowledge of interest-based principles
- Basic understanding of labor-management relations and collective bargaining relationships

The facilitator must also have the following personal qualities:

- Neutrality
- Integrity
- Flexibility

The parties MUST agree on the facilitator.

Sources of Facilitators

Many Federal agencies employ individuals who are trained as facilitators. Places to look for resources are the places where Total Quality Management (TQM) has been implemented. Because many TQM processes utilize facilitation, there are likely to be individuals trained as facilitators to work in TQM. TQM facilitators are a good resource, because they are trained in group dynamics and problem-solving processes, which are key elements of the IBN process. However, we have found that facilitators must have an understanding of the dynamics of labor-management relations and collective bargaining relationships in order to be effective in IBN.

Training offices often have staff who are trained in various group process techniques. Individuals who are involved in alternative dispute resolution (ADR) processes (such as trained mediators) may be an additional source. Trainers or mediators who do not have a facilitation background per se may have a skill base that lends itself to facilitating the IBN process. However, they will require training in facilitation and in IBN. Experienced facilitators will need additional training in the IBN process and in the dynamics of labor-management relationships and collective bargaining.

Important Tips for Facilitation in the IBN Context

Facilitating labor-management negotiations can be very taxing. In particularly long and/or complex negotiations, parties should consider using two facilitators (co-facilitation).

Co-Facilitation: As indicated, co-facilitation is any two facilitators working together to facilitate the negotiations. A joint (union and management) facilitation team is an example of co-facilitation. Co-facilitators must coordinate their roles and responsibilities to ensure their effectiveness as a team in guiding the parties. The facilitators might consider alternating turns as facilitator or developing another way of sharing the role. When alternating turns, both facilitators should remain in the room to maintain continuity with the negotiating teams and to support each other. The facilitator who is not facilitating can observe the group dynamics and progress; this is an extremely helpful way of identifying group needs and concerns. During breaks, the facilitator/observer can provide the facilitator with input based on his/her observations. Together they can use the information to plan their course of action or approach with the group.

Co-facilitation is also an especially helpful way of integrating facilitators with varying levels of knowledge or experience with the process. For example, a junior facilitator paired with a senior facilitator can gain experience (in a low-risk setting) while getting support and assistance from the more experienced facilitator.

Important Tips for Facilitation in the IBN Context (continued)

Process Guide: A key in individual facilitation as well as co-facilitation is to be unobtrusive — to serve as the negotiating teams' process guide, process consultant, and group dynamics observer, and to focus on actions that help the group make progress toward their goals. The facilitator should minimize attention by the group to the process and to the facilitator or notetaker. The facilitator must keep in mind that his/her ultimate customers are the negotiating team members, and the facilitator must measure his/her actions by strict adherence to the following criterion: Is this essential to the group's progress?

Use of a Notetaker

We recommend using a notetaker as part of the facilitation team. The notetaker captures the work of the team — including consensus decisions and the resultant contract language — using a computer. If agreed to by consensus, this record can become the joint bargaining history. (For more information on the role of the notetaker, see Appendix B.)

APPENDIX E:
IBN TRAINING FOR NEGOTIATION TEAMS

We recommend the following guidelines for training negotiation teams in interest-based negotiation (IBN):

- All negotiators should be trained together.
- The training should be conducted by (or at least include) the facilitator for the negotiations.
- The training should be interactive; it should give the negotiators the opportunity to practice using IBN in a realistic setting.

The topics below should be covered in sequence:

1. Comparison of Negotiation Models:

   Differences between traditional and interest-based negotiations, including assumptions, approaches, behaviors, tools and techniques, and problem-solving methods.

2. The Principles of IBN.

3. The Interest-Based Negotiation Process Stages and Steps:

   Stage A: Prepare for Interest-Based Negotiations

   Stage B: Open Negotiations

   Stage C: Negotiate Using the IBN Problem-Solving Process

   Step 1. Select an issue.
   Step 2. Discuss interests behind the issue.
   Step 3. Establish criteria used to evaluate options.
   Step 4. Generate options to address interests.
   Step 5. Evaluate options using the criteria.
   Step 6. Develop the solutions and put agreement in writing.

   Stage D: Prepare for Implementation of the Agreement

4. Roles and Responsibilities.

IBN TRAINING FOR NEGOTIATION TEAMS (continued)

5. Tools and Techniques Used in IBN:

    - Consensus
    - Brainstorming
    - Prioritizing
    - Criterion Matrix
    - Parking Lot
    - Caucus
    - Charting With Projection Technology

6. An Exercise To Apply the IBN Problem-Solving Steps (usually takes as much time as the five topics above).

APPENDIX F: SUBJECTS FOR GROUND RULES

The following are subjects parties may wish to include in procedural and/or behavioral ground rules.

Subjects for Procedural Ground Rules

- Scope of bargaining: issues or articles to be negotiated and/or process for identifying those subjects/issues/articles.
- Size of negotiation teams.
- Quorum for conducting negotiations.
- Others involved in the negotiations and their roles (e.g., facilitator(s), technical experts).
- Plan for dealing with issues unresolved through negotiations (impasse resolution procedure).
- Location of negotiations and who has responsibility for the cost of travel.
- Key dates and timeframes for the prenegotiation steps and the face-to-face negotiations.
- Joint training — who will conduct, and attend, and when.
- Commitment to the use of the IBN process with reference to key steps (identification of issues, interests, options to address those interests, and the use of criteria to evaluate options).
- Consensus decision-making process.
- Agreement to commit to the use of interest-based principles and associated behaviors throughout the process.
- Dealing with confidentiality.
- Times of day for negotiations and length.

Subjects for Procedural Ground Rules (continued)

- Revisiting consensus agreements — allowed or not, and if so, how.
- Identify facilitator or source.
- End each session with a process check (group feedback) led by the facilitator.
- Changes of negotiators — allowed or not, and if so, how.
- Caucusing policy and procedure.
- Handling breaks (all participants or individual).

Subjects for Behavioral Ground Rules

- How to demonstrate consensus (e.g., thumbs up/side/down).
- Side-bar conversations.
- Calling on people (hand raising?).
- Dress during negotiations.
- Timeliness.
- Exhibit behaviors that respect the process.
- Respect each other.
- Open communication.
- Honest communication.
- Confidentiality.
- Avoid raising voice, displaying anger.

APPENDIX G:
OPENING STATEMENT SUGGESTIONS

Constructive Opening Remarks [2]

Opening remarks should:

- Highlight important ideas you want to share with the other party at the start of the IBN process.
- Set the tone for the negotiation.
- Affirm your hopes/intentions to engage in a process of interest-based problem solving that produces a good result for both parties without damaging your ongoing working relationship.
- Reassert the ground rules that will encourage interest-based problem solving.
- State your understanding of the issue/situation/problem to be resolved:
  - Focus on the heart of the problem.
  - Offer possible approaches, not "answers."
- Express your understanding of the other party's interests (goals, objectives, hopes, concerns, needs, fears, and/or desires).
- Affirm the importance and legitimacy of the other party's interests.
- Demonstrate that the other party's interests are factored into the approaches to address the issue that you will be exploring in the process.

[2] Adapted from materials developed originally by Sterling and Selesnick, Inc., Salem, MA.