



## **Welcome to the CLU-IN Internet Seminar**

### **Negotiations Training for OSCs (Module 1)**

Sponsored by: EPA Office of Superfund Remediation and Technology Innovation

Delivered:

September 15, 2010, 1:00 PM - 3:00 PM, EDT (17:00-19:00 GMT)

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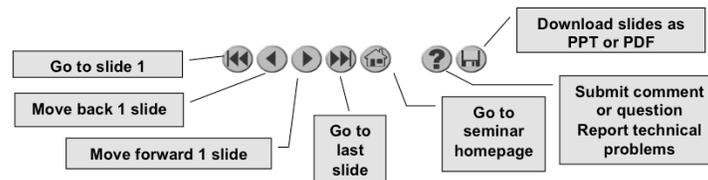
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# Housekeeping

- Please mute your phone lines, Do NOT put this call on hold
  - press \*6 to mute #6 to unmute your lines at anytime
- Q&A
- Turn off any pop-up blockers
- Move through slides using # links on left or buttons



- This event is being recorded
- Archives accessed for free <http://clu.in.org/live/archive/>

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Although I'm sure that some of you have these rules memorized from previous CLU-IN events, let's run through them quickly for our new participants.

Please mute your phone lines during the seminar to minimize disruption and background noise. If you do not have a mute button, press \*6 to mute #6 to unmute your lines at anytime. Also, please do NOT put this call on hold as this may bring delightful, but unwanted background music over the lines and interrupt the seminar.

You should note that throughout the seminar, we will ask for your feedback. You do not need to wait for Q&A breaks to ask questions or provide comments. To submit comments/questions and report technical problems, please use the ? Icon at the top of your screen. You can move forward/backward in the slides by using the single arrow buttons (left moves back 1 slide, right moves advances 1 slide). The double arrowed buttons will take you to 1<sup>st</sup> and last slides respectively. You may also advance to any slide using the numbered links that appear on the left side of your screen. The button with a house icon will take you back to main seminar page which displays our agenda, speaker information, links to the slides and additional resources. Lastly, the button with a computer disc can be used to download and save today's presentation materials.

With that, please move to slide 3.

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# OSC Negotiations Course

Module 1: Overview and Process

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## Course Credit and Course Evaluation

- Please sign in
- Your certificate is predicated on attending live deliveries of all 4 modules of the course (total of 8 hours).
- After each module, please complete the Clu-In evaluation form.
- Attendance for this module will be validated through a roll call, and completion of the evaluation form.
- We really value and use these evaluations. We want to provide the best, most relevant trainings, and your feedback is key.

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## Negotiations Course Learning Objectives

- **At the end of this four module course, you will be able to:**
  - Recognize opportunities to apply interest-based negotiation skills to everyday interactions and relationships
  - Explain 3 basic components of interest-based negotiation and describe how to apply each concept during the course of a negotiation.
  - Identify 3 basic communication skills that can help in any negotiation and apply each in common negotiation scenarios.
  - Explain 4 types of “people” problems, and match each with appropriate strategies to overcome those problems in a negotiation.
  - Identify when it’s appropriate to involve a facilitator or mediator

 **Note** Please feel free to ask questions or contribute your expertise at any time!

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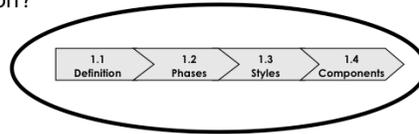
## Negotiations Course Outline

- **Module 1:** Introduction to Interest-Based Negotiation
- **Module 2:** Skills to Improve Communication
- **Module 3:** Skills for Overcoming Obstacles
- **Module 4:** More Skills + “Ask an Expert”

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## Module 1: Introduction to Interest-Based Negotiation

- 1.1 What is Negotiation? (definition)
  - When should I use negotiation?
- 1.2 What are the phases of negotiation?
  - Preparation
  - Negotiation
  - Implementation
- 1.3 What are negotiation styles?
  - Soft Bargaining
  - Hard Bargaining
  - Interest-Based Negotiation
- 1.4 What are the key components of IBN?
  - Negotiating based on interests
  - Generating multiple options
  - Evaluating based options on objective criteria



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What is negotiation?

***“To confer with others  
in order to come to terms  
or reach an agreement”***

Negotiation is a strategy. It is a method for achieving a desired goal.

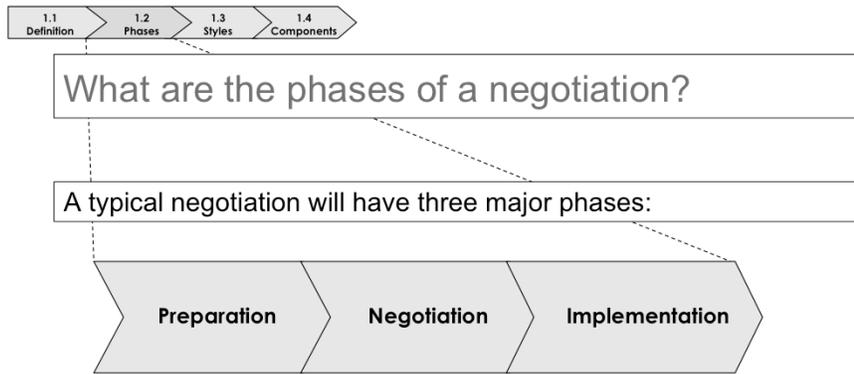
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## Section 1.2: What are the phases of a negotiation?



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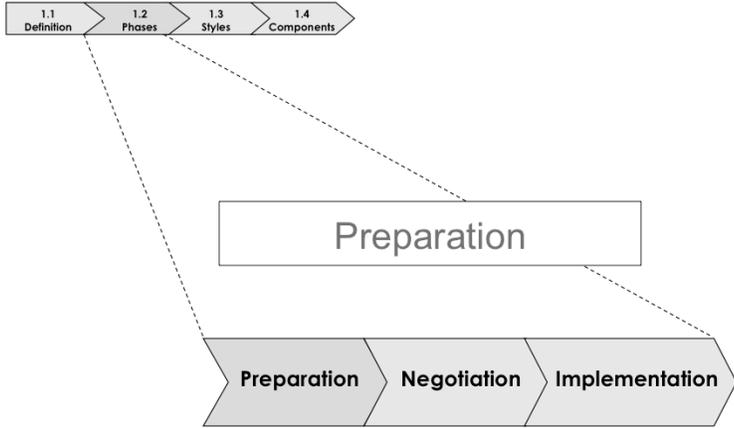
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We will discuss:

- a) Why you should care about each phase
- b) What kinds of things you might do in each phase

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## Phase 1: Preparations (cont.)

Why should I care about preparation?

- You're at a distinct advantage when you've prepared and the other side hasn't.
- You can avoid being at a disadvantage when the other side HAS prepared or has preexisting expertise.
- Anticipating the needs of others during preparation can cut down on negotiation time.
- Preparing provides good return on investment. Even a few minutes can go a long way.



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## Phase 1: Preparations (cont.)

What might I do in the preparation phase?

- During preparations, you might:
  - Identify the players involved
  - Consider the problem you're facing
  - Consider what you want and how bad you want it
  - Consider how others see the problem
  - Consider what they want and how bad they want it
  - Consider what strategies they might pursue
  - Make a go/no-go decision about whether to pursue negotiation as a strategy
  - Develop a plan for moving forward



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## Phase 1: Preparations (cont.)

How do I know whether negotiation is my best strategy?

***“You’ve gotta know when to hold ‘em, know when to fold ‘em, know when to walk away, and know when to run.”***



Ask yourself:

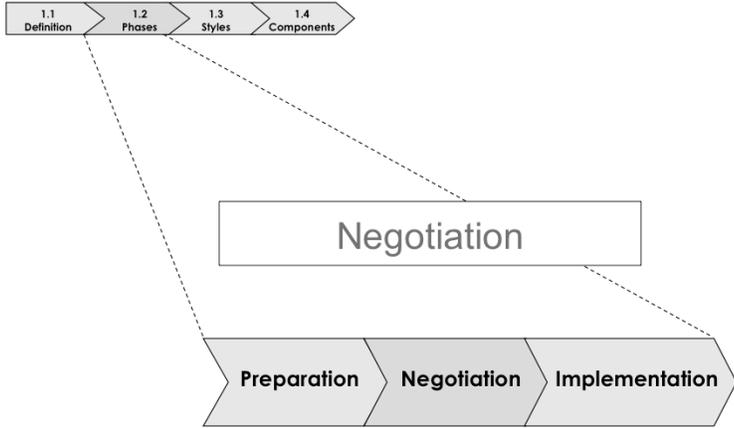
- What can I do to achieve my goals on my own, without them?
- What can I do to them, to pressure them to meet my goals?
- How could a third party help further my interests?
- What are the pros and cons of using an alternative strategy?
- How would the other side answer these questions?

**Negotiation may not always be the right strategy, but consider your alternatives carefully.**



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## Phase 2: Negotiation

Why should I care about negotiation?

- Negotiation may be the best strategy, and is occasionally the only strategy, for getting what you want.
- Negotiations are an opportunity to build or improve relationships with people you'll work with again in the future.
- A group of negotiators working together can come up with options and possible solutions that they couldn't have found separately.



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## Phase 2: Negotiation (cont.)

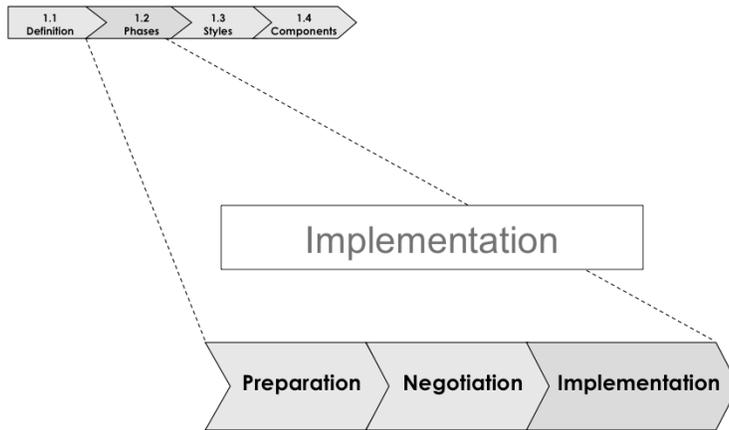
What kinds of things do you do in the negotiation phase?

- During negotiations, you might:
  - Share how you see the situation
  - Learn how others see the situation
  - Communicate what you're seeking
  - Ask about what the other party is seeking
  - Discuss potential solutions
  - Figure out how to choose the best solution
  - Make a go/no-go decision about a proposed solution (agreement)
  - Develop a plan for moving forward



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## Phase 3: Implementation

Why should I care about implementation?

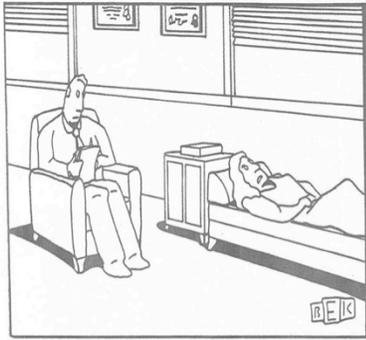
- A negotiated agreement is only a promise to do something. You can only get what you want if you implement the agreement.
- Thinking about implementation up front will help you build in safeguards, check-ins, and consequences for not fulfilling commitments.
- Implementation can be complex, and require further negotiations as new issues arise.
- Implementation is an opportunity to continue building relationships.



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## Phase 3: Implementation (cont.)

What kinds of things do you do in the implementation phase?



*"Well, I do have this recurring dream that one day I might see some results."*

During implementation you might:

- Fulfill your obligations under a negotiated agreement.
- Validate that the other side has fulfilled its obligations under the negotiated agreement.
- Examine whether the negotiated agreement has fully resolved the problem, or whether there are further issues to discuss.

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## Section 1.3: What are the styles of negotiation?



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## What are negotiation styles?

There is more than one way to “confer with others”. Today we will talk about three types of negotiation styles.



We will discuss:

- a) What each style is
- b) Why your negotiating style matters



## What are negotiation styles?

### Soft Bargaining

**AKA:**

- Accommodation
- Conflict Avoidance

**Is a:** way to avoid personal conflicts

**In which:**

- The relationship is preserved temporarily, but exploitation of one party continues.
- Implementation may fall to a single party.

### Hard Bargaining

**AKA:**

- Positional Bargaining
- Traditional Negotiation

**Is a:** contest of wills

**In which:**

- Persistence and endurance win
- Power wins
- The terms of implementation may not be considered fair, and redress may be sought.

### Interest-Based Negotiation

**AKA:**

- Principled Negotiation
- Mutual Gains Bargaining

**Is an:** opportunity to get what you need.

**In which:**

- All parties' interests can be met.
- Parties agree to terms of implementation and verification.



## Why does negotiation style matter?

Because it can impact your **results**. Recent studies have shown that:

- Framing goals in terms of underlying goals allows for greater strategic flexibility and produces a greater likelihood of agreement.
- Sharing information about underlying goals with negotiating partners increases the number of possible acceptable solutions.
- Negotiators who reveal their underlying goals improve the likelihood that they will reach their goals.

 **Our underlying goals are the “interests” that form the foundation of “interest-based negotiation”.**



## Why does negotiation style matter? (cont.)

Because it can impact **relationships** with your negotiating partners.

- Soft bargaining can lead to resentment that can cause the relationship to break down in the long term.
- A “hard” bargaining style can rely on coercion, bluffing, and secrecy which can create resentment and power imbalances that corrode relationships in the long term.
- Even when compromise is achieved in positional bargaining, if all interests are not fully met, the same underlying issues will come up again and again.
- Interest-based negotiations focus on sharing information, improving communication, meeting the needs of all parties, and building long term working relationships.

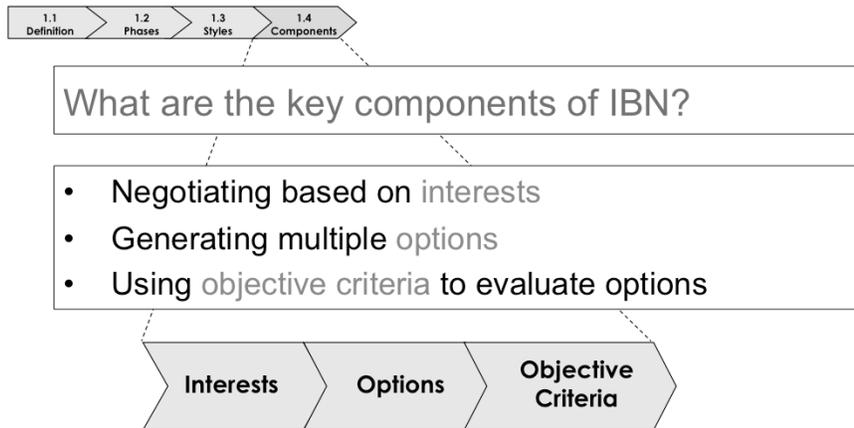
➔ Even if you don't have to work with the same person again, your organization may have to work with theirs in the future.

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## Section 1.4: What are the components of an interest based negotiation?



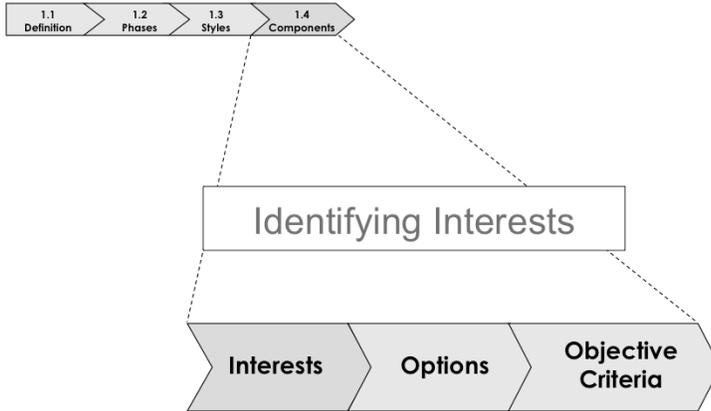
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We will discuss

- a) what each component is,
- b) why you should care about it, and
- c) how to use it in a negotiation.

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## Negotiating based on interests

What is an interest?

Interests describe the **needs, desires, and fears** that cause people to want what they want, to do what they do, or say what they say.

The ability to identify interests is the **most** important aspect of **INTEREST**-based negotiation.



**Our interests are WHY we do what we do. When in doubt, ask why.**



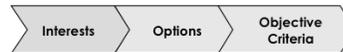


## Negotiating based on interests (cont.)



What is an interest? It's not a position.

- Positions are the conclusions we reach about what we want or what we think should happen.
- In traditional negotiations, positions tend to be the primary vehicle of communication between negotiators.
- Positions can be communicated as demands, offers, assertions, or wants, but **always reflect the solution we want to see, not the problem we want to solve.**
- Negotiators use posturing and/or bluffing to move away from their initial positions until agreement is reached or negotiation is abandoned.



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## Negotiating based on interests (cont.)

Why should I care about interests?

- Sharing interests can build trust, enhance relationships & create joint learning.
  - Each side can acknowledge the legitimacy of the other side's interests without agreeing to any proposed solution.
- Interests can be satisfied in different ways.
  - Generating options to meet interests creates more room for negotiation, and allows more creative solutions.
- If all interests are identified and met, the likelihood of durable agreement increases.
  - Improved trust and relationships allows for better ability to overcome tough problems.
  - Opponents are less likely to seek redress if all interests are met.



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## Negotiating based on interests (cont.)

How do I use interests in a negotiation?

Before you negotiate:

- Identify your own interests
  - Keep asking why do I need this...
- Imagine the other parties' interests
  - Keep an open mind, and imagine many variables
- Separate needs from aspirations
- Involve your team

During negotiations:

- Note new information and interests
- Be open to learning. Ask Why? How?
- Generate options that address all interests
- Develop evaluation standards that are based on interests.



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## Negotiating based on interests (cont.)

### Role Play:

- Imagine you're negotiating a soil sampling plan with a property owner, who is also the PRP. The PRP is taking responsibility, and there is general agreement, but now you're discussing the details, and the PRP is leery of EPA's plan.
- Scenario A: As you're negotiating, the PRP says:



"You know perfectly well that sampling in that area's a COMPLETE WASTE of money but YOU DON'T CARE 'cause it's not your money!!!"

**To Do** → What's next? Take 2 minutes to **write down** your thoughts about possible reactions, responses, and next steps.

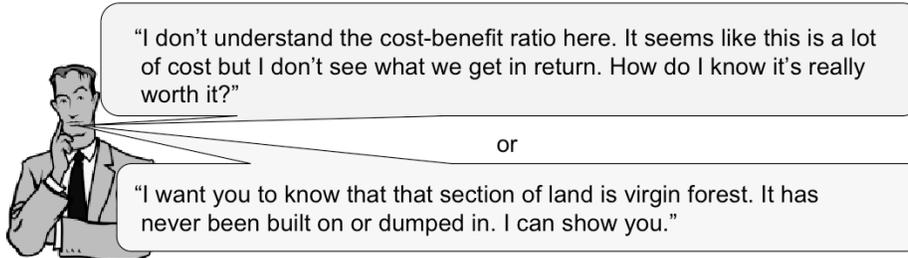
Interests Options Objective Criteria

3 minutes to write down your thoughts.

## Negotiating based on interests (cont.)

Role Play: (cont.)

- Scenario B: What if the property owner said something like this instead?



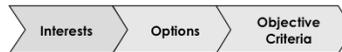
"I don't understand the cost-benefit ratio here. It seems like this is a lot of cost but I don't see what we get in return. How do I know it's really worth it?"

or

"I want you to know that that section of land is virgin forest. It has never been built on or dumped in. I can show you."



What's next? Take 2 minutes to **write down** your thoughts about possible reactions, responses, and next steps.





## Negotiating based on interests (cont.)

Role Play: (cont.)

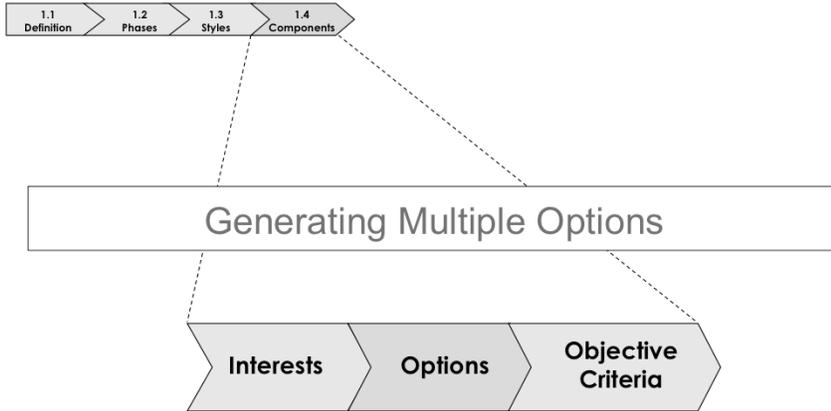
- Discussion:
  - How did your understanding of the PRP's interests (fears, desires, or underlying goals) change?
  - Did your next steps/responses change between scenario A and scenario B?
  - Why?



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Write down your thoughts, type in your responses via chat.

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## Generating multiple options

What are options?

- Options are possible ways of addressing people's interests.
- Options can address the concerns, fears, desires of any party.
- Options can address one interest at a time or multiple interests at once.
- Options can be packaged together to begin to form possible proposals for agreement.



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## Generating multiple options (cont.)

Why should I care about generating multiple options?

Generating multiple options to address each interest:

- Means more flexibility and more likelihood of agreement. The more the better.
- Allows you to show good faith by address other's interests as well as your own.
- Provides an opportunity to build relationships by facing problems together with your negotiating partners.
- Makes a silver bullet unnecessary: different options might solve different parts of the problem.
- Might provide a better "cure": like chemotherapy, multiple solutions applied at once might improve outcomes.



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## Generating multiple options (cont.)

How do I generate multiple options in a negotiation?

### Before you negotiate:

- Identify your interests and underlying goals.
- Brainstorm options by yourself or with your team
- Seek multiple options for meeting each interest
- Search for options that provide mutual gains, meet multiple interests
- Ask others for ideas: stakeholders, technical experts (more than one), etc.

### During negotiations:

- Follow the same steps that you did in preparation with the other parties. For example:
  - Re-define the problem you're trying to solve in conjunction with the other parties.
- Integrate new information you learn through conversation about interests into you're the work you did during preparation.



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## Generating multiple options (cont.)

How do I generate options in a negotiation?

### Suggestions for encouraging creativity:

- Change your view: meet someplace new.
- Start the session with lots of time for individual brainstorming.
- Suspend judgement
- Let people have fun. Welcome wild impracticality!
- Question perceptions and traditions
- Take apart the problem – solve the parts to solve the whole
- Change your point of view – how might others see the problem?

N<sub>2</sub>ISE TO SIGNAL  
Rob Cottingham





## Generating multiple options (cont.)

### Role Play

Remember the PRP who was leery of the EPA sampling plan?



“I want you to know that that section of land is virgin forest. It has never been built on or dumped in. I can show you.”



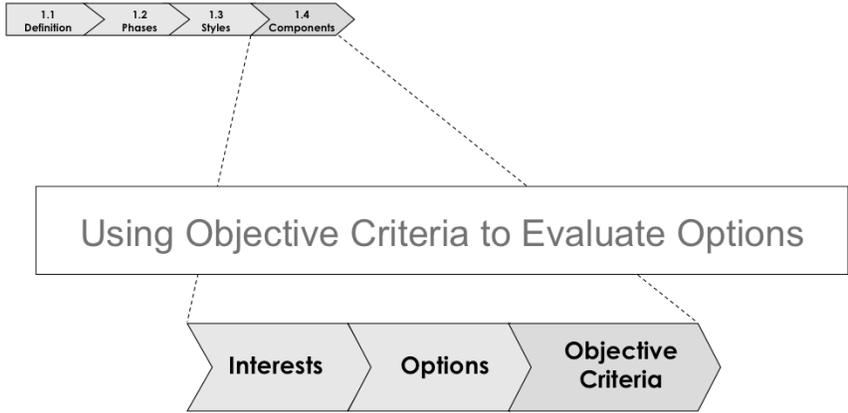
What's next? Take 2 minutes to **write down** your thoughts about possible options that will address the PRPs interests or underlying goals as you understand them.



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Write down or type in your thoughts.

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## Using objective criteria to evaluate options

What are objective criteria?

- Objective criteria are the standards by which options and possible solutions can be judged.
- Criteria must be acceptable to all and applied equally to all options, regardless of who proposed them.
- All parties own the criteria upon which decisions will be based.
- Criteria can be procedural as well as data-based.



What are some common criteria or standards you use to evaluate options? Take 30 seconds to **write down** some thoughts.



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## Using objective criteria to evaluate options (cont.)

Why should I care about objective criteria?



### Developing and using objective criteria for evaluation:

- Addresses perceptions of bias in selected solutions. No one "owns" the solution.
- Can help avoid or disarm "dueling scientists."
- Can even out power or resource imbalances between parties.

"You are completely free to carry out whatever research you want, so long as you come to these conclusions."



Perceptions of bias are real issues that must be addressed in order for agreement to be reached.



## Using objective criteria to evaluate options (cont.)

How do I use objective criteria in a negotiation?

Before you negotiate:

- Find third party or commonly accepted standards of fairness, scientific merit, or precedent.
- Include many possible sources of acceptable standards.
- Invite new data from all sides.
- Share your data and receive feedback.

During negotiations:

- Frame each problem as a joint search for objective criteria.
- Seek information together, based on your interests.
- Reason and be open to reason.
- Develop criteria jointly, or with the help of mutually agreed-upon technical experts.



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## Using objective criteria to evaluate options (cont.)

### Role Play

Remember the PRP who was leery of the EPA sampling plan?



“I want you to know that that section of land is virgin forest. It has never been built on or dumped in. I can show you.”

**To Do** → Consider some of the options we generated, and take 3 minutes to **write down** objective criteria could be use to make decisions about how to move forward.



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Write down or type in your thoughts.

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Wrapping up

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### IBN helps build a solid negotiating space.

- Your needs are the floor of your negotiation space – your basic interests and underlying goals.
- Your aspirations are the ceiling – the best possible outcomes, regardless of how they are achieved.
- Generating options help define your space: how can you get more windows? Bigger rooms? Better design?
- Objective criteria will help you and your negotiating partners decide on the right the floor plan.

**Underlying goal:**

- I need to contain this release before the neighbors are exposed.



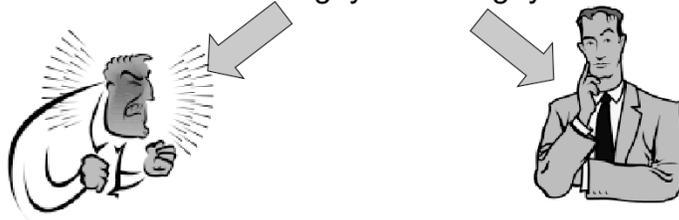
**Aspirations**

- I want the PRP to pay all clean up costs directly.
- I want complete & immediate access to this property, and continued access at my convenience.



## Next Module: Skills to Improve Communication

- Asking good questions
- Active listening
- Reframing
- ...or how to turn this guy into this guy.



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Questions?

**Thank You!**

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# Resources & Feedback

- To view a complete list of resources for this seminar, please visit the **Additional Resources**
- Please complete the **Feedback Form** to help ensure events like this are offered in the future

The screenshot shows a web form titled "Technology Innovation Program" from the EPA. The form is for a "U.S. EPA Technical Support Project Engineering Forum" and is titled "Green Remediation: Opening the Door to Field Use Session C (Green Remediation Tools and Examples) Seminar Feedback Form". It includes a message: "We would like to receive any feedback you might have that would make this service more valuable. Please take the time to fill out this form before leaving the site." The form fields are: "First Name:" (with "Jan" entered), "Last Name:", "Email Address:" (with "Janet.and@epa.gov" entered), and "Date of Seminar:" (with "November 25, 2009" entered). There is a checkbox labeled "Please send a copy of my feedback confirmation as a record of my participation to this address." which is currently unchecked. A "Delivery Media" button is at the bottom left.

Need confirmation of your participation today?

Fill out the feedback form and check box for confirmation email.