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## **Are You Giving Away the Store? Strategies for savvy negotiation**

By Margaret A. Neale

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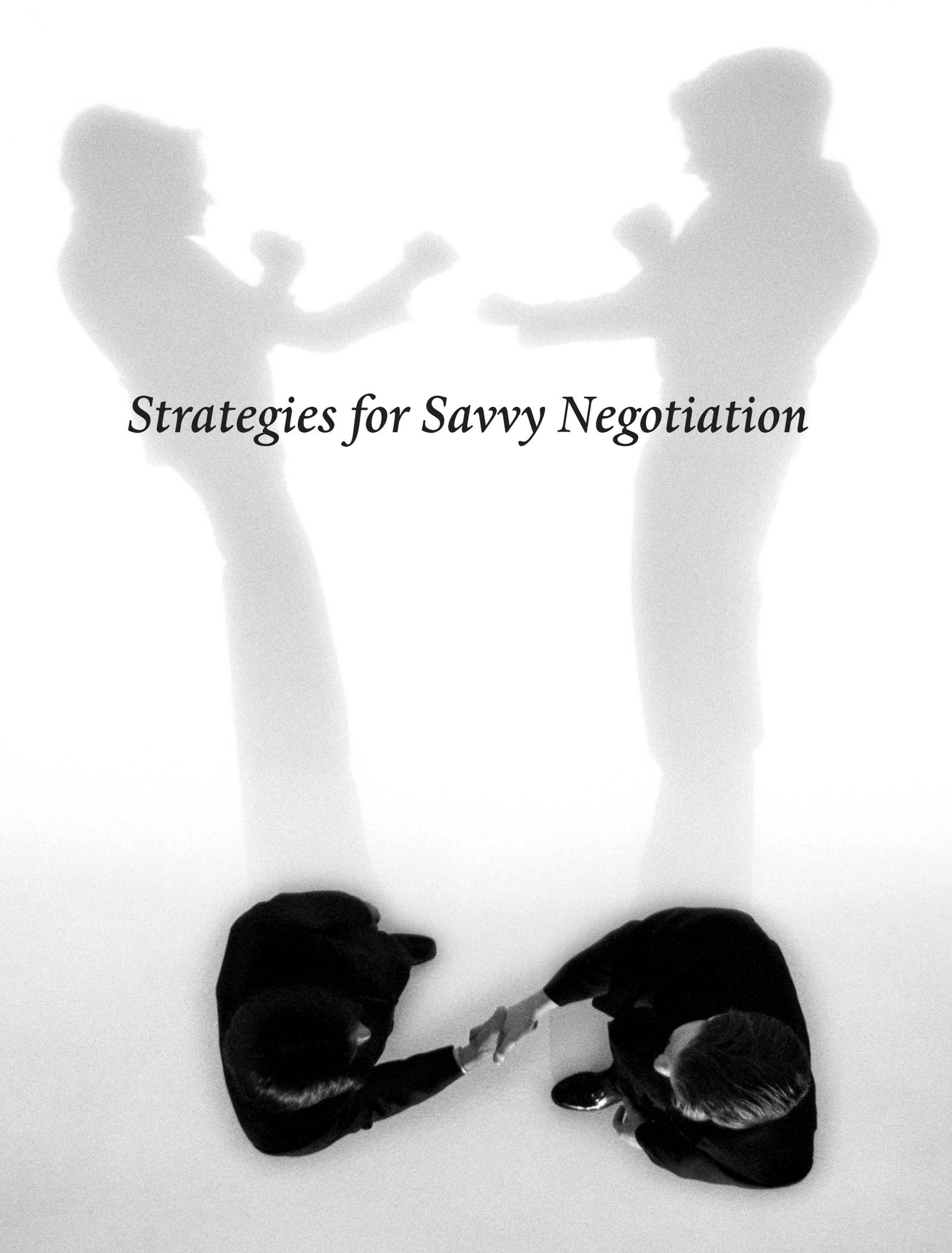
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*Strategies for Savvy Negotiation*

by MARGARET A. NEALE

# Are You Giving Away the Store

**T**heoretically, nobody loses in a negotiation. There's simply no reason for people to accept an agreement that makes them worse off than they were before they started. But in practice, people often accept agreements that work against their best interests. Even more often, they reach less-than-optimal agreements – those that leave one or both parties less well off than they could have been. Why does this happen? Because we make mistakes. We process information incorrectly or allow our judgments to be swayed by emotions or irrelevant events. Judgment errors undermine our negotiating success.

For more than 30 years, my research and teaching have focused on negotiation and decision making. My work is based on the psychology of conflict and negotiation, extending judgment



and decision-making research from cognitive psychology to the field of negotiation.

Over the years, my colleagues and I have discovered a number of guidelines that significantly influence people's ability to negotiate effectively. These guidelines identify behaviors to avoid, strategies and tactics to implement, and, finally, when to walk away. At the start of any bargaining session, one side may possess more power than the other. A small organization, for example, may be at a disadvantage when confronted with a larger one. But sound strategy can help level the playing field. While you won't find a specific answer for every situation you encounter, you may be able to identify common mistakes and biases that lead to less-than-optimal agreements, often resulting in value being left on the table.

PHOTOGRAPH BY MASTERFILE

## Look for Integrative Solutions

Most people head into a conference room to hash out a deal with the expectation of negotiating a distributive transaction. In a distributive negotiation, parties must divide a pie of fixed size. Hence, one party's gain is the other's loss. When you work out a new office lease, for example, the more money you save, the less your landlord makes. In a purely distributive negotiation, where both parties' relative strengths are known, the stronger side is likely to wind up with most of the pie.

Typically, it's to everyone's advantage, especially the weaker party, to negotiate integrative transactions – deals where value is created for both parties. This type of negotiation entails an effort to identify and incorporate issues that the two sides value differently. Doing so enables each side to make concessions on matters they value less in exchange for concessions in areas they value more. It can be complicated to work on multiple matters simultaneously, but if successful, everyone can get more of what they want.

Many seemingly distributive negotiations can, in fact, be transformed into integrative negotiations where both parties benefit. Take, for example, last year's historic agreement between environmentalists and a hydroelectric company to remove two major dams that blocked the route of Wild Atlantic salmon returning from the ocean to spawn in the rivers in Maine. The environmentalists wanted to save the salmon, already on the endangered species list in Maine. PPL Corporation wanted to sell more power and shake off the legal challenges environmentalists were mounting against the relicensing of its dams. Although the parties initially approached the conflict as a purely distributive, win-lose situation, after two years of negotiations, they hit on an integrative solution. PPL would remove the two dams and the environmental coalition would raise \$25 million over the course of five years to pay PPL. PPL was able to increase its power generation on six other dams to recover about 90 percent of the power produced by the two dams it would lose. In addition, the envi-

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ronmentalists agreed to drop their challenge to relicensing the remaining dams. The deal created value for both parties.

We often assume because of our competitiveness that our gain has to come at another's loss. By buying into the myth of the fixed pie, we treat a negotiation as a purely distributive situation when it may not be, thus overlooking opportunities for joint success. By looking for solutions that reconcile parties' multiple priorities and interests, we can reconcile seemingly incompatible positions.

### Prepare and Know Your Bottom Line

We often make the mistake of assuming that once we begin a bargaining session, we must reach an agreement. We feel a sense of failure if we do not. As a result, we escalate our commitments irrationally. We can see evidence of irrational escalation of commitment in an auction exercise I do in my negotiation class in which I offer to auction off a twenty-dollar bill to the highest bidder. Each bid must be one dollar higher than the previous bid. After the auction, the highest bidder pays their bid and collects the twenty dollars. In an unusual twist, the second highest bidder must also pay – but gets nothing. The average winning bid for the \$20 is \$44. In the heat of battle, bids have gone as high as \$313. Why would somebody do this? To avoid being the second bidder – the loser.

But your goal should be to get the best possible deal that actually improves your position. To protect yourself, you should walk into a negotiation knowing what your best options would be if

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# What Makes a Great Negotiator

## THEY:

- ✓ Are patient and tireless. They know that persevering can earn them concessions.
- ✓ Neither seek conflict nor shy away from it. They don't make concessions out of a desire to be liked, nor do they take pleasure in injuring the other side.
- ✓ Ask questions, listen, research, and learn. They know the power of information.
- ✓ Are steadfast in achieving their goals, but flexible about the means.
- ✓ Begin searching for integrative solutions from the moment they begin preparing for a negotiation.
- ✓ Remain open to new solutions throughout the post-agreement period.
- ✓ Don't give things away. They recognize that even insignificant concessions on their part may have value to their opponents.
- ✓ Are confident in their demeanors without being arrogant or supercilious.
- ✓ Know the value of salesmanship. They use persuasive language, visual aids, and framing.
- ✓ Are zealous in guarding their personal credibility.

you were to fail to reach a settlement. We refer to this as your BATNA, or Best Alternative to a Negotiated Agreement. This is the option available to you if you were to walk away from the current negotiation. If you are negotiating the cost for your annual awards banquet with a posh restaurant, for example, your BATNA might be the lowest bid you've already received from a rival nightclub. If you're negotiating the cost of producing your promotional video with a hot new producer, your BATNA might be learning how to do it yourself. It is important to know what your options are before initiating a negotiation and then to weigh all proposals against it. Obviously, you should never accept an agreement that's worse than your BATNA.

In addition, you should always set a target. This is the value that you would like to have, your dream agreement. By setting a target you can shift your focus from securing just enough to winning the best possible outcome. During the negotiations, focus on your target, not your BATNA. This will motivate you to keep going even after you have surpassed your minimum requirements. For instance, in your negotiations over your annual awards dinner with the manager of a hotel hosting your function, your target might include more than the best quote on food and wine. You might also bargain for valet park-

ing, live music, a more luxurious banquet room, or extra waiters. Always focus on your target. Let's say that you've settled with the hotel manager on a price for the food and wine that you're happy with, you can then make your gambit: "It's a deal if you can also throw in the table centerpieces for that price."

## Listen and Learn

You don't gain information by talking. You gain it by listening. Once you are at the table, it's important to ask questions, listen carefully to the answers, and keep accurate notes about what

**At the start of any bargaining session, one side may possess more power than the other, but sound strategy can help level the playing field.**

you learn. To assess your own strength, you need to know not only your own alternatives but also your counterpart's alternatives as well. People do not usually state their interests explicitly so you need to ask questions to elicit such information.

For example, even though a foundation may post notices about two new grant programs that sound equally important,

insiders may know that one is more likely to continue beyond the first year because it is closer to the director's heart. Or, a job applicant may appear to be holding out for more money, but is instead concerned about childcare or other matters you might easily be able to address. Successful strategists ask questions until they are confident they understand hidden motives and underlying interests. Regarding the foundation, for example, you might call a contact and ask: "How were these two projects selected? Who came up with them? Which has the most support?" If your source tells you, "The director is obsessed with criminal justice," and the other project came from a staffer who is likely to retire soon, you can adjust your application accordingly. If you're talking to a prospective hire, you may want to ask, "What other concerns do you have besides salary?"

Once you understand your counterpart's interests, you can propose trade-offs on issues that you and they value differently. The more information you gain before and during the bargaining session, the more creative you can be in building an integrative agreement. To this end, open-ended questions are generally more useful than close-ended ones. For example, instead of asking if a government agency is happy with the social service provider you hope to replace, you might want to say to the government agency's

officer, "It would help us better understand your needs if you can tell me what are the advantages and disadvantages of the current contractor." Listen to what is left unsaid. Unwillingness to respond to a question is information in itself. A refusal to answer may indicate that your counterpart feels the information would damage his or her negotiating position.

Be sure to exchange information. For each tidbit you get, supply something equivalent in return. For instance, to the same purchasing officer, who has just answered your questions, you could volunteer, "We are hoping to double the number of clients we serve in the next five years." These kinds of swaps build trust and understanding. If you don't want to answer a specific question, use the refuge of politicians—answer a different question, one that you would have preferred to be asked. Or, you can refuse and say, "I'm not really prepared to answer that right now."

### Making the First Offer

The advantage of letting your opponent make the first offer is that he or she may make one that is better than you expected. The disadvantage is that you may allow the other side to set an anchor. Anchors are base figures from which negotiators add or subtract to judge offers. Research shows that people consistently look for and rely on

anchors in making judgments. If an anchor is to be set, you want it to be yours. If you speak first, make your offer extreme yet sufficiently reasonable to prevent the other party from rejecting it out of hand. Say you are haggling with a prospective publisher over a contract to produce your monthly newsletter. You are currently paying \$4,000 a month to publish the newsletter, but have managed to keep that information confidential. You also know that the publishing market is slow right now, so that a bargain is possible. You go ahead and make the first offer, a lowball of \$3,000, knowing that there is room to compromise and still save money over your current monthly bill. Since you've done your research and know what the market rates are, you can make sure your bid is

## Tversky's Roulette Wheel

Stanford professor Amos Tversky and Daniel Kahneman of Princeton University were pioneers in research on irrationality in decision making. In the first half of one experiment, they asked two groups of students to estimate whether the percentage of African nations in the United Nations was higher or lower than the percentage that came up on a random spin of a roulette-type wheel. First, they spun the wheel; then they asked the group whether the percentage was higher or lower.

In the first group, the wheel came up 10. Most students estimated that the percentage was higher.

*In the second group, the wheel came up 65. Most students thought the percentage was lower.*

In the second half of the experiment, the researchers asked each student in each group to estimate what the actual percentage was. The average estimate for the first group was 24 percent; the average estimate for the second group was 45 percent. The students had anchored on the numbers that came up on their spins of the roulette wheel, even though they knew the results were completely random!

From the Stanford Video Guide to Negotiating: The Sluggers Come Home/Kantola Productions.

# Tversky's Dread Disease Experiment

*Research shows that people can react very differently to identical proposals when the perspective, or framing, changes.*

In 1982, Amos Tversky and Daniel Kahneman reported the results of an experiment on framing. Participants in the experiment were divided into two groups and were then presented with the following problem:

The U.S. is preparing for the outbreak of an unusual Asian disease that is expected to kill 600 people. Two alternatives are being considered. Which would you favor?

Participants in Group I were asked to choose between the following two options:

If Program A is adopted, 200 people will be saved.

If Program B is adopted, there is a 1/3 probability that all will be saved and a 2/3 probability that none will be saved.

Participants in Group II were asked to choose between the following options:

If Program A is adopted, 400 people will die.

If Program B is adopted, there is a 1/3 probability that no one will die and a 2/3 probability that all will die.

If you read carefully, you will notice that the choices offered to Groups I and II are identical in outcome. Yet 76 percent of those in Group I chose the first option, while only 12 percent of those in Group II did. The difference was in how the options were presented, their framing. Most of those in Group I preferred their first choice, a sure opportunity to save lives. Most participants from Group II preferred their second choice. Apparently, they saw the second option as an opportunity to prevent dying.

From the Stanford Video Guide to Negotiating: The Sluggers Come Home/Kantola Productions.

high enough to keep the publisher in the game but low enough to give you a strategic advantage.

If your opponent makes the first offer, how should you react? You can posture a bit by communicating that it is unacceptable. You can use what I call the "big flinch." Let's say you are negotiating with a government agency for a contract to run a job training program for ex-felons. The government bureaucrat says he wants your first evaluation in three months. Upon hearing this, you flinch: you wince, knit your brows, and push back your chair. The bureaucrat sees the flinch, assumes his request must be unreasonable, and changes it to six months, without you having to say a word. A shocked reaction creates doubt about the potential for reaching agreement and may prevent an anchor from taking hold. When you flinch, wait before stating a counteroffer. The other party may make immediate concessions or may never bring up the original offer again. When the other party flinches, you should maintain your composure and wait before responding. The flinch might simply be a tactic.

## Don't Undervalue Yourself

Overconfident negotiators think they know in advance how a transaction should end, and may shut out new sources of information, refuse to consider alternatives, or be open to creative solutions. Underconfident negotiators are the opposite – they give concessions without getting an adequate return because they underestimate the value of their concessions. You need to assess your bargaining strength accurately so that you can get the most from the negotiation.

Suppose a computer salesperson informs you that he offers nonprofits a 40 percent wholesale discount. This is better

than your current supplier, so you say, "Very well, I'll take 15." You sign the order, shake hands and go on your merry way.

But here's another scenario: A computer salesperson

***Focus on interests – both your own and your counterpart's – rather than positions.***

**Positions may become more matters of pride or misinterpretation than reflections of the parties' interests.**

informs you that he offers nonprofits a 40 percent discount. This is better than your current supplier, so you are very interested. "Do you offer volume discounts?" you ask. "Yes,"

# Preparing for Negotiation

**Y**ou prepare for a negotiation by gathering information, both about your own interests, resources, and alternatives, and about your counterpart's. You determine your BATNA, set your target, and then attempt to assess your counterpart's target and BATNA. Be sure to research different sources and query outsiders for objective facts. Say you are getting ready to negotiate with prospective summer interns. Before you sit down with any applicants, call other NGOs and ask: "How much do you pay your interns? What kind of perks do they

get? Do you give out tickets to baseball games or charity dinners?"

Before you begin, you should prepare a list of potential negotiating points. Begin with critical and obvious issues, and then try to imagine spheres into which the agreement might extend. Establish the value you place on each issue, and the value your opponent is likely to place, looking both for areas where your interests coincide and for potential trade-offs. Be careful not to lock on to a fixed idea of what your counterpart's needs and interests are. You need to remain receptive to new information that becomes available in

the course of the discussion.

If you know who your negotiating counterparts will be, it's useful to determine what authority they will have, and to match your authority to your opponent's. For example, if you are negotiating a cause-marketing agreement with a possible sponsor, and your counterpart is authorized to sign off on the deal, be sure that you also have that ability. But, if your counterpart must run any proposal by colleagues before signing, then be certain that you also reserve that option.

the supplier replies, "we offer 50 percent discounts for orders of 10 or more." You are pleased. "If I were to also purchase software, might I receive a higher discount?" you ask. "Of course," your new supplier says. "With software we offer a 60 percent discount, plus free delivery." You sign the order, shake hands, and go on your very merry way.

Consider a third scenario, exactly like the second, except before you sign the order you call up your original supplier. After all, you have a history with that supplier and know his or her level of reliability. You inform him that another supplier is offering a better deal. Although you have enjoyed working together, the new price is something that you cannot ignore. Then wait to see the response. Based on that, you can sign the deal with the new supplier or the original sup-

plier, whoever gives you the best *overall* deal. Keep asking for concessions on price or other items you would value from your opponent as long as your opponent keeps conceding.

Another tactic for breaking an impasse is to divide the subject into smaller parts. For example, you might suggest: "We may be trying to do too much at once. Let's try breaking the problem into smaller parts and see if we can solve them one at a time." In addition, you might take a time-out, or bring in a third party. A fresh perspective sometimes puts negotiations back on track. Of course, you may still not be able to reach an agreement. If this happens, be cordial. Say, "I'm sorry we weren't able to reach an agreement at this time, but I hope that new opportunities will arise in the future." Make it easy for the other person to restart talks without being humiliated.

## If you are faced with an ultimatum, *your best response is often to ignore it.*

plier, whoever gives you the best *overall* deal. Keep asking for concessions on price or other items you would value from your opponent as long as your opponent keeps conceding.

### Getting Beyond an Impasse

Suppose the negotiation reaches an impasse. Sometimes an impasse signals that neither side has the potential to improve on its BATNA and there's no room to maneuver further. In other cases, integrative problem solving might sidestep the impasse and create more value for everyone involved. If this is the case, there are strategies you can use to restart locked agreements.

Focus on interests – both your own and your counterpart's – rather than your positions. Look for ways to meet your counterpart's interests, rather than focusing solely on his or her current demands. In a recent merger of two Chicago NGOs, the

### Traps to Avoid

Your opponent may offer to get the deal done by splitting the difference between your relative positions. Splitting the difference is a negotiation tactic that can take advantage of people's bias toward using anchors. A contractor, for example, refuses to pay a subcontractor even though he has completed the work properly. When confronted, the contractor says: "Since we have a disagreement, why don't we just split the difference? I'll pay you half of what you're asking." Is this fair? Similarly, I may realize that an auditor's offer of a rate of \$150 per hour to audit the books of my small nonprofit is excessive – but it may influence me ultimately to pay her \$115 an hour.

Splitting the difference is commonly perceived to be a useful tool for reaching a "fair" settlement. However, notice that splitting the difference is probably more "fair" for one party than another. From the subcontractor's perspective,

splitting the difference is hardly reasonable, much less fair. In this case, the contractor's notion of what is fair is what is in his or her best interest. Sometimes the notion of fairness is used to mask requests that are blatantly self-interested. Occasionally negotiations are tempted to deliver ultimatums. Ultimatums are a double-edged sword: Sometimes the other side may give in, but they can also end a bargaining session prematurely. Avoid ultimatums unless you are willing to follow through. If you are faced with an ultimatum, your best response is often to pretend it's a bluff and ignore it. Calling attention to the ultimatum may force your opponent's hand. Acting as though it never happened allows your opponent a graceful way to return to the table.

Sometimes you will believe an agreement has been reached only to have your counterpart tell you that higher-ups have rejected the proposal. This is an infuriating tactic because it weakens your leverage by forcing you to show your hand. No doubt you will want to walk away in anger. Instead, formally withdraw your proposal, retracting all concessions you have made. With great formality, say, "That offer was conditional on your immediate acceptance and is no longer valid." Repeat this whenever the previous "agreement" is mentioned. Eventually, it may disappear.

### **A Few Words About Fairness**

It's essential to be aware that fairness is an issue. People who feel they are being treated unfairly may reject deals that are in their best interests. Furthermore, remember that you are also negotiating for the long haul. It's possible to win the battle and lose the war. If you gain too strong a position for yourself, you may sometimes place your opponent in an untenable position. Be sure that your opponent's position is viable. If you are negotiating a service contract with a new Webmaster, for example, don't insist on paying so little money that her company will fold – or that she'll have to take on so much outside work to survive that she'll slack off on your project.

You must listen to your counterpart and respond to his or her perceptions of fairness. While some posturing is expected, you cannot misrepresent yourself or lie. When lies are uncovered, trust evaporates and negotiations collapse. Sharing information is often a powerful means for building levels of trust. Providing erroneous information, especially when there is the potential for (or actual) future interaction, is a dangerous course of action.

Lastly, be gracious. Don't do a victory dance. Be sure the other party understands how highly you value the concessions you make, but avoid pouting and bitterness after you make them. □