

# **A Means of Providing Transparency through the Detroit Water and Sewerage Department (DWSD) Model Contract**

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This document summarizes some attractive features used by the Massachusetts Water Resources Authority (MWRA) to provide transparency in its operations and offer an effective voice in its governance. Typically referred to as the “Boston model”, it is being presented at the request of several municipal representatives that are considering entering into a 30-year contract with the Detroit Water and Sewerage Department (DWSD). The discussion below provides an overview of how the best aspects of the Boston model could be implemented in Southeast Michigan.

At our meeting in Southfield on March 14, 2007, I summarized the concerns of the DWSD customer communities into five areas of concerns.

- Technical considerations
- Term (length) of contract
- Rates
- Transparency
- Governance

At that meeting, the community representatives focused on transparency and governance as areas that were unresolved in the proposed model contract. They also voiced concern about a lack of protection for the customer against penalties and other inequities imposed when circumstances change. Such changes could be the loss of a business that represented a major water user. In other public utilities, such as electricity or natural gas, customer protections are provided by the Public Services Commission. The basic purpose of public utility regulation is to assure the furnishing of adequate service to all utility customers without discrimination and at the lowest reasonable rates. In Michigan, no regulatory scheme is provided to protect the public interest with regard to the operation of the DWSD. That’s why it is so important that the long-term model water contract being proposed to the communities by DWSD provides the protections and benefits we need.

Some communities have suggested that the level of oversight to the operation of the Detroit Water and Sewerage Department is insufficient. They argued that there are insufficient checks and balances necessary to protect the public interest. The

apprehension about the level of oversight is heightened because, historically, it has been difficult to obtain information from the DWSD.

I've done a considerable amount of research regarding the leadership and management of large regional water and sewer authorities. I've visited water and wastewater treatment facilities throughout the country and governance was a key issue in their formation and continued management. Nearly all of the regional agencies had faced challenges from their suburban customers as the costs of operations rose. Those that addressed the governance issues have eliminated the conflicts that arise during rate-making.

The problems of transparency are not unique to Southeast Michigan. Each of the regional water and sewer providers that I have visited has implemented procedures to provide meaningful access to the technical and financial information of that agency. Some of these procedures are more successful than others. When information is shared openly, the rate-making process is far less acrimonious. Each of the agencies I visited had incorporated innovative ways of encouraging both customer input and agency responsiveness. All of these procedures were established as a response to legislative, judicial, or customer concerns.

The best example of "Best Practices" used to assure meaningful communication between customer communities and the regional authority can be studied in the Boston model at the Massachusetts Water Resources Authority's Web site at ([www.mwra.state.ma.us](http://www.mwra.state.ma.us)).

MWRA is a Massachusetts public authority established by an act of the legislature in 1984 to provide wholesale water and sewer services to 2.5 million people and more than 5,500 large industrial users in 61 metropolitan Boston communities (Attachment A – Enabling Legislation). The ownership and management of MWRA established by this legislation is quite different than the current DWSD structure. Eight of the 11 members of MWRA's Board of Directors are directly or indirectly appointed by the 61 customer communities. Three members are appointed by the City of Boston; three are appointed by the governor of Massachusetts; three are appointed by the Advisory Board, and one is named from each community where a wastewater treatment plant is located.

Without focusing on the differences in the make-up of the board or enabling legislation, the oversight aspects from the legislation were well conceived and easily transferable to other regional systems.

The MWRA was established after years of water quality violations, litigation, and poor relations between the city and its suburbs. At that time, the legislature addressed the challenges of transparency and governance by establishing the MWRA Advisory Board ([www.mwraadvisoryboard.com](http://www.mwraadvisoryboard.com)) to represent the interests of MWRA service area communities. Its members include the chief elected official and a designee from each of the municipalities served by the Authority, along with a member of the Metropolitan Area Planning Council (MAPC), and six gubernatorial appointees representing various interests. The Advisory Board is charged with reviewing and commenting on MWRA capital and current expense budgets, as well as MWRA practices and policies. In

addition, the Advisory Board appoints three members to the MWRA Board of Directors and serves as a liaison between the communities and the MWRA.

The legislation also provided for professional staff to support the Advisory Board. Since its inception, there have been some modest changes to the titles and budget of the support staff but their role remains the same – to provide technical support to the Advisory Board and the communities they serve.

This Advisory Board staff is imbedded in the MWRA organization and therefore provides unfettered access to all MWRA information. This access assures meaningful representation to each municipality served. Currently, the board is supported by a professional staff of five that truly understands the rate making process in Boston. The talents and responsibilities can best be seen by reviewing the position descriptions provided in Attachment B. The director and the chief financial officer have served the Advisory Board nearly since its inception and therefore provide a great deal of institutional memory. Through this period, they have become the experts on all financial matters concerning the communities. This staff can intelligently question whether projects are oversized and can also determine if maintenance is being postponed.

Clearly the communities value this insight, but equally importantly, the MWRA values this knowledge. As was explained by the MWRA financial staff during my visit, once the Advisory Board staff had reviewed and supported a rate hike, the communities all abided by their recommendation.

The Advisory Board's staff provides comments and recommendations on the Capital Improvement Plan annually to the communities (Attachment C – MWRA CIP Comments and Recommendations). The Advisory Board's staff also provides an in-depth review of the expenses that contribute to the rates (Attachment D – Expense Comments and Recommendations). In the 2006 expense budget review, the Advisory Board clearly identified the overall goal of their analysis:

*“The Advisory Board’s recommendations address appropriate and reasonable tightening of operating expenses; careful review and reasoned pursuit of non-rate revenues; and updated examination of capital financing, refinancing and restructuring opportunities, including the size and schedule for capital program spending; and the use of the Authority’s rates management reserves in a multi-year context.”*

This proposal, coupled with the detailed analysis required to undertake this approach, assures the communities and the rate payers that the costs are being controlled while building needed capacity.

The success of the MWRA Advisory Board is unquestioned in the Greater Boston area. This success was validated when, in 1995, the Advisory Board concept was proposed as the model for controlling costs of the Big Dig (Central Artery Project). In the discussion, Attorney General Scott Harshbarger stated that the \$165 million savings realized by

scaling back a water treatment project “is just the most recent example in a series of ratepayer wins resulting from sustained and systematic citizen input. As the MWRA’s experience shows, there’s no substitute for common sense citizen input.” (Attachment E – Recognition Letter). Unfortunately, the legislature failed to form a similar advisory board and the costs of the Big Dig spiraled out of control for another decade.

**Conclusion:** I’m not suggesting taking the Boston model verbatim. Rather, I propose extracting the advisory board concept and incorporating it in the proposed model water contract currently being considered by the communities.

While I believe the Boston model would address the largest challenges facing DWSD customer communities, other proposals also could address the problem. I forward the information on the Boston model as a working example. I welcome other suggestions. If the communities embrace this approach to providing additional transparency, my staff can work with a group of municipal attorneys to craft language in the model contract to institute the changes the communities are requesting.