



# Investigative Negotiation: The Art of Asking Why

By Jeana M. Clark

**Even the most** savvy business owners frequently leave unclaimed value on the negotiation table. Investigative negotiation goes beyond the primal fight or flight response or the traditional win-win approach. Language professionals understand that translation is an art form requiring research skills and creativity, just as negotiators fully understand the importance of preparation and thinking outside the box. However, the research prowess and creativity utilized in investigative negotiation is on par with that used in transcreation. The following offers practical information for language professionals who want to hone their investigative negotiation skills to create the most value for everyone involved.

## What Does It Take to Be a Good Negotiator?

Good negotiators are a lot like good leaders. The recipe for success in both cases involves a combination of strategic thinking, self-awareness, interpersonal skills, and creative problem-solving with a healthy dose of persuasiveness. Most of us are well aware that leadership skills can be learned, and the same is true for

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negotiation. People are not born good negotiators. People become successful negotiators by diligently preparing and strategizing ahead of time, being creative during the negotiation, and taking time afterward to reflect on how they can improve.

## Investigative Negotiation

Investigative negotiation transcends the two basic types of negotiation, which are distributive negotiation (claiming value) and integrative negotiation (creating value). Investigative negotiation is essentially a mindset that is useful in all types of negotiations. It is about asking the right questions, with the most important question being “Why?”. We have a tendency to enter a negotiation focused entirely on “What?” (e.g., “What do I want?” or “What does the other party want?”). In doing so, we are focused on *positions* instead of *interests*.

To gain a better understanding of how positions and interests affect a negotiation, imagine two people sitting in an office. One person wants the nearby window closed and the other wants the window open. (These are their positions.) If they compromise and agree to leave the window half open, neither one will be happy. Now, suppose a friendly coworker comes along and inquires *why* they are having an animated discussion. He discovers that one needs fresh air and the other is tired of the breeze blowing his papers around. (These are their interests.) The friendly coworker then offers to open a window down the hall, thereby bringing in fresh air without the pesky breeze. If we can teach ourselves to focus on interests by asking “Why?” or even “Why not?” then we will be more likely to reach an agreement that satisfies the mutual inter-

ests of both parties regardless of the negotiation. (For an illustration of position versus interests, see Figure 1 below.)

### Best Alternative to a Negotiated Agreement (BATNA)

The acronym BATNA stands for Best Alternative to a Negotiated Agreement. All investigative negotiators should identify their BATNA and the BATNA of the other parties before entering into a negotiation, since this facilitates strategic planning and decision mapping. It is particularly important for us to identify whether our BATNA is weak or strong. If it is weak, we should try to strengthen it before the negotiation. However, the point of strengthening our BATNA is not about putting it in our back pocket so we can hold it over the other party's head later. It is best used as a decision-making tool to help us determine objectively what we are willing to accept, when to seal the deal, and when to walk away.

### Areas of Application for Language Professionals

We are all negotiators. We negotiate every day with project managers, clients, our colleagues, our children, or the waiter at our favorite restaurant. This means we are all in a position to benefit from investigative negotiation when working out payment terms or computer-assisted translation (CAT) tool deductions with a new client, looking over contracts, and even when collaborating with a project manager. The objective is to remain inquisitive and creative throughout the negotiation process and to remember that our reputation is our most valuable asset.

### Payment Terms

Payment terms and payment methods are an excellent place for translators to utilize investigative negotiation skills because of the wide range of available options. The key is to examine our individual situations and understand all of the costs involved. This oftentimes involves weighing time to collect payment

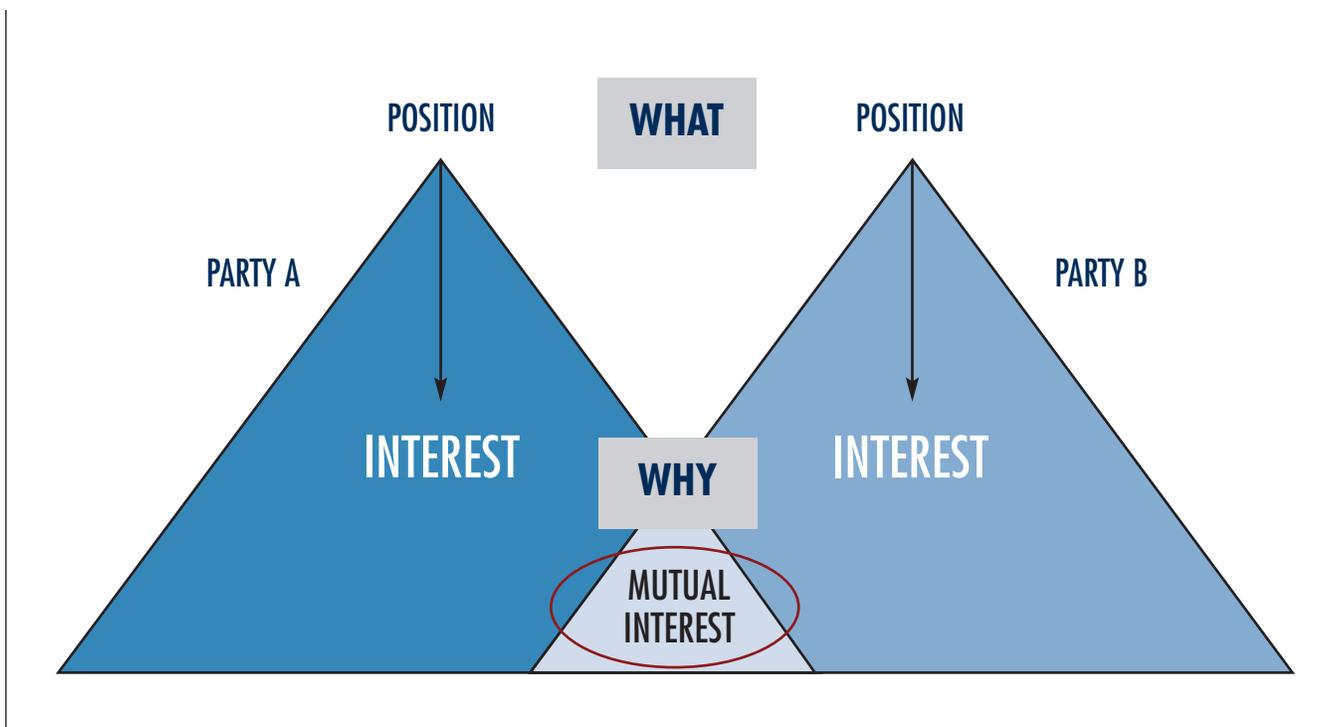
against the respective fees. For example, an American working for European companies might decide it is best to accept longer payment terms in exchange for fewer wire transfer fees and negotiate accordingly. He or she might negotiate to invoice by way of month-end statements that are payable within 30 days, with the stipulation that payment be sent via wire transfer if it is above a certain threshold and via PayPal if below.

### CAT Deductions

End clients have a basic understanding of CAT tools, so they expect agencies to provide discounts. However, agencies are already operating on thin margins. This puts the translator in a tough negotiating situation. For example, a translator might be asked to translate a document, but half of the document is 100% translation memory matches and repetitions for which the agency is expecting a standard CAT deduction. An investigative negotiator understands that the reduced rate is an issue and will



Figure 1: Position versus Interest



seek clarification on what the expectations are for those 100% translation memory matches (e.g., full edit or spell check only). The translator might be willing to accept the deduction for the repeats but not for the 100% matches, or accept an hourly rate to edit the translation in its entirety in lieu of any per word payment for those segments. The situation will only be successful for everybody involved (end client, translator, and agency) if the parties can come up with a creative solution that meets everybody's needs.

### Contracts

Many of us have gotten in the habit of automatically clicking "Agree" to any terms and conditions that pop up before downloading software or installing an update, but taking this approach to contract negotiations is very risky for language professionals. Egregious and far-reaching clauses are sometimes hidden in the legalese of independent contractor agreements and confidentiality agreements. Therefore, it is advisable to err on the side of caution and read whatever we are signing very carefully. The ensuing contract negotiation is the venue for working

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out the details of the contract until both parties are satisfied. If the other party is not willing to negotiate, then we are probably better off walking away with our BATNA.

### Project Managers

We can certainly understand why project managers might like to have rolling deliveries or regular progress updates, especially in light of demanding clients, tight deadlines, or when new translators and editors are added to existing teams. In cases where the relationship between the project manager and translator is paramount, it is best to negotiate the terms of interaction before the project even starts. For example, we could agree to rolling deliveries, but by batches of similar documents instead of after each individual document. Or, if progress reports are required, we could negotiate for weekly instead of daily reports, or e-mail versus phone reports.

By doing so, we would gain the consistency and efficiency we desire, while project managers would maintain quick turnaround and be assured that their projects would remain on schedule.

### Due Diligence

Successful negotiation requires diligent preparation, strategic BATNA analysis, and creativity. Investigative negotiators understand that asking the right questions focuses attention on the mutual interests of both parties. This investigative approach provides tangible results for negotiating payment terms, CAT deductions, contracts, or building relationships with project managers. Negotiating to satisfy both parties' mutual interests takes some diligence and patience on our part, but the end result is the best possible product and people who actually look forward to working together again. ■

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Getting started as a translator or interpreter can be a rocky road. Newcomers are in need of advice and encouragement from working professionals with on-the-job experience. In response to this need, a group of dedicated ATA volunteers has created *The Savvy Newcomer* blog to discuss questions about starting out in the profession. The blog is for all newcomers to the profession, whether a student getting ready to enter the industry or an individual trying to break into a new career.

We welcome you to come join us in making *The Savvy Newcomer* a lively community where veteran translators and interpreters can offer their best "do this, not that" advice. This is a tremendous opportunity for experienced professionals to give back to the profession and for newcomers to learn how to become successful.

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