

The Scientific and Technical Advisory Committee (STAC) offers the following comments on the establishment of an Independent Evaluator for the Chesapeake Bay Program (CBP).

Background

The Chesapeake Bay Accountability and Recovery Act (CBARA) calls for an Independent Evaluator (IE) of the Chesapeake Bay Program and STAC understands that three options are being considered for conducting evaluations.

1. EPA Science Advisory Board (EPA SAB)
2. A grant to an entity (e.g., a science-based institution of higher learning) through the Executive Council (EC) nomination/Administrator selection
3. A specially formed committee of the National Research Council of the National Academy of Sciences (NAS-NRC)

It is also our understanding that the IE is designed to enhance efficiency of Federally-funded Chesapeake Bay restoration activities, rather than to act punitively, which we agree is likely to have the best chance of improving performance. Since many STAC members have served on or are members of the institutions proposed to conduct the evaluation, we offer the following comments to help the Principals' Staff Committee (PSC) choose the most appropriate and effective approach.

Avoiding appearance of conflict of interest (COI)

Of the three options currently under consideration, the NAS-NRC option is best able to avoid the appearance of any conflict of interest. NAS-NRC have a strict conflict of interest policy (meeting Federal Advisory Committee Act, or FACA, guidelines) and their reporting process includes an independent review by anonymous experts who were not involved in the report's preparation. The EPA SAB is an independent body that must also meet FACA guidelines and is similar in many respects to an NAS-NRC panel. However, because the board is supported by EPA, it may not be viewed as completely independent. Nonetheless, this board has a track record of being critical reviewers of EPA scientific methods.

In contrast, most regional institutions that have the appropriate technical expertise have been substantially financially supported by either the EPA CBP or members of the partnership. Although we believe that institutions would be willing and able to manage the various COI issues, the efforts that would be needed to ensure equitable participation of peers could reduce efficiency and effectiveness.

Costs, responsiveness, and timeliness

In STAC's collective experience (which includes membership on NAS and SAB committees), the most cost-efficient mechanism for conducting a review that is responsive to questions of the type posed is a standing committee that meets periodically, is managed by paid contractors, and receives data and information directly from partnership agencies or institutions. Structures that do not use paid contractors are less able to deliver responsive products in a timely fashion. The NAS-NRC structure comes closest to this model. Although they are not the least expensive

option, careful management of the structure of the evaluation(s) could mitigate this issue. However, the prior review by the NAS of the CBP revealed that such academic bodies tend to focus on methods needed to achieve the highest standards of scientific inquiry, rather than generating suggestions that can be easily adapted to program resource constraints. This concern might be addressed by specifically requesting NAS-NRC to consider how the program might adjust to constrained resources (as they did in their reviews of the USGS National Water Quality Assessment Program). Alternatively, a board that is managed by an independent contractor could improve the responsiveness of the board's findings.

The EPA SAB is similar to STAC in that they are designed to address questions based on known science and are not designed to evaluate whether a program is achieving goals. Since STAC has previously expressed some concerns about whether the program's performance metrics are scientifically defensible, it is likely that the SAB would have similar concerns. The question of adequate program performance is essentially a policy question that depends on many interacting parts. However, we agree that the SAB would have familiarity with EPA program goals and constraints and thus would be likely to achieve readiness to address topics more quickly than some boards that could be convened. If questions to be addressed were framed in terms of scientific adequacy or best practices, then the SAB would be an appropriate and responsive group.

An additional challenge is posed by CBARA requirement that a report be delivered to Congress by the IE every two years. Given the complexity of the IE's charge, this will presumably require a standing review committee. While the SAB would meet this need, it comes with limitations noted above. Standing NAS panels do exist, but can be quite costly.

Managing the evaluation

Whichever structure is chosen, STAC believes that the CBP should work closely with the IE to ensure that the IE appreciates both the complexity of the problem and the CBP's own efforts over decades to adaptively manage, inform crosscut budgeting, and reduce inefficiencies. In particular, the IE should be encouraged to research and consider the CBP's rich history of promoting collaboration, including ongoing work to develop a Decision Framework. The Goal Implementation Teams (GITs) have been identifying the factors that must be managed to achieve the program's goals and outcomes. The GITs have also assessed the existing federal, state, and non-governmental organization (NGO) programs that are contributing to the achievement of those objectives. Instead of an unbounded search for all activities linked to the Chesapeake Bay, an analysis based on this structure would be bounded and targeted at those efforts contributing to the program's goals. This identification has the double benefit of responding to the congressional request and supporting program efforts to continually improve coordination and efficiency. An additional important benefit is that the data collection can be done by the partnership and, if possible, by one or more carefully selected contractors (chosen independently by the oversight committee), with results reviewed by the IE.

The evaluation of restoration activities should also be accomplished by an audit of the very extensive and well-documented monitoring and analysis underway, and planned as part of the

program's Decision Framework. There is a role for external review of the comprehensiveness of the program's efforts, but little rationale for duplication.

With the perspective that the independent evaluation can build on and contribute to the Bay Program's Decision Framework, the evaluation can be structured primarily as a high-level audit and review of data collection and analysis performed by the partnership. This will certainly require dedicated funding, but should be less costly than a free-standing data collection and analysis effort.

Finally, and as a last but important recommendation, STAC would support legislative or executive level commitment (at both federal and state levels) toward the provision of the additional funding needed to undertake this evaluation, and specifically toward the support of an NAS-NRC (or similar) committee dedicated to this task. In this regard, we consider it an unnecessary and inappropriate burden to the CBP partnership (as currently envisioned and defined) to financially support this external evaluation.