

## MSD Fact Sheet

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**PROJECT NAME:** ADOPTION OF NEW RULES AND REGULATIONS FOR THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI (MSD)

**LEGISLATIVE REQUEST:**

Resolution to amend the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati, modifying Article XXIV, "ADMINISTRATIVE RULES," by updating and replacing Section 2405, "Financial and Budget Protocol."

**PROJECT DESCRIPTION:**

A public hearing is required to receive public comments on a proposed Resolution to amend the MSD Rules and Regulations at Article XXIV, "ADMINISTRATIVE RULES," by updating and replacing Section 2405, "Financial and Budget Protocol." The proposed amendment updating and replacing Section 2405 is necessary to enable the County, as the owner of the MSD, to effectively carry out its responsibility to approve MSD operating budgets and MSD capital improvement programs, issue MSD debt, and set appropriate rates and charges to finance operations and capital improvement programs. MSD adherence to strict standards of project and financial management promotes fiscal transparency and accountability with respect to current projects, and will facilitate long-term economic stability, thereby ensuring efficient and effective implementation of the Consent Decree. Provisions under Article XXIV, Section 2405 address the following:

1. Performance Assessment;
2. Capital Improvement Program ("CIP") Contingency;
3. De-legislation;
4. Capitalization rules;
5. Master Cash Flow Schedule requirements;
6. Prohibition of transfers of legislated funds between project categories without County approval;
7. Specific procedures for Allowance spending;
8. Master Services Agreement Task Orders and Professional Services Agreements;
9. Memoranda of Understanding and Grants;
10. Budgeting MSD paid Public Relations activities;
11. Delegation of Authority;
12. CIP and Operating Budget Preparation

The Board scheduled a public hearing on the proposed new rules at a public meeting of the Board on Wednesday, August 6, 2014 at 11:30 AM, in accordance with the 1968 City – County Management Agreement for MSD, thereby affording all interested parties the opportunity to comment. Notice of the public hearing notice was advertised in the Cincinnati Enquirer newspaper on July 19, 2014 and July 26, 2014. Additionally, the proposed rules and public hearing notice were posted on the Hamilton County Board of Commissioners website, <http://hamiltoncountyohio.gov/hc/bocc>.

RESOLUTION CONCLUDING THE PUBLIC HEARING  
TO CONSIDER AMENDING ARTICLE XXIV OF THE RULES AND REGULATIONS OF  
THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI  
REPLACING SECTION 2405

WHEREAS, the Board of County Commissioners of Hamilton County, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, 2014, conducted a public hearing to receive and consider comments, remonstrances and objections to the proposed update and replacement of ARTICLE XXIV, SECTION 2405 of the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati, Hamilton County, Ohio, and the names of persons appearing at said hearing have been entered in the minutes.

NOW, THEREFORE, BE IT RESOLVED that the aforesaid hearing be and the same hereby is concluded.

BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2014.

Mr. Hartmann \_\_\_\_\_

Mr. Monzel \_\_\_\_\_

Mr. Portune \_\_\_\_\_

RESOLUTION AMENDING ARTICLE XXIV OF THE RULES AND REGULATIONS OF  
THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI  
REPLACING SECTION 2405

WHEREAS, Section 6117.01 of the Revised Code of Ohio and Section IV of the 1968 Management Agreement between Hamilton County and the City of Cincinnati for the Metropolitan Sewer District ("1968 Agreement") vests the Board of County Commissioners of Hamilton County, Ohio ("Board"), with the authority to adopt Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati ("MSD"); and

WHEREAS, the Board did, pursuant to and consistent with Section V, Paragraph 2(b) of the 1968 Agreement, after public notice and hearing, adopt revised Rules and Regulations for MSD, and as subsequently amended, on January 24, 2001; and

WHEREAS, the Board did pass a resolution on December 16, 2009 establishing a Financial Policy Manual for MSD; and

WHEREAS, the Board has received draft amendments to Article XXIV of the Rules and Regulations which would update and replace Section 2405, which text is attached hereto and by this reference made a part hereof as Exhibit A; and

WHEREAS, the Board did, pursuant to and consistent with Section V, Paragraph 2(b) of the 1968 Agreement, publish notice of a public hearing on the proposed MSD rules in the Cincinnati Enquirer newspaper on July 19, 2014 and July 26, 2014 to be held on August 6, 2014 at 11:30 AM at the County Administration Building. Additionally, the proposed MSD rules and public hearing notice were posted on the Hamilton County Board of County Commissioners website, <http://hamiltoncountyohio.gov/hc/bocc>; and

WHEREAS, the Board did hold and conclude a public hearing on \_\_\_\_\_, 2014 amending Article XXIV by updating and replacing Section 2405 to the Rules and Regulations for MSD, affording public comment on the same; and

WHEREAS, legal counsel has reviewed said amendments of the Rules and Regulations for MSD.

NOW, THEREFORE, BE IT RESOLVED, by this Board of County Commissioners of Hamilton County, Ohio that Article XXIV, Section 2405 of the Rules and Regulations for MSD, as set forth in Exhibit A, is hereby adopted and replaces the previous Article XXIV, Section 2405 in its entirety effective immediately, except as expressly set forth differently in the Rules and Regulations herein being as passed by the Board.

BE IT FURTHER RESOLVED, that MSD is directed to update the December 16, 2009 Financial Policy Manual in accordance with this Article XXIV, Section 2405 of the Rules and Regulations for MSD.

BE IT FURTHER RESOLVED, that the December 16, 2009 MSD Financial Policy Manual remains in full force and effect except as superseded by any Rule and Regulation for MSD.

BE IT FURTHER RESOLVED, that, if there is a conflict between the MSD Financial Policy Manual established by this Board of County Commissioners on December 16, 2009 and this Article XXIV, Section

2405 of the Rules and Regulations for MSD, the Article XXIV, Section 2405 of the Rules and Regulations will control.

BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

BE IT FURTHER RESOLVED, that the Clerk of the Board be and hereby is authorized and directed to certify copies of this resolution to Christian Sigman, Hamilton County Administrator, Scott Stiles, Interim City Manager of the City of Cincinnati, Tony Parrott, Director of the Metropolitan Sewer District, and Jeff Aluotto, Assistant County Administrator.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this \_\_\_\_ day of \_\_\_\_\_, 2014.

Mr. Hartmann \_\_\_\_\_

Mr. Monzel \_\_\_\_\_

Mr. Portune \_\_\_\_\_

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution adopted by the Board of County Commissioners in session this \_\_\_\_ day of \_\_\_\_\_, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Office of the Board of County Commissioners of Hamilton County, Ohio this \_\_\_\_ day of \_\_\_\_\_, 2014.

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, Clerk  
Board of County Commissioners  
Hamilton County, Ohio

## Exhibit A

### Article XXIV, Section 2405

#### Section 2405 Financial and Budget Protocol

This section establishes a financial and budget protocol to facilitate the effective allocation of funds and oversight of expenditures for Projects (defined below in 2405-2A) in the implementation of the Capital Improvement Program (“CIP”) and all capital Projects and spending. It also establishes procedures for the development of the annual operating budget. The rules promulgated under this section require adherence to strict standards of Project and financial management, transparency, and accountability. The MSD Financial Policy Manual (approved by the Board December 16, 2009, as may be amended by the Board) is considered to provide implementing procedures to this Rule, and is hereby incorporated by reference herein. Any updates to the MSD Financial Policy Manual shall be consistent with the policy established herein, and shall be approved by the Board.

#### 2405-1 Performance Assessment

To evaluate the effectiveness of the financial and budget protocols, the Board may, at its discretion, employ the services of a professional service firm to perform a performance assessment relating to the activities of the MSD to evaluate the effectiveness and efficiency of MSD operations, capital improvement programs, wet weather programs, overall program design and achievement, service levels and priorities for resource allocation, staffing levels, and operations costs and workloads. The Board may establish such procedures as it deems appropriate for each performance assessment. The Board, at its discretion, may establish for each performance assessment a review team consisting of appropriate partners from the County, MSD, and others identified by the Board, at its sole discretion. The review team shall review the performance assessment and provide to the Board a report analyzing the performance assessment, with an emphasis on identifying findings and recommendations which will result in financial savings to MSD and MSD ratepayers.

#### 2405-2 Contingency

No capital Projects shall be proposed or included in any legislation, budget, plan or program with any financial contingency. Instead, each capital Project shall be offered for approval bearing a cost estimate that shall serve as a Project cost cap, which cap may be altered by resolution approved by the Board.

##### A. Capital Improvement Program (CIP) Contingency

1. Annual Cash Flow Based Program Contingency (“Program Contingency”) is the planning, design, construction and procurement of capital assets, including structures, systems, fixtures, and major equipment (collectively referred to as “Projects”) contingency that is based on a set percentage of the forecasted annual cash flow

amount for Projects, and is budgeted annually to be used only for unforeseen or materially different conditions, design shortfalls identified after funding is legislated, or emergencies. The Program Contingency amount shall be proposed annually by MSD with its CIP budget request, and reviewed and approved annually by the Board and may be, if appropriate, adjusted quarterly correlating to Projects completed, terminated and suspended, and remaining Projects' cash flow for the fiscal year. Program Contingency shall not be used to pay for:

- Goods or services that are not legislated by the Board;
  - Goods or services that are not directly related to Projects; and
  - Goods or services resulting from consultant's and/or contractor's negligence or to cover any scope of work that is not included or reasonably inferable in the Request for Proposal, Master Services Agreement and/or Professional Services Agreement with consultant, and bid and/or contract documents with the contractor.
2. Consistent with Section 2405-3, below, and unless otherwise approved by the Board, at the end of each County fiscal year all unspent Program Contingency allocated for the fiscal year is terminated and set at zero dollars.
  3. Program Contingency is included in the annual MSD CIP budget as a separately legislated Project Allowance to cover needed contingency for all Projects legislated. Anticipated expenditures shall be included in the annual cash flow projection schedule included in each annual CIP so Projects may continue with minimal interruption for approved scope or cost changes, subject to Appendix A – Contingency Management Delegated Authority, below.
  4. Those projects authorized in 2013 and in prior years whose budgets contain a project contingency will continue to use the project contingency budget item to fund approved change orders, however all change orders for these projects are subject to Appendix A – Contingency Management Delegated Authority. The use of project contingency for these projects will be reported in the Program Contingency Log as described Section 5 below.
  5. Each decision to use funds from the Program Contingency shall be made by MSD on a case-by-case basis. MSD shall keep accurate accounting and detailed descriptions of Program Contingency use (“Program Contingency Log”) for each separate Project and each use of Program Contingency. MSD shall submit the Program Contingency Log to the Board monthly pursuant to Rule 2403. The Program Contingency Log shall contain the following:
    - Project ID
    - Project Description
    - Project Type

- Vendor Name
- Contract or Task Order Number
- Change Order Description and Change Order Date
- Original Contract Amount
- Adjusted Contract Amount and % Change
- Original Contract Time
- Adjusted Contract Time , and % Change,
- Total Number of Change Orders for the Contract, and
- Identification of Change Order Type

Project Type shall be one of the following:

- CSO / SSO
- Allowance
- Sustainable
- Treatment, or
- Sewer

The Change Order Type categories shall be one of the following:

- Unforeseen Conditions
- Errors and Omission
- Time Extension
- Owner Directed Change
- Emergencies, or
- Other

6. MSD shall be responsible for the implementation, maintenance and operation of internal controls related to the Program Contingency account, including but not limited to reconciliation and tracking. Such controls shall use procedures which shall include, at a minimum, the following:

- MSD shall not include any contingency funding in budget estimates for Projects utilized for forecasting cash flow. Contingency may be considered in Business Case Evaluations and other Project evaluation tools. Project legislation shall not include any contingency amount. Annual and multi-year CIP budgets shall not include any contingency amount outside of the single Program Contingency line item.

- Project contingency will be funded solely from the annual approved Program Contingency, except for Allowance funded projects as provided in the next paragraph, and will be allocated based on a calculated percentage of projected cash flow for Projects. An eighteen (18) month cash flow projection shall be developed and maintained. Each quarter the 18-month period will be advanced one quarter. The Actual versus Forecasted cash flow data will be reported monthly to the Board in accordance with Section 2403-1 of the MSD Rules and Regulations.
- Construction projects funded from the Emergency Sewer, High Risk Asset Renewal, Waste Water Treatment Asset Renewal, Manhole Rehabilitation Trenchless Technology and Sewer Rehabilitation Trenchless Technology Allowances are not subject to Program Contingency. These projects will include contingency within the project budgets.
- MSD will provide the appropriate level of review of each change order to insure sound justifications and decisions are being used to increase project budgets. For projects larger than \$50,000 in design value and \$75,000 in construction value, MSD will establish a change order review committee to insure senior level review of all change orders.

7. Calculation of the annual Program Contingency shall be as follows:

- 15% of planning and design cash flow amount
- 6% of construction cash flow amount
- 4% of major equipment purchase (valued at more than \$5 million for a project).

Example: For a \$100 million projected annual cash flow, assuming \$10 million is for planning and design, \$80 million for construction, and \$10 million for major equipment purchase:

\$10,000,000 x 15% =	\$1,500,000
\$80,000,000 x 6% =	\$4,800,000
\$10,000,000 x 4% =	\$400,000
<b>TOTAL:</b> \$100,000,000	\$7,700,000 or 7.7%

8. On a quarterly basis, MSD shall provide to the County an updated Program Contingency calculation. When Program Contingency funds are used for a Project, those funds shall be allocated to the Project so that the total cost of the Project is accurately reported. The Program Contingency budget will be debited an equal amount.
9. Over time, as actual experience with the Program Contingency is gained, the County may modify the annual Program Contingency calculation factors to reflect a more accurate prediction of required budget.

10. This Section 2405-2(A) became effective January 8, 2014.

B. Use of Construction Manager at Risk or Design Build Contracts for Project Contingency

Notwithstanding the general prohibition on financial contingencies for capital projects under Section 2405-2, the use of Construction Manager at Risk or Design Build Contracts may be used as project delivery methods, which include contingencies, in accordance with Ohio Revised Code Chapters 9 and 153 and the requirements specified below.

1. Each contract shall contain the following:

- A Guaranteed Maximum Price or Lump Sum Bid
- Language specifying the amount of the contingency and its authorized use.

2. With a minimum of 20 working days for County review, MSD shall submit each draft contract to the Board for review and approval prior to including the draft contract in the RFQ/RFP documents, and MSD shall submit any subsequent proposed changes to the contract, including the final contract, to the Board for review and approval prior to contract execution with a minimum of 10 working days.

C. Project Change Management

1. The Board has sole authority, through its legislation, to authorize annual Program Contingency, changes to the legislated amount of each annual Program Contingency, delegation of its authority regarding use of the Program Contingency, and changes to the legislated amount for individual Projects. Through this Rule, the Board specifically delegates the limited authority listed in Appendix A below to the individuals holding the positions set forth below. This authority will be used for the review and approval of proposed contract changes for planning, design and construction of projects, to include change orders, task orders and field directives. All authority not delegated as specifically set forth below is retained by the Board.
2. MSD will provide a minimum of 15 working days for County review.
3. Construction projects valued less than \$250,000 will not be subject to the Procedures in Appendix A, but will be managed according to MSD's defined change management procedures. However, the results of any approved changes for these size projects will be subject to all other provisions of this Rule and Rule 2403, for example inclusion in the Cost and Schedule Variance Report and the Program Contingency Usage Report.

**Appendix A – Change Management Delegated Authority**

<b>Primary Approval</b>	<b>Design Cost*</b>	<b>Construction Cost*</b>	<b>Time Increase</b>	<b>Reviewing Authority</b>
Field Inspector	N/A	Up to \$5,000 each occurrence; not to exceed 1% of project cost in aggregate	No authority to approve time or schedule extension	Project Construction Manager
Project Design Manager	Up to \$5,000 each occurrence; not to exceed 2% of initial engagement contract amount in aggregate	N/A	No authority to approve time or schedule extension	Principal Engineer
Project Construction Manager	N/A	Up to \$25,000 each occurrence; not to exceed 1.5% of project initial contract amount in aggregate	No authority to approve time or schedule extension	Principal Engineer
Principal Engineer	Up to \$25,000 each occurrence; not to exceed 4% of initial engagement contract amount in aggregate	Up to \$50,000 each occurrence; not to exceed 2% of project initial contract amount in aggregate	No authority to approve time or schedule extension	Project Delivery Superintendent
Project Delivery Superintendent	Up to \$50,000 each occurrence; not to exceed 7% of initial engagement contract amount in aggregate	Contract Value < \$250,000: Up to \$25,000 each occurrence; not to exceed 10% of initial contract amount  Contract Value \$250,000 or greater: Up to \$75,000 each occurrence; not to exceed 2.5% of project initial contract amount in aggregate	Time or schedule extension up to 30 days or 5% of original contract schedule, without exceeding project / program schedule and Consent Decree deadline, where applicable	Reviewed and Recommended by Change Order Committee and supported by Project Design/ Construction Manager and Principal Engineer
MSD Executive Director/ Director	Up to \$75,000 each occurrence; not to exceed 10% of initial engagement contract amount in aggregate	Contract Value < \$250,000: Up to \$37,500 each occurrence; not to exceed 15% of initial contract amount in aggregate  Contract Value \$250,000 or greater: Up to \$150,000 each occurrence; not to exceed 4% of initial engagement contract amount in aggregate	Time or schedule extension up to 90 days or 15% of original contract schedule, without exceeding project / program schedule and Consent Decree deadline, where applicable	Reviewed and Recommended by Change Order Committee and supported by Project Delivery Superintendent
County Administrator or Assistant County Administrator or County Utility Oversight Coordinator	Up to \$150,000 each occurrence; not to exceed 15% of initial engagement contract amount in aggregate	Up to \$300,000 each occurrence; not to exceed 6% of initial engagement contract amount in aggregate for project value > \$250,000 and not to exceed 25% for project value < \$250,000	Time or schedule extension up to and without exceeding project / program schedule and Consent Decree deadline, where applicable	Supported by MSD Director

## 2405-3 De-Legislation

### A. Annual De-Legislation

1. All prior approvals for funding for the MSD Projects listed in 2405-3(A)(3) below are hereby automatically de-legislated, de-authorized, and terminated, effective the last day of each fiscal year. The Board may, at its discretion, modify the list of projects in subsection (A)(3) below.
2. MSD shall provide to the Board by January 31 of each year, a report confirming the decertification of unspent funds of all Project accounts.
3. CIP Projects requiring annual de-legislation include:
  - 10180100 Sewer Relining Trenchless Technology Program
  - 10180105 Manhole Rehabilitation Trenchless Technology Program
  - 10180465 Rainfall Derived Infiltration and Inflow Program
  - 10180750 WWIP Progress Studies and Recreation Management
  - 10180900 MSD Sustainable (Green) Infrastructure Program
  - 10190107 Recreation Management
  - 10190207 Combined Sewer Capacity Program
  - 10190209 Urgent Capacity Response
  - 10190307 Home Sewer Treatment Systems Extensions
  - 10199000 Wet Weather Program Management and Support Services
  - 10280002 Land Acquisition
  - 10280035 Emergency Sewer Repairs
  - 10280124 CIP Project Planning
  - 10280160 CSO and SSO Overflow Compliance Monitoring
  - 10280180 WWT System Asset Renewal
  - 10280421 Flow Monitoring and Modeling for Compliance
  - 10280440 Flow and Water Quality Modeling
  - 10280451 High Risk System Asset Renewal

At the end of each calendar year, costs accumulated in project IDs not unique to their activity, such as Wet Weather Program Management and Support Services, CIP Planning and Sustainable Infrastructure will be de-legislated and allocated, and legislated to appropriate project accounts.

### B. Monthly Legislation and De-Legislation

1. At the end of each month, MSD will de-legislate the Program Contingency, and legislate it into the appropriate project.
2. Items denoted in Section C below will be de-legislated monthly.

C. Monthly De-Legislation of Legislated Project Funding

1. The implementation of the Program Contingency for all Projects shall necessitate periodic de-legislation of currently budgeted CIP funds. This de-legislating of CIP funds may be implemented at three stages.

a. Stage 1: Upon conclusion of planning for each Project:

When a Project with a separate planning budget is transitioned from Project planning to design, terminated during or upon conclusion of Project planning phase or Project planning activity is suspended for over 90 days, all unused, legislated Project planning phase dollars shall be de-legislated as of that date.

b. Stage 2: Upon award of a design, property appropriation or construction contract, or related Task Order, for a Project:

When a contract is awarded for Project design, property acquisition, and construction, any and all legislated budget in excess of the contract amount shall be automatically terminated and de-legislated. When a construction contract is awarded, all remaining design phase funds shall be automatically terminated and de-legislated. All legislated budget line items supporting the previous phase shall also be de-legislated, e.g. MSD Admin, ROW. If the contract amount is greater than the legislated budget, the overage shall be funded from Program Contingency.

c. Stage 3: Upon final completion of a Project (all punch list items are complete and final payments made, including retainage):

When a construction Project achieves final completion, all remaining and/or unused legislated dollars for the Project shall be automatically terminated and de-legislated. If a Project is terminated during construction, or suspended for over 180 days, all remaining and/or unused legislated design and construction funds shall be automatically terminated and de-legislated, and the corresponding Program Contingency amount, based on the terminated or suspended Project's cash flow, shall be automatically terminated and de-legislated.

2. This Section 2405-3 shall become effective January 8, 2014, and shall be applicable to the 2014 CIP budget, and all budgets thereafter.

**2405-4 Capitalization Rules**

A. Adherence to Government Capitalization Standards

MSD shall adhere to authoritative text and guidance on fixed asset capitalization issued by the Governmental Accounting Standards Board ("GASB") as well as "non-authoritative" text issued by the Government Finance Officers Association ("GFOA"). MSD's procedures to implement this policy shall be presented to the

Board for review and approval.

B. Cost Capitalization

MSD shall capitalize the following costs:

1. Direct Costs – Costs directly related to the acquisition of a specific asset and directly charged to that Project.
2. Internal Costs – Internal costs directly related to the acquisition of a specific asset or clearly related to the acquisition of capital assets will be charged monthly to a specific Project, e.g., internal labor costs. These costs include but are not limited to Project managers, modelers, planners, schedulers, estimators, legal and right of way activities. Any indirect costs, such as document control will be allocated annually to specific project accounts
3. External Costs – External costs directly related to the acquisition of a specific asset or clearly related to the acquisition of capital assets charged to a specific Project, e.g., design and construction contracts.
4. Indirect Costs – Costs that are related to the acquisition of assets but not specific Projects will be allocated to projects as long as they are clearly related to Projects under development or construction, including but not limited to accounts payable, procurement, document control, consent decree legal costs, and enterprise risk management costs. In general, indirect costs will be allocated annually across all active Projects weighted by level of expenditures. At the end of each calendar year, these amounts will be de-legislated and appropriated into Project specific ID for all Projects that were active during the calendar year.

C. Capitalization Policies

MSD shall adhere to the following capitalization policies:

1. Projects that have completed the planning or design phases shall advance to the next phase within six months. Those Projects that do not advance within six months shall be reported to the Board monthly in accordance with Section 2403-1 of the MSD Rules and Regulations.
2. In instances of stoppage of development/construction, costs incurred to date shall be expensed given that there is no useful life over which economic benefit (revenue) will be provided by the use of the asset.
3. When a capital asset is built or acquired that replaces another asset, any remaining value of the original asset that has not yet been depreciated shall be written off.

4. Surveys, plans and studies shall be capitalized if expenses for such activities are incurred after it has become probable that an asset will be acquired. Consequently, the cost of a feasibility study shall not be capitalized, even if the associated asset ultimately is capitalized (because the cost was incurred prior to a determination of feasibility.) Those planning activities that cannot be allocated to a specific Project shall be expensed.
5. MSD shall not capitalize on MSD's books those Projects on other property and for which MSD is not responsible for the long term maintenance, use, or control.
6. Capital assets shall be defined as land, improvements to land; easements, buildings, building improvements, vehicles, machinery, equipment, infrastructure, and all other tangible property used in operations and that have initial useful lives extending beyond a single reporting period.

#### **2405-5 Master Cash Flow Schedule**

- A. The Master Cash Flow Schedule (MCFS) shall represent all anticipated capital spending for a five-year CIP period.
- B. Within 10 working days of BoCC approval of the annual capital plan, MSD will provide the County a MCFS that is representative of the approved CIP. Thereafter, the MCFS shall be updated monthly reflecting actual costs to date for each month of the current calendar year, total cumulative costs as of 2006 and then annual expenditures for subsequent years until current year and anticipated costs for the out years of the CIP period. The schedule shall include dollars spent and expected to be spent, but shall not include encumbered or legislated amounts.
- C. MSD shall report to the County, on a monthly basis, the 18-month MCFS at Project level detail in accordance with Section 2403-1 of the MSD Rules and Regulations.
- D. MSD shall report Project cost information on a monthly basis in accordance with Section 2403-1.

#### **2405-6 Prohibition of Transfers of Legislated Funds**

MSD shall not transfer line item funds in any Operating budget or CIP budget from one specific line item matter, or Project, to another, unless approved the Board.

#### **2405-7 Procedures for Allowance Spending**

- A. Allowances

This section 2405-7 applies to all allowances identified in section 2405-3(A)(3) above.

B. Allowance Budgets

MSD shall prepare an annual detailed budget for each Allowance activity as part of its annual CIP budget, which budget shall include at minimum information on the following for each activity:

- Project ID number, description, Allowance Title
- Contract, Work Order and Task Order
- Vendor
- Invoice number, date
- Asset Location
- Asset Description
- Quantity, Unit Costs, Extended Costs, Allocated labor/other costs,
- Project costs from prior periods
- Total Cost

C. Procedures for Allowance Spending

1. MSD shall obtain Board legislative approval prior to incurring obligations or expending funds for any and all Allowance funded construction activity (including equipment purchases and other project related expenses) exceeding \$25,000, with the exception of construction activity undertaken through the Emergency Sewer Repairs Allowance. The County will be provided a minimum of 10 working days for review.
2. MSD shall report monthly to the County a detailed monthly expenditure activity report for each allowance identified in section 2405-3(A)(3) above in accordance with Section 2403-1 of the MSD Rules and Regulations.
3. MSD shall not use any funds authorized for Allowance spending for any purpose other than that which was authorized by the Board.

**2405-8 Master Services Agreement (MSA) Task Orders and Professional Services Agreements (PSA)**

- A. The County will review and approve or not approve any MSA, or MSA Task Order (TO) exceeding \$300,000, whether funded by capital or operating budget. Along with the MSA and TO, MSD will provide the County with all vendor selection evaluation summary information. The County will be provided a minimum of 15 working days of review time.
- B. The County will review and approve or not approve any PSA exceeding \$1,000,000. Along with the PSA, MSD will provide the County with all vendor selection evaluation summary information. The County will be provided a minimum of 15 working days of review time.

- C. MSD will report on a quarterly basis in accordance with Section 2403-2, C of the MSD Rules and Regulations.

**2405-9 Memoranda of Understanding (MOU)/Grants; Transfers, Payments, Disbursements to City of Cincinnati**

- A. If MSD intends to or is required to execute an MOU or grant application/agreement with an entity (including but not limited to departments of the City, other government entities, and utilities, or private organization) for either operating or capital needs, MSD shall present the terms of the MOU/Grant to the County for review and approval prior to executing any MOU/Grant. MSD will provide the County with a minimum of 15 working days of review time.
- B. MSD shall report monthly to the County all MOU/Grant financial activity in accordance with Section 2403-1, C.1 of the MSD Rules and Regulations.
- C. MSD shall not transfer, make payment, or disburse funds to the City of Cincinnati for matters or costs other than those specifically permitted under the Agreement between the City and Board dated July 14 and 15, 1997 and referred to as the “Indirect Cost Plan” in the December 24, 1997 City-Board Agreement (addressing City Overhead matters), without the prior written approval of the Board. MSD will provide the County with a minimum of 10 working days of review time.
- D. MSD shall report monthly to the County, all transfers, payments and disbursements to the City of Cincinnati in accordance with Section 2403-1, C.1 and Table 2403-1 of the MSD Rules and Regulations.

**2405-10 MSD Funded Public Relations Account**

- A. The project budget format, as defined in Section 1.9.5 of the MSD Financial Analysis Manual, dated June 13, 2013, will be modified. The budget for Public Relations will become a separate budget line item rather than being contained within the Miscellaneous Costs budget line item.
- B. If a project requires budget for Public Relations activities, this new budget line item will reflect the requested budget amount in all MSD funding request documents. The purpose for and details of Public Relations activities will be clearly explained.

**2405-11 Delegation of Authority**

The Board delegates its authority to its administrators for reviewing and approving certain documents as noted in Exhibit B.

**EXHIBIT B**

<b>Task</b>	<b>Reference</b>	<b>Task Description</b>	<b>Delegation of Authority</b>
Program Contingency	2405-2.A.7	Meet with MSD quarterly to evaluate Program Contingency requirements to meet balance of year requirements, confirm annual calculation of Program Contingency as part of CIP Budget, recommend to Board, any changes to the Program Contingency policy	County Director of Utility Oversight
Construction Manager at Risk and Design Build Contracts	2405-2.B	Construction Manager at Risk and Design Build Contracts contingency provisions	County Director of Utility Oversight
Contingency Management Delegated Authority	2405 Appendix A	Review Change Orders that exceed MSD Director's Authority	> \$100K – County Administrator, or Designee \$50K - \$99,999 – Assistant County Administrator < \$50K - County Director of Utility Oversight
Procedures for Allowance Spending	2405-7.C	Review MSD requests to Board for Allowance funded construction projects exceeding \$25,000.	> \$100K - County Administrator, or Designee \$50K - \$99,999 - Assistant County Administrator <\$50K - County Director of Utility Oversight
Project Status and Performance Reporting	2403-2.A.1.a	Prior to award of WWIP Project design or construction contract, County and MSD will review SOW to insure alignment with WWIP SOW	County Director of Utility Oversight
Project Status and Performance Reporting	2403-2.A.1.b	30 days prior to each WWIP Project's Substantial Completion (SC) MSD and County will review project status and whether project has reached SC.	County Director of Utility Oversight
Project Status and Performance Reporting	2403-2.A.1.c	Review SC documentation for each WWIP Project to insure completeness.	County Director of Utility Oversight
Project Status and Performance Reporting	2403-2.A.2	One Year after SC of each WWIP Project MSD and County will review the performance of the project to confirm project is performing as designed.	County Director of Utility Oversight
Memoranda of Understanding (MOU)/Grants; Transfers, Payments, Disbursements to City of Cincinnati	2405-9.A	Review MOU/Grant agreements to consider impacts to County operations and finances and recommend County response to the intended MOU/Grant commitments. Confirm that expenditures are consistent with County approvals	County Administrator, or Assistant County Administrator
Memoranda of Understanding (MOU)/Grants; Transfers, Payments, Disbursements to City of Cincinnati	2405-9.C	Prior County written approval of MSD requests to Board to make payment/disbursement of funds to City for matters other than those permitted in the Indirect Cost Plan.	> \$100K - County Administrator, or Designee \$50K - \$99,999 - Assistant County Administrator, <\$50K - Director of Utility Oversight
Notices from MSD to Board Involving Legal Disputes	2403-2.C	Review any MSD notice to Board involving a legal dispute and provide recommendations to Board about proper actions. This review will include any MSD recommended settlement agreement greater than \$25,000.	> \$100K - County Administrator, or Designee \$50K - \$99,999 - Assistant County Administrator <\$50K - Director of Utility Oversight

Master Services Agreement Task Orders and Professional Services Contracts	2405-8	Prior County written approval required before MSD issues an MSA TO exceeding \$300,000 or a PSA contract exceeding \$1,000,000	>\$5M - BoCC \$1M-\$5M - County Administrator, or Designee \$501K - \$999K - Assistant County Administrator \$300K-\$500K - Director of Utility Oversight
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### 2405-12 CIP and Operating Budget Preparation

- A. The following time table will be followed for the preparation, review and approval of the annual MSD CIP and Operating budgets. When dates fall on a weekend, the due date is changed to the earliest previous workday.

DATE	TASK	REQUIRED SUPPORTING INFORMATION
Mid May	County completes budget target recommendations	County produces analysis data to support recommendations
Mid May	County transmits budget target to MSD and required budget supporting documentation	MSD produces: <ol style="list-style-type: none"> <li>OB – draft budget at dept / object code level to achieve budget target</li> <li>CIP – draft budget to achieve Allowance, AM and WWIP budget targets</li> </ol>
Mid June	MSD transmits to County preliminary budget with supporting documentation	See above
Mid July	County provides MSD with review questions	Specific list of questions for MSD response
3 <sup>rd</sup> Week July	MSD provides County with budget question responses	
End of Month (EOM) July	Operating budget review Meeting to discuss any unresolved issues	MSD provides no later than 8 working days in advance of meeting any support for issues it wants to discuss at meeting
EOM July	CIP Budget review meeting to discuss any unresolved issues	MSD provides no later than 8 working days in advance of meeting any support for issues it wants to discuss at meeting
Mid-August	MSD provides County with updated budgets incorporating final changes	MSD produces: <ol style="list-style-type: none"> <li>OB – draft budget at dept / object code level to achieve budget target</li> <li>CIP – draft budget to achieve Allowance, AM and WWIP budget targets</li> <li>Draft legislation language</li> </ol>
EOM August	County completes final review of proposed MSD budgets. If any issues remain, County schedules meeting with MSD to resolve.	
Mid-September	County Administration reviews budget recommendations with Board	County Team produces draft legislation
1 <sup>st</sup> Week October	County finalizes Budget legislation	
2 <sup>nd</sup> Week October	Public review period begins	
3 <sup>rd</sup> Week October	Public review period ends	
1 <sup>st</sup> Week	Any budget adjustments completed	Updated budget legislation, as needed

November		
3 <sup>rd</sup> Week November	Board approves budgets	

B. To provide for an efficient review of MSD’s operating budget request, MSD will provide the following in an excel format by June 16:

1. For the past five years, provide budgeted and actual expenditures by department, unit and object code. Annualize the current year. Include the full year budget request in the schedule. For example:

		2010	2010	2011-2013	2014	2014	2015
Dept/Unit	Expense Line Item	Budget	Actual	Years separately identified	Full Year Budget	Annualized Amt based on Actual	Full Year Budget
431-0000	Information Technology						
	7213-Training						
	7452- Subscriptions						
449-0000	Maintenance						
	7111-Regular Hours						
	7289- Expert Services						

*Note that only a sample of items is included – information provided should include all departments, units and object codes.*

2. Provide headcounts of current positions filled for the number of employees and supplemental staff included within regular hours, legal services, sundry contracts and expert services for each department and unit for the last 5 years. Include budgeted positions by department for upcoming year.
3. Provide detail support for City Pension (7521), Hospitalization (7532) and CRS Pension (7561) for both the current year and budget request year.
4. For budget request year, provide detail for the City’s General Fund Overhead allocation.
5. Provide detail of budget request year’s planned expenditures for each department and unit for the following line items:
  - Travel - 7214
  - Training - 7215
  - Legal Services - 7281
  - Expert Services - 7289
  - Sundry Contracts – 7299
  - Office Machinery - 7415
  - Software and Licensing Fees - 7418

- Subscriptions & Memberships – 7452
  - OTEA – 7600
  - Vehicles – 7615
6. For current year and budget request year provide allocated GCWW billing and Automotive by Municipal Garage costs. Include support for how the allocations were determined, and how MSD’s percentage was calculated.
  7. For any costs included in the shared services arena, provide detail calculations of how and what costs are to be allocated to MSD for current year and budget request year. Likewise, if costs are recorded on MSD’s books, explain the method for allocating to other utilities.
  8. For current and previous years, note amounts paid to other city departments and include budgeted amounts for budget request year. Amounts paid to city departments should be classified by department and service provided. For example:

	2013	2014	2015
	Actual	Annualized Actual	Budget
Enterprise			
GCWW - Billing			
Parks			
Planning			
Recreation			
CDOE - Street Paving			

*Note that only a sample of items is included – information provided should include all amounts paid to any City Department. (i.e. GCWW should separately show amounts paid for sewerage service, billing, expert services etc.)*

9. Provide detail accounting of the Duke Energy Program, Flow Monitoring, and SBU costs for the past two years and anticipated costs in the upcoming budget.
10. Provide a debt schedule for known and anticipated debt instruments for current and budget request year. Provide payments by debt type separately noting principal and interest.
11. Identify potentially impaired assets for the years’ previous year, current year and budget request year

12. Within 10 working days of BoCC approval of the MSD operating budget, MSD is to provide the annual budget on a monthly basis by department and object code.
- C. In order to facilitate review and approval of the MSD annual CIP budget, MSD will provide the CIP by June 16:
1. WWIP
    - i. Identify those projects that must be scheduled in order to achieve WWIP Milestones.
    - ii. Prioritize remaining WWIP projects based on Phase 1 (and Phase 2 when appropriate) requirements and cost/benefit analyses.
    - iii. Schedule 5-year CIP according to 1 & 2 above, and Phase 1 (and/or 2) cash flow report. The cash flow forecast will include all capital expenditures thru completion, i.e. WWIP, AM and Allowances.
    - iv. For projects identified that are not in the WWIP but provide a coordination opportunity or potential significant program benefit, meet with County in advance of detailed planning to gain approval before incorporating into the CIP proposal.
    - v. The County will establish a budget target for each CIP year.
  2. Asset Management
    - i. Develop project list based on an asset management program where assets are improved based upon historical records of maintenance and repairs, proper estimations of remaining asset life, etc., and the proximity to other projects adjacent to each other that are being planned and designed which could potentially impact the other if sequenced or coordinated. To the extent practical, the distribution of projects should consider equitable investment throughout the County. The asset management projects should be coordinated with the WWIP projects to make sure there is not unnecessary asset management projects built which are later found to be obsolete as a result of the Integrated Watershed Action Plans findings.
    - ii. Prior to draft CIP proposal submission, coordinate with County to establish current remaining useful life of collection system, needed asset investment, and annual renewal rate to then establish yearly budget and assets to be renewed.
    - iii. Prioritize asset renewal projects based on increased asset value from ROI, increased capacity, and quantified O&M cost savings.
    - iv. Establish key level of service measurements (with any eye towards industry benchmarks) and prioritize annual asset renewal to work towards meeting those measurements.
    - v. Coordinate asset renewal projects with WWIP projects, I/I removal, and existing overflows/basement backup's abatement by sub watershed.
    - vi. The County will establish a budget target for each CIP year.
  3. Allowances

- i. Each Allowance budget request will be fully explained by providing a needs assessment, historical spending, and other relevant information that justifies the amount of investment for the CIP period. Provide a prioritized list of projects/activities for each Allowance account for the requested budget year.
- ii. The PMC budget activities will be justified in detail. No activities directly related to project activities will be funded within PMC, unless specifically approved by the County. Those activities will be funded within project budgets. Acceptable costs include Project Management, Risk Management, Scheduling, Estimating, QA/QC, MPMP, Monitoring, and Document Control, which will eventually be allocated to project budgets according to this Rule.