

Chesapeake Bay Program: Governance and Goals Options for Management Board Consideration

OVERVIEW

The Goal Implementation Team of Partnering and Leadership (GIT6) held a one day workshop to explore four areas of inquiry related to governance and goals of the Chesapeake Bay Program. These areas were selected based on their relationship to improve functioning of the Bay Partnership, and subsequently have a successful impact on the protection and restoration of Chesapeake Bay. These areas include:

- 1/ Adopting partnership goals and outcomes
- 2/ Chesapeake Bay Program (CBP) governing bodies/membership/voting privileges
- 3/ Changes to Rules and Procedures
- 4/ Protocols for Decision Making and Voting Responsibilities

The objective of the meeting was to articulate the problems and important considerations associated with these four areas of inquiry. The group then offered options for solutions to the problems that might be discussed and prioritized per their relative utility and preference among jurisdictions and stakeholders, including at a meeting of the Management Board.

The format for the options began with the current status of the framework of operation for governance and goal setting or “status quo,” and then subsequent additional options were shared, discussed and elaborated upon by participants, including consideration of the pros and cons of each option.

The role of the hierarchical entities (i.e. EC, PSC, MB, GITs) and their responsibilities to contribute to Program governance, goal setting, and assistance with decision making, among the jurisdictions and stakeholders was also addressed where significant.

AREAS OF INQUIRY FOR CBP GOVERNANCE AND GOALS

1/ Adopting partnership goals and outcomes

Summary: The workgroup looked at 1) how the partners will shape their future work together including the option of a new agreement; and 2) methods for developing and approving/adopting program goals with process options for periodically revising, updating based on emerging issues and ensuring continued partner commitment to goals; and 3) partnership privileges.

Current problems/considerations: The general perception is that the current Agreement and associated commitments are outdated, and some of the commitments are not measureable. The Agreement seems

unnecessarily long and complicated, and not all of the issues impact each jurisdiction nor do they have the same magnitude/importance (and possibly because of this, Governor's signatures may mean different things for different jurisdictions. In addition, not all the commitments are measurable (or SMART). With the *Chesapeake 2000* Agreement, all signatories signed on to all goals and commitments.

OPTIONS for CBP participatory document:

- **Status Quo:** No new Agreement
 - **Pros:** *Overarching Chesapeake 2000 Agreement goals are still considered relevant and critical. The Partnership can move forward without time and attention being spent to develop a new Agreement.*
 - **Cons:** *Commitments with deadlines are outdated, which leads to confusion about what the CBP partnership is committed to. There is a question on whether CWA Section 117 funds can continue to be used with outdated commitments.*

- **Option 1:** Operational Agreement separate from goals, i.e. a secondary document articulating goals and outcomes. This document would ideally tie the Program and partnership together, reconfirm the benefits of the Program, and provide a separate document that delineates goals and outcomes of mutual interest(s) that can be updated more frequently, be more flexible, and potentially agreed to by the PSC– that incorporates SMART goals.
 - **Pros** – *Promotes the idea of everyone “Being all in”. The primary focus is on the partnership/relationship, it is more simple and efficient, and there is improved transparency at the federal level.*
 - **Cons** – *The Agreement and goals are in separate documents; might lose esprit de corps, consistency, and uniformity; Complication – tracking which state is focused on which goal. Resources needed to get a new document signed.*

- **Option 2:** renewed C2k style agreement
 - **Pros:** *Clearly articulated goals and outcomes are signed by the highest level of the partnership, leading to a higher likelihood of commitment. More direct relationship with the authorization language under CWA Section 117.*
 - **Cons:** *Doesn't provide for flexibility with goals and outcomes and will take time to develop and get consensus. Confusion with the distinction between what we do and how we work.*

OPTIONS for Updating Goals:

- **Option 1:** Have appropriate federal/state/partners sign on to the goals
 - **Pros** – *More entities signing on to meet goals*
 - **Cons** – *There is a perception that increased federal involvement would dilute the jurisdictional voice.*

- **Option 2:** Have EPA serve as the federal representative. EPA works with the individual federal partners via a MOU

- *Pros* – Keeps work moving forward; limits dilution of the jurisdictional voice
- *Cons* –Limits participation of other federal agencies.

2/ Chesapeake Bay Program (CBP) governing bodies, membership and voting privileges

The workgroup looked at possible changes to the Program structure and membership in order to better define and differentiate the role of Goal Implementation Teams (GITs), the Management Board (MB), the Principal’s Staff Committee (PSC) and the Executive Committee (EC), and to better define appropriate partner representation on these entities.

Current Problems/Considerations: There is a lack of clarity in the relationship between the roles of members on the MB and the PSC. Currently the level at which an issue should be decided is unclear. Within these groups it is also unclear who decides on the issues and how. There is sometimes a lack of understanding who the members are and who is participating as a non-voting member (Jurisdictions, federal agencies, local orgs, NGOs). Questions that often arise related to decision-making include:

- Original signatories only?
- Who is a partner vs. stakeholder?
- What does partnership confer and what are the expectations/responsibilities?
- What are the unique responsibilities and obligations of a partner/participant on these committees?

The purpose of the options developed below is to provide clarity in appropriate roles for each governing body, appropriate membership levels and levels of consideration of issues.

OPTIONS for Executive Council: Section 117 requires an executive council; historically though not specified in Section 117, members have been at the most senior level for each member organization.

- **Status quo:** “full members” include: MD, VA, PA, DC, CBC, EPA (EPA as a lead federal agency); “participating partners” include DE, WV, NY (headwaters), other federal agencies on specific issues as appropriate; top level of all signatory members: Governors and DC Mayor, EPA Administrator, CBP chair
 - *Pros* – high visibility for issues, ensures issues are a priority for implementation
 - *Cons* –meets only once annually; role of “participating partners” is confusing and representation is often delegated to a lower level.
- **Option 1:** Current members plus full membership for any headwater states who sign on to agreement
 - *Pros* – Greater participation and cooperation throughout watershed
 - *Cons* – Greater staffing needs for headwaters, should they choose to sign agreement;
- **Option 2:** Current members plus additional member from other federal agency(ies) who sign onto agreement
 - *Pros* – Federal partners more engaged in full range of issues

- **Cons** –*Somewhat dilutes voting rights of jurisdictions*
- **Option 3:** Current members plus one additional member representing the Federal Leadership Committee
 - **Pros** – *Links additional federal agencies to partnership*
 - **Cons** – *Dilutes somewhat voting rights of jurisdictions*
- **Option 4:** Combination of options one and two.
- **Option 5:** Non-TMDL option. Retain the current governing body structure and membership of EC/PSC/MB/GITs but take TMDL out of the “partnership” elements of the program; EPA would handle TMDL directly with jurisdictions; other water quality issues would be retained by CBP Partnership (monitoring, model, etc)
 - **Pros** – *takes divisive TMDL issue out of the CBP Partnership*
 - **Cons** – *There would be less opportunity for cross-GIT communication and collaboration related to water quality issues.*

OPTIONS for Principals’ Staff Committee:

- **Status Quo:** EC member and participating partner designees (state secretaries from all states, Director of D.C. DOE, CBC Executive Director, and federal agencies. When a vote is called only one vote is allowed per delegation (all federal members are a single delegation), but there are multiple members from the same jurisdictions and multiple federal agencies at the table. STAC, CAC and LGAC chairs are all invited to the table but do not have voting privileges.
 - **Pros** – *greater expertise and higher level decision makers from all partners*
 - **Cons** – *if a vote is not sought there is an appearance of dilution of jurisdiction’s perspectives.*
- **Option 1:** Retain current membership, however, members may only vote on issues according to what they have signed onto (i.e. if only signed onto water quality, they may only vote on water quality issues).
 - **Pros** – *Members can pick and choose issue on which they will work*
 - **Cons** – *Complicates voting.*
- **Option 2:** Only signatory jurisdictions “at the table” other partners serve in an advisory capacity.
 - **Pros** – *Only those that have decision-making responsibilities are at the table, therefore eliminating the confusion of who “votes”*
 - **Cons** – *With the option that different partners sign off on different goals/outcomes, this option may not eliminate the confusion of who “votes”*

OPTIONS for Management Board:

- Status Quo – One member from each jurisdiction and federal agency, CAC and LGAC chairs. STAC and GIT chairs are advisory members with no voting privileges.

- *Pros* – One members from each jurisdiction and federal agency; strong expertise and history in partnership
 - *Cons* – Members are often at same level and/or people as GITs; members mostly represent jurisdictional agencies with water quality interests and do not necessarily reflect all GIT interests (e.g. fisheries, land conservation, etc.). There is a lack of clarity for the role in partnership, as well as a lack of authority to make final decisions.
- **Option 1:** Retain the current membership, however, members may only vote on issues according to what they have signed onto (i.e. if only signed onto water quality, they may only vote on water quality issues).
 - *Pros* – Not all decisions would have to be considered by the PSC.
 - *Cons* – Members do not reflect the interests of all state agencies.
 - **Option 2:** Retain the current membership, but create a MB Executive Committee. Members would include group similar in make-up with the old gang of 6 (later, Gang of 9) who are the new signatories (this may/may not include headwater states)
 - *Pros* – Comprises a smaller group to make key decisions
 - *Cons* – Not representative of all interests
 - **Option 3:** Creation/Coexistence of two Management Boards. Current governing bodies, but with two Management Boards. Example: MB1 would focus on issues from water quality and habitats GITs; MB2 would focus on issues from fisheries, healthy watersheds and stewardship GITs. Cross-goal collaborations would be built into more frequent GIT chair meetings.
 - *Pros* – Allows for more attention to issues across the spectrum of interests
 - *Cons* – Does not deal with the watershed as an integrated ecosystem
 - **Option 4:** GIT Chair MB option – GIT chairs and vice chairs, along with CBC, CAC and LGAC chairs, are the Management Board. Would need to ensure that all jurisdictions are represented.
 - *Pros* – Would provide a forum for collaboration and coordination across GITs.
 - *Cons* – Interests of all partners would not be evenly represented.

OPTIONS for Goal Teams:

- Status Quo – Open to all willing participants (seniority level not specified); all participants have voting privileges.
 - *Pros* – allows for all interests and stakeholders to have a voice. Solutions can be more well-rounded and take more interests into consideration
 - *Cons* – Consensus would be harder to reach, and those without responsibility to implement programs may drive unattainable solutions.
- **Option 1:** Open to all participants, but only signatory members have decision making privileges.
 - *Pros* – Allows all to participate but provides clear role for signatories.

- *Cons – Discourages attendance of those with no decision-making privileges, potentially leading to solutions that do not take into consideration the interests of those stakeholders.*
- **Option 2:** GIT members appointed by jurisdictions. Additional members to GITs appointed by Management Board.
 - *Pros – GIT membership would be more apt to be respected by the jurisdictions, and there would be a stronger relationship between the Management Board members and the members of the GITs.*
 - *Cons – Restricts the membership and potentially limits the actions and solutions. Limits the authority of the GIT to govern its own membership.*

3/ Changes to Rules and Procedures

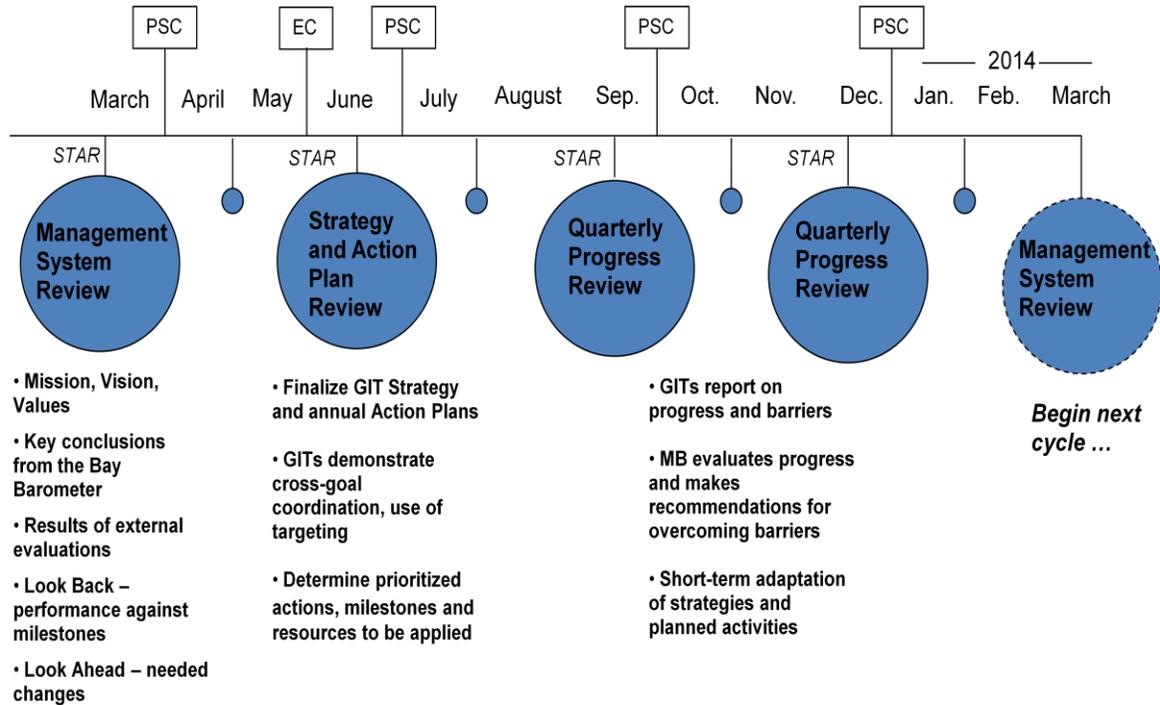
Workgroup looked at options for *scheduling* adaptive management reviews/regular evaluations of the program strategy and effectiveness.

Current problems/considerations: There is currently no set schedule for adaptive management reviews; often need to scramble to set agendas; unable to fit some issues on agendas for months; no true adaptive management implementation.

OPTIONS for scheduling adaptive management reviews

- Status quo – No set review or report-out schedule. GITs, CBPO, and other members volunteer topic areas (informal review) on an ad-hoc basis
- **Option 1:** Annual Cycle - GITs on same quarterly schedule for strategy development and progress reporting (*see diagram below*)
 - *Pros – Strategic synergy. It would allow the Program to set a schedule for annual or bi-annual Strategy & Performance reviews tied to adaptive management; these report-outs will inform EC/PSC and lead to better & more informed decisions; will help focus GITs' work and give them built in agenda time to report out; will be easier to predict agendas and prepare materials in advance; will help meet NAS recommendations. Will improve support provided to the GITs by the MB.*
 - *Cons – data lags*
- **Option 2:** Annual Cycle - GITs on quarterly schedule for strategy development and progress reporting; but allowance for flexible strategy development and progress reporting timing
 - *Pros – More flexible than option 1. It would allow the Program to set a schedule for annual or bi-annual Strategy & Performance reviews tied to adaptive management; these report-outs will inform EC/PSC and lead to better & more informed decisions; will help focus GITs' work and give them built in agenda time to report out; will be easier to predict agendas and prepare materials in advance; will help meet NAS recommendations. Will improve support provided to the GITs by the MB.*
 - *Cons – Less synergy or no synergy*

Example Schedule



4/ Protocols for Decision Making and Voting Responsibilities

Workgroup looked at governance changes that would enhance clarity of decision making expectations and procedures at the different levels of the program. Effective use of delegations in the management structure/hierarchy (i.e., to ensure that voting is fair and is based on one-entity-one-vote).

Current problems/considerations: Lack of clarity about who gets to vote on which issues and how the vote will be conducted. Particular confusion includes the role of federal agencies and headwater states in decision making. Clear decision-making rules need to be established or clarified (e.g. Must the group reach consensus? Are there situations where a vote can be called and where majority rules? In the case where majority rules, would dissenting members record their objections? What are the rules for conflict resolution?)

OPTIONS for MB/PSC/EC Decision Making

- **Option 1:** Full participation: All partners sign on to all goals and fully participate in decision-making.
 - *Pros* – ensures the greatest possible involvement toward all Chesapeake Bay restoration goals and outcomes
 - *Cons* – less jurisdictional flexibility, may strain budgets and resources, doesn't encourage consensus
- **Option 2:** Menu style approach towards goal involvement: Partners sign on to a specific subset of goals and outcomes

- **Pros** – *Allows partners and stakeholders to sign on to the goals and outcomes they are interested in. Doesn't bog down jurisdictions with extra monitoring.*
 - **Cons** – *May weaken bay restoration effort, may be too heavily impacted by ever changing political forces*
- **Option 3:** Champion approach: Allows for one or more member to explore an emerging issue on behalf of the partnership. Others may sign on at a later date or not at all.
 - **Pros** – *Allows partners and stakeholders to put an emphasis on the goals and outcomes most important to them. Allows jurisdictions to monitor effectively, without imposing extra monitoring. Allows other jurisdictions to sign on at a later date.*
 - **Cons** – *May weaken bay restoration effort, may be too heavily impacted by ever changing political forces*

OPTIONS for MB/PSC Voting Privileges (range of decision making + who votes on options)

- **Option 1:** Only the signatories get one vote each. If there is an option that allows for signatories to sign on to specific goals and outcomes (, those that didn't sign on to the related goal would not be the decision-makers.
 - **Pros** – *Only those that have committed to achieve goals make decisions. Decision-making not diluted by others.*
 - **Cons** – *Complicates decision-making process. Has potential for disenfranchising other members.*
- **Option 2:** Delegation style vote (for program wide implications). 9 total votes, 1 vote per jurisdiction and CBC plus 1 vote for federal agencies (EPA will always be that vote and communication with others would happen through the FOD or FLC/D)
 - **Pros** – *Equal voice for each jurisdiction, regardless of the number of members in that jurisdiction. EPA, who represents the federal government on the EC, is responsible for coordinating the federal voice.*
 - **Cons** – *For the federal vote, EPA is not always the primary federal agency for meeting all of the goals under the CBP partnership.*
- **Option 3:** Delegation style vote (for program wide implications). 9 total votes, 1 vote per jurisdiction plus 1 vote for feds. The federal agency to place vote is the lead agency for the EO 13508 Strategy. EPA will defer to the other agencies as needed; communication through the FOD.
 - **Pros** – *Same as above for jurisdictions. For federal agencies, it ensures that the appropriate federal agency is responsible for leading the vote on behalf of the federal government*
 - **Cons** – *Complicates federal decision-making*