**Jurisdictional Comments on the 2012 CBPO Grant Guidance**

**General-**

1. P10 Not a comment for the grant guidance per se, but would appreciate a conf call/training in future to discuss requirements of FFATA

We will consider this topic for the jurisdictional grant meeting currently being developed.

2. P11 All jurisdictions should be put on the RFP distribution list automatically. Please all grant contacts to this list.

We will add any contacts you would like to be included on the list and extend the invitation to the other jurisdictions as well.

3. P30 For planning purposes, it would be helpful to provide the information of expected funding levels for next fiscal year. I know this is difficult to do, especially now, it light of the increasingly tight budgets, but if you expect a funding increase/decrease it would help jurisdictions to prepare.

It is our goal to maintain all jurisdictions at their current CBIG and CBRAP allocation levels. Unfortunately future funding levels cannot be predicted as it is dependent on final Congressional appropriations. We will keep all jurisdictions apprised as future funding information becomes available.

4. Page 33 - Replace Kenn Pattison's name/information with Ted Tesler, (717) 772-5621, thtesler@pa.gov, as currently listed under Dave Goerman.

Thank you for the updated information. The grant guidance has been updated accordingly.

5. On page 13 it states that Chesapeake Bay Regulatory and Accountability (CBRAP) Grants will be awarded non-competitively. As the state agency primarily responsible to implement New York's water quality regulations, and having initiated an approach and work plan based on the FFY10 and FFY11 CBRAP awards, the New York State Department of Environmental Conservation (NYSDEC) encourages the U.S. Environmental Protection Agency (EPA) to continue awarding this grant on a non-competitive basis.

Thank you for your feedback and support.

6. Page 8 pp1 - (EC action #3) We feel that Virginia has a process well-underway to define certainty for agricultural producers with our new legislation for developing Resource Management Plans.

Agreed. We appreciate VA's efforts to share their experiences to date at the Ag Certainty discussions organized by Secretary Hance and Secretary Kee with all Bay states, USDA and EPA - in their effort to develop a consistent set of principles that may be shared across Bay states.

7. Page 25 pp3 - Data acquired with our grant cost-share funding, specifically related to our agricultural program participants, is in compliance with FOIA requirements on public-accessible data.

OK.

**The Chesapeake Bay Program: An Overview-**

8. P8 Paragraph 1- "2) expedite the cost analysis of the WIPs and TMDL in cooperation with the jurisdictions and to make draft estimated in late summer 2011" This target was not met. Please update with new target dates.

We apologize for the error. The text should have read “…late summer 2012.” The grant guidance has been updated accordingly.

**ULOs-**

9. Page 11-12 - Unliquidated Obligations - We note the new language which places a review role on the EPA project officer. We request the following language be added in this section. "Project officers may consider state procedures which effectively obligate funds to meet this validation requirement."

While CBPO recognizes the validity of such a rationale for why unliquidated obligations may exist, we cannot add this sentence as EPA policy states that each EPA Project Officer must conduct a review on an annual basis. When the EPA Project Officer finds an unliquidated obligation, they must request information from the recipient for their validation determination. Therefore, such a rationale cannot replace the validation effort, but most certainly would be a reasonable justification for the EPA Project Officer to consider.

10. Page 11-12 - We understand the strengthened focus on federal "Unliquidated Obligations" and will continue to meet the requirements and make improvements of our expenditure timelines as we have improved over the previous year. We appreciate EPAs guidance and clarifications  
on terminology with this matter.

Thank you for your response informing us that we are successful in providing better and clearer guidance on the matter.

**Work Plan Section-**

11. P16 "1) For all proposals competed through CBP..." this language is confusing, can you reword? What exactly do you mean by "original proposal language?"

The term “original proposal language” was used to suggest that the work plan text should match that of the submitted proposal in circumstances where the activity was competed. The language for this section has been revised to more clearly explain what was meant.

12. Page 17 calls for all CBIG and CBRAP grants to describe all of the state and federal funding sources and point and nonpoint programs focused on implementing nutrient and sediment controls in the narrative of the introduction section.  We include very detailed descriptions of this information in our 400+ page WIP.  In cases like ours, the guidance should allow jurisdictions to simply reference the WIP. EPA has poured over our WIP and can determine if we meet the intent of the guidance. Even if we summarized this information, it would result in adding a great deal of redundant information and text to our grant request. Our grant documents should get to the point as quickly as possible with the respect to how we propose to use the funds, not spend an inordinate amount of time and text rehashing information that EPA has already reviewed. The Introduction should set the stage for the tasks that are proposed too be funded in a very general way.

While the text for the CBRAP portion was developed from the unchanged CBIG language, we understand and appreciate the concern you express. In light of the points raised and the intention of the information described, we have revised the text to explain that a general description of the tasks covered by the grant and a description of the relationship to the WIP and/or two-year milestones is to be provided.

13. On page 18 it states that a CBRAP workplan narrative must identify all state and federal funding programs used to address nutrient and sediment reduction-related activities within the Chesapeake Bay watershed. As nutrient and sediment reduction-related activities is such a broad characterization, identifying all programs is not practical. Please consider modifying this sentence by deleting the word all or otherwise limiting this requirement to include only significant nutrient and sediment reduction-related activities or activities consistent with WIPs and/or two-year milestones for water quality.

Thank you for your response. Please see our response above as it addresses the same concern.

14. Page 8 pp1 - (EC action #2) How is the cost analysis of the WIPs and TMDL being carried out? It was our understanding that the CBPO would be handling this.

The cost analysis is being carried out by an EPA funded contractor and CBPO is managing this work.

**WIP/ Two-year Milestones Connection-**

15. P19 "Linkage to Jurisdictions Watershed Implementation Plan" Language regarding this new requirement is not definitive. It states this this is not a requirement for CBIG, but will this hurt current/future funding if each objective does not link to the WIP? Do you expect justification if an objective does not link to the WIP? The language in the guidance states "encouraged"/"to greatest extend possible" but this is not reflected in the workplan template.

While CBIG/Headwater recipients are not required to align the grant objectives to the WIP and/or two-year milestones, each CBIG/Headwater recipient is expected to complete this section of the work plan even if the response is “not applicable.” If no connection exists, no justification is required and will not be held against a jurisdiction for current or future funding. However, should a connection exist, EPA expects jurisdictions to align the objective with the jurisdiction’s WIP and/or two year milestones.

It is EPA’s intention that jurisdictions align the objectives to the respective WIP and/or two year milestones to the greatest extent possible.

**Priority Watersheds-**

16. Page 21 pp3 - On Priority Watersheds, in Virginia those with the highest delivery factors are in the lower, tidal areas as opposed to the Shenandoah Valley. We appreciate that Smith Creek is a Showcase Watershed and have committed many state dollars, in addition to partnership funding for needed actions in this watershed. However, with this new focus in the grant guidance, we wish to point out that there are others with "high delivery factors for loads reaching the Bay".

States will be in a good position to determine where best to focus resources to meet key WIP priorities in priority watersheds based on where the highest loading areas are as well as what resources have already been spent to address loadings in particular watersheds, like the Shenandoah Valley area. Building the justification for where resources will be focused based on a number of factors will be helpful.

**Stormwater Management Priorities-**

17. Page 21 - The Guidance indicates that "EPA intends to work through the CBP to develop means for prioritizing funding for stormwater management. Any agreed upon parameters will be included in the 2013 grant guidance." PA looks forward to that discussion and agreement, however does not support mandatory use of CBP for stormwater management.

Thank you for your feedback. PA and all the jurisdictions will have the opportunity to develop the stormwater management parameters including the level of required usage of such parameters.

18. Page 21 pp2 - Priority Practices for Stormwater: Virginia desires to have input and be involved in the process of developing means for prioritizing funding for stormwater practices. Please make us aware of planning and scheduling for this upcoming determination.

Thank you for your feedback. VA and all the jurisdictions will be informed of the planning and scheduling for this matter.   
  
**Local Government WIP Implementation-**

19. Page 31 - If more CBRAP funding becomes available, the Guidance indicates it may be used to "support local governments for Phase II watershed implementation plan development and implementation." It is unclear what government unit is considered a local government and how that funding would be channeled to those entities.

At this time, CBPO has not fully framed how such funding would be provided, what parameters would exist for the usage of funding, or when such funding may become available. Until CBPO has a better picture of the future funding, no information can be provided at this time. Once CBPO knows if any funding is available for this purpose and how much, further guidance will be developed.

20. On page 31 it states that additional CBPRAP funds are intended to be used to support local governments for Phase II WIP development and implementation. Please add clarification that additional funds are intended to be used by states to support local government Phase II WIP development and implementation. Otherwise, it appears EPA intends for states receiving CBRAP funds to make subawards to local governments. Given that there are several hundred units of local government within the Chesapeake watershed in New York, doing so would be ineffective in achieving this goal.

Thank you for your comment. Please see the response above.

**Possible Future CBRAP Funding Allocation-**

21. On page 31 it states that EPA anticipates review and possible revision of the allocation formula in context with revised Bay TMDL allocations. Given that this is the initial and only source EPA CBPO funds coming to the NYSDEC and that with new plans and approaches now in motion, I strongly encourage EPA CBPO to at least maintain or increase the existing funding level. Otherwise, inefficiency in program delivery is a likely result and momentum toward building and maintaining local support for Bay restoration will decline. EPA might consider reformulating only additional funds that may be allocated to CBRAP.

Thank you for your feedback. NYSDEC makes a valid point and will be considered if and when such changes are contemplated.

22. Page 31 pp3 - Please notify us of the 2013 schedule for review of the funding allocation formula in context with the revised TMDL allocations.

Thank you for expressing your interest in this process. CBPO will inform all the jurisdictions with the schedule when it becomes available.

**Cost Share Requirements-**

23. On pages 35 and 36 it describes that the state cost share for Section 117(d) is a range from 5% to 50%. NYSDEC appreciates that EPA opted for a 25% cost share for headwater state CBRAP grants. While in good economic times state match requirements are sensible, their effect today leaves states less able to participate in beneficial federal programs like CBRAP. EPA might consider lowering the state share to the statutory minimum until the extraordinary economic downturn rebounds.

CBPO appreciates the financial situation all the jurisdictions are facing in today’s economic climate. After considering this request, CBPO has concluded that the 25% level of cost share required of all Headwater jurisdictions continues to be an appropriate level. CBPO reserves the right to revisit this requirement and to establish a lower or higher cost share as deemed appropriate in the future.

**Attachments 4 & 5-**

24. P15 C. Workplan For the Attachment 4- it would be very helpful to have an updated sample so that you can communicate the types of responses/information you need to gather in each workplan.

The samples for Attachments 4 and 5 have been added back in and updated accordingly to provide the requested guidance.

25. Attachment 5, page 4 - The Guidance adds an "Issues/Problems" section, but does not indicate who should complete this section (DEP or EPA project officer) or give examples or instructions of what to include.

After conducting a second review of this section which was carried forward from past versions, we have decided that this section is no longer necessary as recipients are expected to complete this information for each objective under the progress report section.