A PRACTICAL GUIDE TO CONSENSUS

Abbreviated Version

This abbreviated version of the *Practical Guide to Consensus* highlights some of the important elements of the book, and serves as a "review edition" for people considering purchasing copies of the book.

The complete *Practical Guide to Consensus* may be purchased through PCI's on-line order form. Discounts are available for purchases of 10 or more copies.

Collaborators

Jim Arthur
Chris Carlson
Lee Moore

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FOREWORD

Why PCI Created this Guide

By Greg Wolf

Director, National Policy Consensus Center and
Former Governor's Advisor for Dispute Resolution, State of Oregon

Consensus based approaches to problem solving have long been used to resolve policy conflicts. Governments, businesses, interest groups and individuals negotiate decisions every day. These activities are not new.

What *is* relatively new is building the use of consensus processes into government as an alternative for addressing a wide range of multiparty, multi-issue disputes and controversies. In the 1970s , mediators began employing these approaches to help parties settle environmental disputes. Over the years, these methods have been used to address an increasingly broad array of issues. WE now know much more about when, where, and how to use these approaches.

This book is a practical "how to" guide for sponsors of consensus processes, a role often played by government agencies. It is produced by the Policy Consensus Initiative (PCI), a national non-profit organization working with state leaders to establish and strengthen the uses of conflict resolution and consensus building to enhance government effectiveness. The book distills the best practices for using collaborative approaches to resolve public issues. It is based on the Society of Professionals in Dispute Resolution 1997 report *Best Practices for Government Agencies: Guidelines for Using Agreement-Seeking Processes*.

While this book is written especially for those on the front lines in government, it provides information useful to any agency, department, organization, or individual involved in consensus processes. The more that we, as public officials, can wisely employ the tools of consensus building and collaborative problem solving, the better able we will be to serve the public interest. I hope you find the approaches and methods presented here to be as useful in resolving problems as I have.

INTRODUCTION

Building on the Best Practices Report

In a 1997 report titled *Best Practices for Government Agencies: Guidelines for Using Collaborative Agreement-Seeking Processes*, the Society of Professionals in Dispute Resolution developed eight recommendations for government officials who sponsor consensus processes:

1. An agency should first consider whether a consensus approach is appropriate.
2. Stakeholders should be supportive of the process and willing and able to participate.
3. Agency leaders should support the process and ensure sufficient resources to convene the process.
4. An assessment should precede a consensus process.
5. Ground rules should be mutually agreed upon by all participants and not established solely by the sponsoring agency.
6. The sponsoring agency should ensure the facilitator's neutrality and accountability to all participants.
7. The agency and participants should plan for implementation of the agreement from the beginning of the process.
8. Policies governing these processes should not be overly prescriptive.

About this Guide

This guide provides step-by-step, "how-to" advice for the first seven of these recommendations. It also covers several important topics not fully addressed in the report, such as how to assess whether a consensus process is likely to work.

We define a consensus process as an effort in which government agencies and other affected parties seek to reach agreement on a course of action to address an issue or set of related issues. A consensus process is not appropriate for all issues, but under the right conditions, the approach described here can produce effective solutions with broad public support.

The book is written especially for government sponsors of consensus processes, but will also be useful to other stakeholders and participants. It offers government leaders and managers guidance on how to use and conduct consensus processes. While the idea for using a consensus process can come from anyone, often a public official or agency makes the decision to sponsor or initiate a process. Throughout the guide, "sponsor" refers to sponsoring governments, departments, or agencies.

This guide describes an ideal approach to organizing and conducting a consensus process. It is not always possible to undertake an ideal process, and modifications or adjustments are usually required. However, chances of a successful outcome will increase to the extent you follow the principles outlined in the guide. Chapters 1 and 2 lay the foundation; Chapter 1 defines and describes the basics of consensus processes and Chapter 2 explains when consensus processes are most likely to be successful.

Chapter 3 outlines the role of sponsors. The remaining chapters describe how to conduct the basic phases of the process: assessment (Chapter 4), engaging participants (Chapter 5), determining who will manage the process (Chapter 6), planning and organizing the tasks (Chapter 7), writing ground rules (Chapter 8) conducting the discussions and reaching consensus (Chapter 9), and formalizing and implementing the agreement (Chapter 10). These phases are not entirely linear; some will overlap or occur simultaneously.

While actual cases may vary from the model presented here, this guide covers the essential elements that sponsors need to address. The guide also includes a number of real-life examples that illustrate how these processes have been used. Stories from around the nation demonstrate how consensus, when used appropriately, really works to help resolve public issues.

This guide covers only the basics of consensus building. There are many other publications that discuss these topics in greater detail, some of which are listed in the bibliography. Our hope is that readers will find this guide a good place to start.

What is consensus?

A practical definition for consensus in the public policy setting is:

- The parties have reached a meeting of the minds sufficient to make a decision and carry it out;
- No one who could block or obstruct the decision or its implementation will exercise that power;
- Everyone needed to support the decision and put it into effect will do so.

What Is collaboration?

To collaborate means to work together. A number of recently published books discuss this new era of collaboration in government and business and explain how to build collaborative working relationships. Generally, collaboration includes:

- A shared purpose—collaborators work together to achieve a common objective.
- A shared need—accomplishing the objective requires a combination of skills, resources and ideas that one party alone does not have.
- Authentic conversations—people must be able to speak frankly and listen carefully.
- Reciprocity—cooperative give-and-take enables a group to negotiate effectively.

Why use a consensus process?

For a government agency, department, or official who is charged with solving a complex issue, a consensus process may make sense for several reasons:

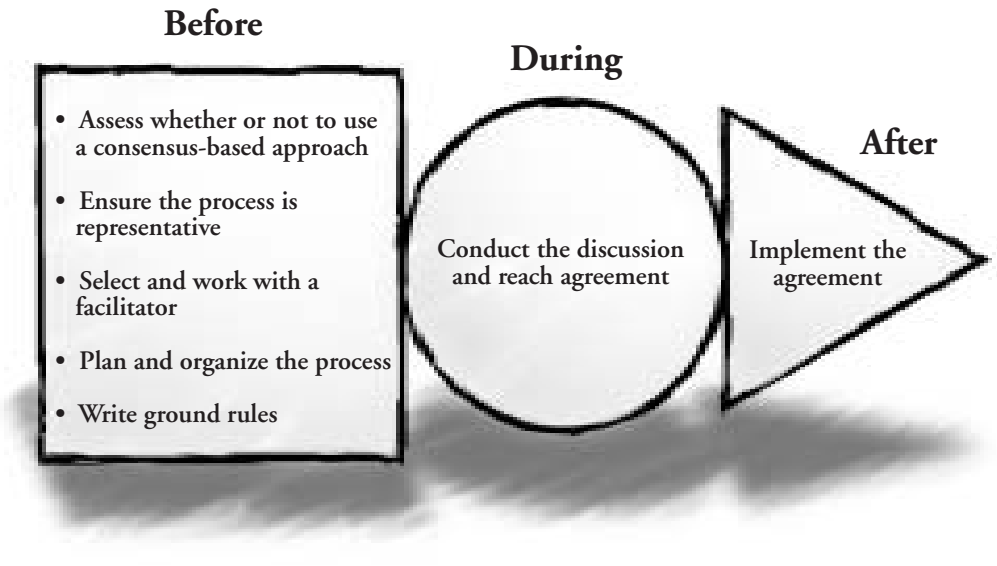
- An issue is not getting addressed and the costs of indecision and uncertainty are mounting for everyone.
- Decision makers in other forums may not address the real issues.
- The department could make an unpopular decision and no one would follow it.
- The parties may need each other's continued cooperation.
- Consensus agreements can result in better solutions.
- Consensus processes can shorten the list of disagreements or clarify issues for decision makers.
- Consensus processes can enhance the sense of fairness and equity in decision making process.

Other ways to engage the public

In addition to consensus processes, two other methods that are frequently employed are communication and consultation.

METHOD	POSSIBLE OUTCOMES
COMMUNICATION	▸ Information exchange ▸ Lists of interests, concerns, and/or options ▸ Improved understanding of the issues
CONSULTATION	▸ Opinions or suggestions for action ▸ Plans developed and refined
CONSENSUS	▸ Agreements reached on actions or policies ▸ Strengthened relationships

What happens in a consensus process?



BEFORE the process begins

1. Assess whether or not to use a consensus-based approach
2. Ensure the processes is representative and inclusive
3. Select and work with a facilitator
4. Plan and organize the process
5. Write good ground rules

1. Assess whether or not to use a consensus-based approach

What is an assessment?

An assessment is a diagnosis of a situation or conflict to determine whether a consensus process is feasible or likely to waste time and energy. Some sponsors try to economize by skipping this stage, but experience shows that this initial diagnosis is the most essential part of the process. Because some issues lend themselves to consensus and others don't, it actually wastes resources to proceed without first determining whether the situation is ripe for reaching consensus.

Sponsors of the processes may wish to follow this CHECK LIST to help determine their own willingness and ability to use a consensus approach:

☐ Do the issues appear to be negotiable?

☐ Are the interests clearly defined?

☐ Is the issue a priority for stakeholders?

☐ Is there enough time for parties to deliberate (or is it an emergency situation)?

☐ Alternatively, is a deadline "pushing" a decision helping ensure a defined time frame for the process?

- ☐ Who are the parties? Is there a relative balance of power or do some have better alternatives than negotiating that might be more attractive than reaching consensus?
- ☐ If issues of race, class, culture, and ethnicity could make it difficult for parties to participate on equal footing, what can be done to overcome those differences?
- ☐ Are any of the parties framing the issue as one of rights or asserting a fundamental principle they consider to be non-negotiable?
- ☐ Are any of the parties seeking to clarify a legal question or establish a legal precedent?
- ☐ Is it likely that political leaders will support a process?
- ☐ What are the relationships among the parties? Is there a history of conflict or is this issue a onetime occurrence?
- ☐ Do the parties have political influence that would help the agency implement the decision? For example is funding from the legislature necessary?
- ☐ Will implementation require the ongoing effort of many parties? Should the sponsoring agency try to achieve an agreement that will lay the foundation for productive collaboration?

NOTE:
The complete Practical Guide to Consensus *contains a number of other questions that are key to making an assessment.*

2. Ensure the process is representative and inclusive

How to decide who participates

Deciding who participates is a two-step process—first identifying the interests that need to be represented, then selecting the representatives for those interests. Generally, the parties agree on the interests to be represented and then each interest group selects its own representative.

Cautionary Note: Participation is the Key to Legitimacy

Government-sponsored consensus processes are not the traditional forums in which policies are made, administered, or adjudicated in a democracy. In traditional forums, the mechanisms for determining who participates directly in the writing and administration of law are spelled out in constitutions, charters, statutes, and rules. Consensus-seeking processes are adjuncts to traditional democratic processes; they can shift the locus of public decision making.

3. Select and work with a facilitator

What does a facilitator do?

- Before the process begins—Facilitators assess prospects for consensus by conducting interviews with the sponsor and the other stakeholders. Based on the interviews, they analyze whether a consensus process is feasible, then prepare their assessment without favoring the sponsor with strategic advice or recommendations that could harm the interests of another party. Facilitators advise other parties in the same way.

- During the process—Facilitators prepare for and manage the discussions as well as write meeting summaries. They see to it that information needed for each meeting is assembled and distributed to all participants in time.

- After the process—Facilitators assist with drafting agreements, and, if requested, manage meetings during the implementation period(s).

Should a facilitator from inside or outside the sponsoring agency manage the process?

If the facilitator is an agency staff member, the agency should establish an in-house policy or agreement with the "inside" facilitator that specifies the boundaries the facilitator will adhere to in order to preserve his or her impartiality and accountability to the participants. If parties distrust one another, a facilitator affiliated with one of them may not be able to perform all of his or her required tasks.

What qualifications does a facilitator need?

The most important qualification is past experience as a facilitator and mediator of complex, public conflicts involving many parties. Most rosters of facilitators, in fact, give priority to past experience. A facilitator should also have the attributes, skills, knowledge, and professional ethics

How to identify and select an independent facilitator

There are three basic steps to finding a facilitator:

- Identify the pool of candidates
- Issue a Request for Qualifications (RFQ)
- Narrow the list of candidates to those you want to interview
- Interview the candidates

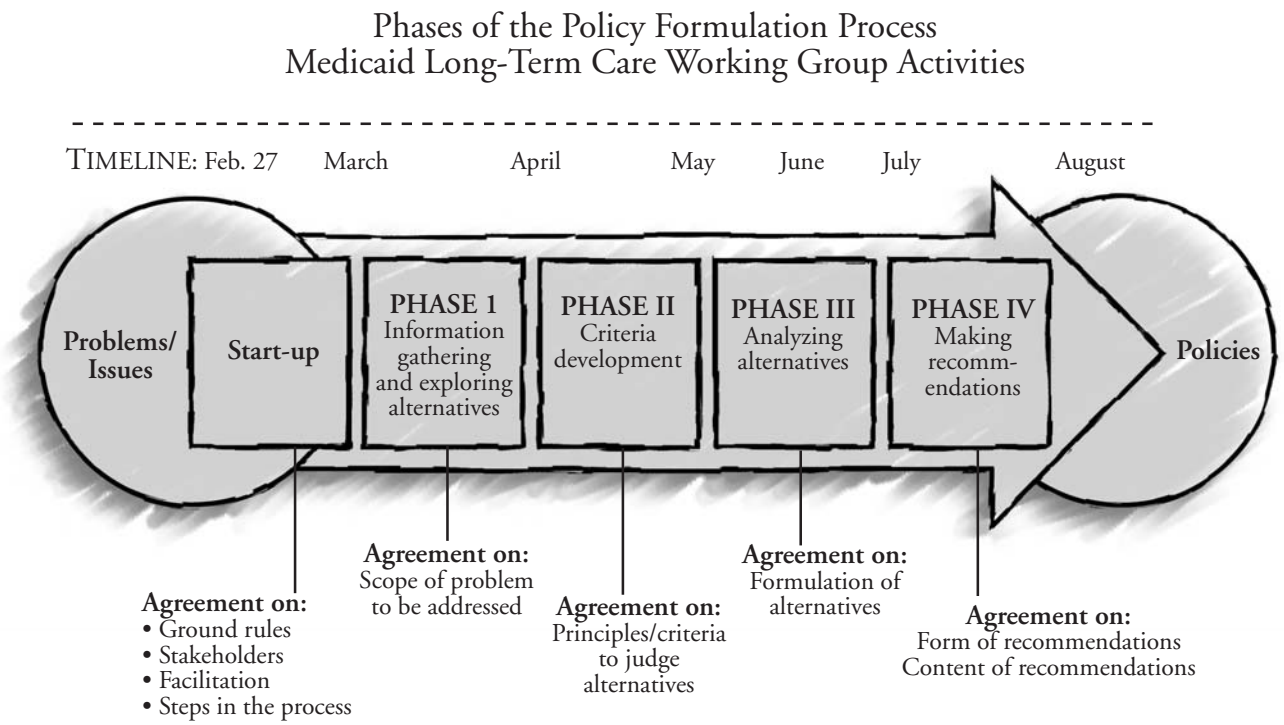
NOTE:
The complete Practical Guide to Consensus *contains sample questions for interviewing potential facilitators.*

4. Plan and Organize the Process

Working with the facilitator and the other parties, the sponsor should:

- Identify and provide needed resources
- Identify and prepare information
- Orient staff and participants
- Establish mechanisms for public outreach
- Provide staff and logistical support
- Develop a map of the process
- Develop ground rules
- Develop a work plan
- Plan and hold the organizational meeting

Phases of the Policy Formulation Process



5. Write Ground Rules

The ground rules should address the following key elements:

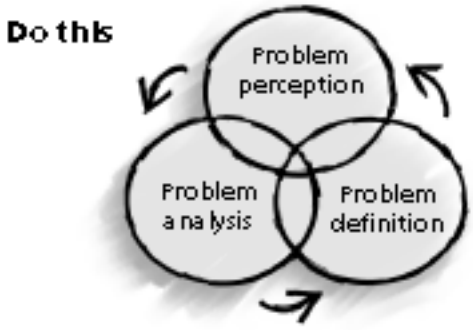
- Purpose and scope
- Decision making
- Representation, roles, and responsibilities
- Procedural requirements, sunshine laws, and confidentiality
- Behavioral guidelines
- Organization and conduct of the process
- Time frame and schedule
- Communications with the public and the media
- Facilitator's roles and responsibilities
- Funding issues

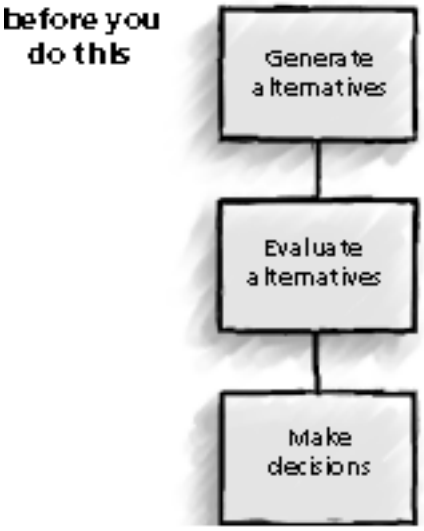
NOTE:
The complete Practical Guide to Consensus *contains sample ground rules.*

DURING the process

Negotiate the Issues and Reach Agreement

- Create the climate for negotiations
- Deal with legal requirements: confidentiality, and sunshine laws
- Collaborative problem solving is cyclical, not linear
- Use interest-based negotiation
- Inform and educate participants





Many groups jump prematurely to solutions without agreeing on the problem

Six steps to reaching consensus

1. Develop a common statement of purpose
2. Exchange views and information
3. Generate options that accommodate the interests
4. Identify criteria by which to judge the options
5. Assemble the agreed upon options into a package that addresses all issues and accommodates all interests
6. Develop the final agreement

AFTER the process

Formalize and Implement the Agreement

- Plan for implementation beginning with the assessment
- Keep decision makers and constituencies informed