

CBI CELEBRATES NEW RELEASE ON HARVARD BUSINESS PRESS !

Helping Organizations Negotiate More Effectively

The last six months have seen enormous upheaval for many kinds of organizations. Spending has been slashed. Critical partnerships and agreements are in the process of being renegotiated. Yet most organizations—businesses, in particular—are not taking the concrete and relatively inexpensive steps that they should to ensure that their most important negotiations go well.



By Hal Movius

In *Built To Win: Creating A World-Class Negotiating Organization* Larry Susskind and I set forth a nine-step program for becoming a world-class negotiating organization. (See figure 1 on page 3.) By “world-class” we mean an organization that:

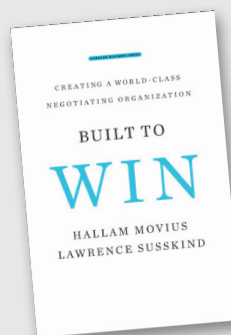
1. Defines specific success criteria so that negotiation outcomes and processes can be evaluated
2. Aligns performance rewards with success criteria
3. Uses an effective preparation process prior to all major negotiations
4. Provides a common language and approach to be used by all negotiators inside the organization
5. Elicits and leverages internal experience and expertise through effective organizational learning, support, and information systems
6. Supports a culture of long-term value creation and relationship building

As may be clear from these criteria, we view negotiation effectiveness as more than the sum of individuals’ skills. Our view, based on decades of consulting and training experience, is that *most of what accounts for negotiation performance*

can be traced to whether and how organizations treat negotiation as a core process.

Most organizations assume that by providing off-the-shelf training workshops for individuals (and nothing else), their negotiation effectiveness will improve. What we’ve seen in our consulting and teaching experience is that negotiation effectiveness must also be thought of in terms of *organizational capacity building*. If an organization does not have in place a clear and credible process model, as well as the tools, measures, coaching, and mechanisms for continuous learning, individuals are unlikely to be able to use what they have learned. Worse, too many training workshops

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Early Feedback Indicates New Book is “Built to Win”

Even before its official launch date, *Built to Win* is making waves. *CIO Insight* named the book “an Essential Spring Book for IT Leaders” and other publications, such as *Supply Chain Digest*, have published positive initial reviews, which have in turn generated supportive comments from readers. One reader writes, “I suspect developing an institutional negotiations framework could lead not only to improvement in outcomes in supplier relationships but also better identification and assimilation of organization goals and values in general. I eagerly look forward to Movius and Susskind’s book!” *Built to Win* will be released on May 6, 2009 on Harvard Business Press. A reception at the Harvard Law School will celebrate the launch. For more information about the book and to subscribe to the authors’ blog, visit www.BuiltToWinBook.com. ★

are led by trainers who have neither a clear theory of negotiation nor of organizational development. Too often they provide only anecdotes and gimmicky tactical advice, and dismiss as “naïve” the assumption that value actually can be created in most negotiations. (We suspect that this may be because they have no idea how to create value in practice.)

As we note in the book, organizations in the United States alone spent almost \$135 billion on employee learning and development in 2007, more than one-third of this money was spent on external services. If we assume—very conservatively—that negotiation training accounted for just one percent of all training, then American organizations spent at least a billion dollars in one year alone on negotiation training.

Suppose you are responsible for improving how the people in your organization negotiate. What are your choices? The most obvious are to provide (online or in-person) training, hire an “expert” to give a talk to your staff, or make available books or articles. Larry Susskind and I suggest a different approach, which is both less costly and more likely to have an impact.

Before intervening, you should make sure to select experts who espouse a credible theory of negotiation, one informed by empirical research and practical success. Beware of providers who have tactics to offer but no theory to build on.

You should then commission a brief “negotiations audit” to understand your organization’s current negotiation performance (we describe how this is done in the book). With

“[Hal Movius and Lawrence Susskind] persuasively argue, with an astounding array of evidence to buttress their case, that effective negotiation processes per se can become no less than the cultural organizing principle and abiding competitive advantage for the enterprise as a whole. This encompassing, original, and startling view, and the pragmatic approach to implementation the authors provide, is worthy of serious consideration by every leader”

—**Tom Peters**, author of *Re-imagine! Business Excellence in a Disruptive Age*

“*Built to Win* is one of the most important books I’ve had the privilege and pleasure to read in a long, long time about that portmanteau field ... most often referred to as *organizational behavior*, or OB. ... This book reminds me of the first time I picked up Michael Porter’s book on gaining competitive advantage or Clay Christensen’s book on innovation. ... *Built to Win* will upend or nullify the conventional wisdom of how many organizations view and do negotiations.”

—**Warren Bennis**, University Professor and Distinguished Professor of Business,
University of Southern California

the results of the audit in hand, you’ll know how to invest in key organizational improvements and identify sponsors and champions who will support and drive change. All of this should happen before any money is spent on training.

Next, you’ll need to find a way to get your staff to start using a common language about negotiation. We endorse the Mutual Gains Approach, which focuses on careful preparation, value creation, strategies for deciding who gets what without undermining long-term relationships, and techniques for dealing with “predictable surprises.” Training should be appropriately tailored—based on the results of the negotiations audit—and use cases and simulations that provide opportunities for participants to apply new ideas to familiar problems.

It you want participants to apply what they have learned ‘back at the ranch’, without slipping into old routines, you need to identify people inside the organization who can provide timely coaching. You should also think seriously about

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The Consensus Building Institute (CBI) is a not-for-profit organization created by leading practitioners and theory builders in the fields of negotiation and dispute resolution. CBI works with leaders, advocates, experts, and communities to promote effective negotiations, build consensus, and resolve conflicts.

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setting up an intranet “learning portal” that provides access to the analytical tools and templates negotiators will need. Further, consider working with champions to pinpoint incentives that need to be brought into line with best negotiation practices.

Finally, you should anticipate that even if you take all these steps, continuous attention to improvement will still be essential. Your organization will need to commit to learning from its failures (in part by protecting the names and details of any particular case). There are many ways to do this, including a newsletter that presents “disguised” instances of success and failure, along with commentary from company leaders and outside experts.

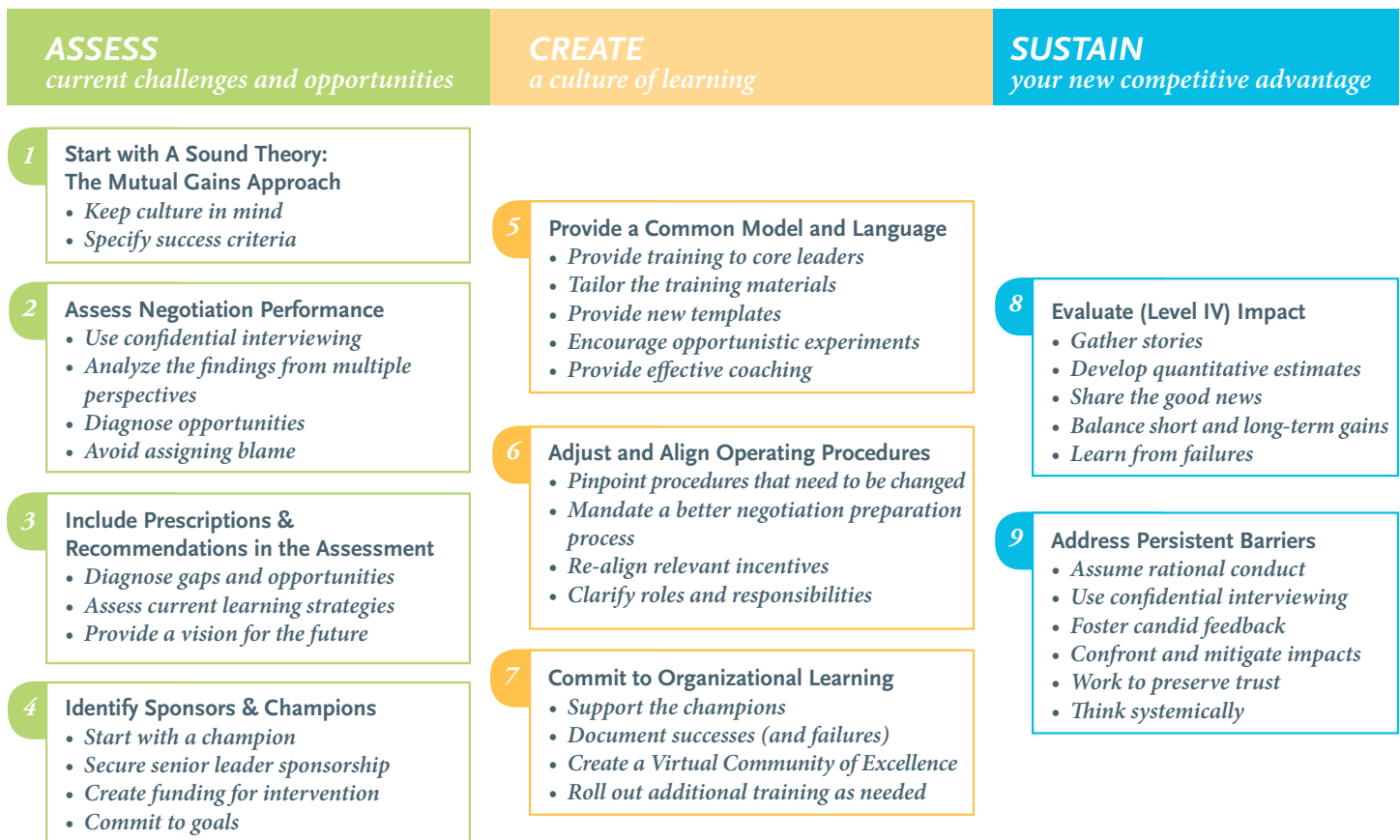
Organizations that are “built to win” take most of these steps. As a consequence, they achieve better results, more quickly, while preserving reputations and relationships. They are more likely to negotiate in ways that:

1. Achieve outcomes better for all parties than their no-agreement alternatives
2. Are efficient in terms of time and resources
3. Find and exploit differences in their interests to produce joint gains
4. Generate contracts that are more easily implemented
5. Manage risks associated with brand and reputation
6. Make future dealings easier
7. Reflect the values of the organization.

Organizations that are “built to win” see each negotiation as a source of vital information. In this sense, negotiation results can be a core driver of strategy. We see negotiation as a place where “the rubber meets the road” for all kinds of organizations a place where goals, constraints, relationships, strategies, ethics, and learning are all in play. Not every negotiation is critical to organizational success, but organizations that fail to build their capacity to negotiate are at best missing a critical opportunity, and at worst putting their livelihoods in jeopardy. ★

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Figure 1: Nine-step model for becoming a “world-class negotiating organization” from *Built to Win*.



Engaging Stakeholders in the Niger Delta

Oil production in Nigeria's Niger Delta region has been marked by decades of strained relationships between host communities, oil companies, and the Nigerian government. Vast quantities of oil, valued at billions of dollars, are pumped each year from the swampy lowlands. Yet, despite the revenue generated by oil exports,

much of the population remains mired in extreme poverty.

Many communities claim they have seen little or no benefit from the tapping of natural resources by the federal government and its multinational oil company partners. Relationships have been further strained by the emergence of violent groups in the swamps who have sabotaged oil installations and kidnapped company workers.

Since 2008, CBI has been working with Chevron Nigeria Ltd. and its Niger Delta stakeholders to improve and strengthen their relationships. The work has brought together community leaders, the company, government representatives, and local non-profits, to produce credible information about development impacts.

At the invitation of communities and Chevron, CBI is now facilitating



By David Kovick



and David Plumb

the renegotiation of formal accords between Chevron and local communities. The process provides important lessons about how to construct a legitimate space for negotiations that addresses all parties' interests, even in the most difficult of conditions.

Background: Chevron's GMOUs

In 2005, Chevron changed its approach to engaging communities impacted by its on-shore oil operations. Chevron signed a series of Global Memoranda of Understanding (GMOUs) with eight clusters of communities and their corresponding state governments. Under these GMOUs, each cluster created a Regional Development Council that took primary responsibility for identifying and implementing community development projects, using funds contributed

by Chevron. The new approach was intended to promote community-led development and improve relationships. The three-year agreements were a significant change from the company's previous approach and stakeholders had a variety of opinions about the shift.

Before the initial agreements were to expire, Chevron asked CBI to lead an innovative, participatory evaluation of the GMOUs. A diverse group of stakeholders directly involved in the GMOU process—including representatives from communities, Nigeria's government, local non-governmental organizations (NGOs), and Chevron—jointly designed and implemented the evaluation. The resulting evaluation report provided a source of credible public information that could be used by all stakeholders as a shared basis for future decision-making and improvements to the GMOU process. To read more about the Participatory Stakeholder Evaluation, see "Helping Stakeholders Evaluate Chevron's Development Efforts in the Niger Delta" by Merrick Hoben (CBI Reports, Winter 2008, pg. 5; available in PDF at www.cbiding.org/publication/reports).

Re-Negotiating the Second Generation GMOUs

With the evaluation in hand, Chevron and community representatives began preparations for renewing and renegotiating the GMOU agreements. One of evaluation's findings was that many stakeholders felt the previous negotiation that created the GMOUs did not credibly include community viewpoints. Chevron and community representatives jointly asked CBI to assist them with the renegotiation by designing the negotiation process and by facilitating the process as a neutral party. CBI is providing this assistance in partnership with the New Nigeria Foundation (NNF), a Nigerian NGO with substantial experience working with oil companies and communities in the Niger Delta.

CBI's unique approach to these negotiations builds on the premise that a more credible, better structured, and more transparent negotiation process serves the interest of all parties. The process seeks to help all parties reach more valuable agreements more quickly, while strengthening relationships throughout the negotiation. Briefly, the process is based upon the following stages:

- Joint training for all parties in the Mutual Gains Approach to Negotiation
- Joint naming of the issues to be negotiated



Representatives from Chevron Nigeria, Egbema-Gbaramatu Central Development Council (EGCDC), and Delta State Government sign the General Memorandum of Understanding.

sibilities in resolving disputes, how to improve communications with the grassroots, and how to improve governance functions. Importantly, by sharing their underlying interests—the underlying reasons why different issues are important to each party—they have been better able to satisfy those interests at the negotiating table.

The parties are reaching agreements more quickly. Chevron and the Regional Development Councils did not want to waste time in the negotiation process. Because of the structured and facilitated process (and because they were well-prepared) the parties were able to have much more efficient discussions about an extensive list of complex

- Separate, structured, and facilitated preparation by each party
- Joint sessions to share interests and options
- Joint sessions to identify joint gains
- Joint sessions to resolve impasses and disagreements

The first of eight renegotiations took place in December 2008 and January 2009 with the Egbema-Gbaramatu Central Development Council (EGCDC). EGCDC, Chevron, and the Delta State Government signed the agreement in March 2009. Two other development councils—the Itsekiri Regional Development Council and the Dodo River Regional Development Council—renegotiated their agreements the following month. The remaining five are expected later in the year.

Though the renegotiations are ongoing, the following important lessons emerged from the first three experiences.

The parties are finding agreements that are more beneficial to all. In particular, the structured process of negotiating has helped to ensure that the parties identify all of the joint gains possible, i.e., the outcomes that actually work well for all parties. In the past, the parties have become so entrenched on single issues—issues that are without question very significant—that they have missed opportunities to improve the overall agreement in other ways. The parties found common ground on a variety of issues that weren't addressed in previous negotiations, such as roles and respon-

issues. Rather than taking months or years, as many past negotiations between the communities and Chevron have taken, the negotiations lasted for less than three weeks.

The relationships have been enhanced. Contentious negotiations can damage and even destroy relationships. In this negotiation process, the Mutual Gains Approach helped the parties to interact more comfortably. The processes of joint training, interest sharing, and joint options exploration helped to strengthen the relationship. By hiring neutral facilitators, Chevron relinquished some control over the negotiation process; they gave that control to the facilitation team, which then balanced control among all parties equally. However, sharing control of the process was a major factor in building a credible negotiation space and in strengthening relationships.

For more information about CBI's ongoing efforts to help Chevron credibly engage stakeholders in Nigeria's Niger Delta, please contact David Kovick (dkovick@cbuilding.org) or David Plumb (dplumb@cbuilding.org) and check www.cbuilt.org for updates. ★

David Kovick and David Plumb are Senior Associates at the Consensus Building Institute.

From the Field



Helping WWF Create a Global Aquaculture Standard Setting Process

Aquaculture is the fastest-growing food production system in the world, and the trend is projected to continue. Although the industry provides an important opportunity to supplement the oceans' food supply, it can also cause significant social and environmental impacts if managed improperly.

Many NGOs and civil society groups have raised concerns about the potential for untenable harm to water quality resulting from aquaculture, as well as the spreading of disease, and the promotion of unfair labor practices.

In 2008, WWF asked CBI to help coordinate a global consensus-based standard setting process that will result in scientific and credible social and environmental performance measures at the farm-site level.

CBI is now working with WWF's coordinators to improve the quality of decision-making among stakeholders worldwide—including scientists, producers, civil society groups, and NGOs. By providing planning and facilitation services for numerous stakeholder meetings around the globe, CBI has supported six global aquaculture dialogues related to shrimp, salmon, pangasius, tilapia, shellfish, and trout.

Similar to other global standard setting work, the Aquaculture Dialogues begin with the premise that effective performance measures, supported by diverse stakeholders, can lead to environmentally and socially sustainable outcomes; answer a growing need for aquatic foods; and contribute to food security, poverty reduction, and economic development.

Several factors make this work challenging and rewarding:

- *Incorporating sound science.* Linking standard setting to best available science is critical to the dialogues' credibility and implies significant hurdles in effectively managing uncertainty and evolving information.
- *Working across regions with geographic, cultural, and production differences.* Key species (like shrimp) are grown in distinct regions, at different scales, and within differing cultural contexts, making dialogue management and joint decision-making difficult.
- *Addressing social impacts.* In many ways, social impacts are even more difficult to measure than environmental impacts, but have become equally important to achieving consumer expectations for sustainability.

- *Achieving change while maintaining industry fairness.* Acceptable standards must leverage the behavior of large industry players while not unfairly excluding small farmers from certification, though their resources for achieving it may be limited.
- *Connecting to credible auditing and certification.* The standards must ultimately be linked to certification mechanisms that ensure brand value, meet sustainability goals, and achieve consumer confidence.
- *Ensuring effective outreach.* Consistently reaching out to concerned publics over the entire standard-setting process is essential to maintaining a credible process.

This is an important year in the Aquaculture Dialogue process. Several Dialogue species groups will be producing draft standards by December. The standards will be finalized by the summer of 2010. Contact CBI Washington, D.C. Office Director Merrick Hoben at mhoben@cbuilding.org for more information. ★

FEATURED PODCAST "Consensus Building and Cultural Heritage Management"



Stacie Smith and Andrew Maxfield discuss CBI's work with the Getty Conservation Institute and other organizations that deal with cultural and historical heritage sites and issues. What began with a project to develop teaching materials for cultural heritage site managers, has evolved into broader applications of consensus building frameworks and skills in cultural heritage management. Visit www.cbuilt.org/blog to hear this and other podcasts about CBI projects, news, and views. ★

Evaluating Systems of Land Use Mediation in Vermont

The benefits of using mediation, including cost and time savings and better outcomes, have been well documented in negotiation literature over the past three decades. When applied to the land use context, although mediation has successfully resolved disputes it is typically ad hoc, applied from jurisdiction to jurisdiction,



By Patrick Field



and Kate Harvey

case by case, as inclination and resources determine.

To evaluate the use and applications of mediation across a “system” of land use decision-making, the Consensus Building Institute and Green Mountain Environmental Resolutions (GMER) conducted an eighteen-month screening and evaluation study in the State of Vermont. The study sought to examine mediation across the land use system within the state, from local boards to the state court level, and to evaluate mediation screening to help determine if and how to identify cases where engaging in mediation may be appropriate, prior to the appeal stage. While the study focused on land use decisions in Vermont, it sought to identify lessons that can inform local land use decision-making processes in other states and across the country.

Our evaluation of data on over three hundred Vermont land use cases at the local, Act 250, and Environmental Court levels, resulted in the following lessons learned:

- Screening for mediation assists with settlement.
- Screening criteria are useful but not determinative.
- The screener’s qualifications and credibility matter.
- Screening program design is important for legitimacy among many users including other mediators.
- Land use mediation is more about identifying interests and options and reaching a settlement, rather than

restoring relationships or building “community.”

- Even when mediation does not result in satisfying agreements, parties may find satisfaction in the process.
- The environmental court’s embrace of mediation has salutary effects on settlement earlier and upstream.

Given our findings and experience, we have identified the following recommendations for designing a mediation screening program:

1. Mediation screeners and mediators should be trained and informed in land use issues, law, and the regulatory structure into which mediation outcomes must fit.
2. The screening process must be transparent and clear.
3. A screening program should allow parties to choose a mediator, should mediation be recommended.
4. The screening program requires feedback on its recommendation of cases for mediation.
5. While acknowledging the many barriers to establishing effective local screening and mediation programs, there are options for making the mediation screening at the local level more effective.

As disputes become more complex and as resources, time, and money for resolving land use disputes become scarcer, it will be important to find efficient and reliable methods for settling cases. Mediation and mediation screening hold great potential for the efficient and reliable resolution of land use disputes.

To download a copy of the study, which includes extensive details on the lessons and recommendations mentioned here), please see this article in CBI Reports, Spring 2009, on our website at www.cbuilt.org/publication/reports. ★

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New, Upcoming, and Ongoing Projects at CBI

Restoring the Neponset River

Patrick Field and CBI Associate Sara Cohen worked with a diverse twenty-member group to reach agreement on the restoration of the lower Neponset River in urban Boston. The group reached unanimous agreement on the removal of one dam, and an innovative partial dam removal with a natural fishway for the other.

Coordinating NOAA Line Offices

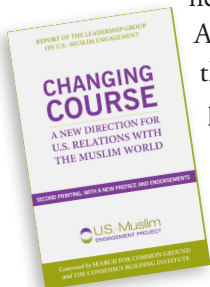
Kate Harvey and Ona Ferguson are helping the National Oceanic and Atmospheric Administration (NOAA) hold targeted meetings in NOAA's North Atlantic region. NOAA staff are gathering feedback and guidance from a variety of stakeholders on a new nationwide effort to coordinate their distinct line offices. NOAA's North Atlantic region will be focusing on providing support to stakeholders on five topics: coastal hazards, coastal and ocean energy development, climate change, ecosystem-based management, and integrated water management.

U.S.-Muslim Engagement Project

The U.S.-Muslim Engagement Project, an initiative of CBI and Search for Common Ground, continues apace in its mission to help improve U.S. relations with the Muslim world.

After the successful launch of *Changing Course*, the project's blue-ribbon leadership group report, project staff and leadership group members have presented the report's message internationally at conferences and forums. The second printing of the report, released in February 2009, includes an updated preface as well as endorsements by Madeleine Albright, Richard Lugar, Howard

Berman, and others. Find out more about the project and the report by visiting www.USBMuslimEngagement.org.



Building “Coast-Smart” Communities

In April, more than 130 Maryland leaders—including mayors, county commissions, environmentalists, business leaders, and state officials—met in Annapolis for an interactive summit about community-level responses to climate risks that threaten the state's coast. Led by CBI, the MIT-USGS Science Impact Collaborative, and the Maryland Department of Natural Resources, the summit centered around an innovative negotiation simulation that demonstrated the challenges and policy options coastal communities face. To download the game and learn more about the summit, visit <http://maryland.coastsmart.org>.

Join us for an intensive, two-day symposium on risk management and climate change.

October 28–30, 2009

Cambridge, Massachusetts

Think about the worst storm you or your family can remember and the damage it caused. What if storms like that occurred every ten years instead of every 100 years?

How should federal, state and municipal agencies and departments plan ahead for the risks associated with climate change and sea level rise? What should they be doing to minimize impacts on citizens, habitats and infrastructure?

In **October 2009**, the Consensus Building Institute and the Lincoln Institute of Land Policy will present a two-day symposium designed to provide decision-makers with an overview of risk management associated with climate change, the opportunity to discuss the political and process challenges associated with adaptation, and strategies for managing the right planning process to get to agreement.

By understanding risks and process options, managers will be able to make informed, politically feasible decisions.

For more information and to register, contact Ona Ferguson (oferguson@cbuilding.org).