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Equal Opportunity in Economic Downturn - Are Women and Minorities Sacrificing More Than Their Fair Share? Hearing

Assembly Select Committee on Equal Opportunity

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**ASSEMBLY SELECT COMMITTEE ON
EQUAL OPPORTUNITY**

EQUAL OPPORTUNITY IN ECONOMIC DOWNTURN

**ARE WOMEN AND MINORITIES SACRIFICING
MORE THAN THEIR FAIR SHARE?**



October 28, 1992
Los Angeles, California

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CHAIRWOMAN: ASSEMBLYWOMAN GWEN MOORE

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Assembly California Legislature

GWEN MOORE

ASSEMBLYWOMAN, FORTY-NINTH DISTRICT

MAJORITY WHIP

COMMITTEES:

Consumer Protection,
Governmental Efficiency,
and Economic Development
Education
Governmental Organization
Insurance
Televising the Assembly
Utilities and Commerce
Chairwoman
Select Committee on the
Office of the State Board of
Equalization

Informational Hearing
Assembly Select Committee on Equal Opportunity
Wednesday, October 28, 1992
Museum of Science and Industry
10:00 a.m. - Semina Room
Los Angeles, California



**EQUAL OPPORTUNITY IN ECONOMIC DOWNTURN
ARE WOMEN AND MINORITIES SACRIFICING
MORE THAN THEIR SHARE?**

AGENDA

- I. Opening Remarks: Assemblywoman Gwen Moore
- II. Witnesses
 - East Bay Municipal Utility District
Artis Dawson, Chief, Department of Public Affairs
 - City of Los Angeles, Department of Water and Power
Betty Johnson, Director of Affirmative Action/EEO
Richard Moore, Director of Purchasing
 - South Coast Air Quality Mangement District
James Lents, Ph. D., Executive Officer
 - Metropolitan Water District of Southern California
Wiley Horne, Assistant General Manager
 - California Public Utilities Commission
Neal Shulman, Executive Director
Wes Franklin, Assistant Executive Director
Sandi Barsell, Affirmative Action Officer,
 - Federation of Public Sector Employees
Mark Reid, General Manager

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Assembly Select Committee on Equal Opportunity

October 28, 1992

BACKGROUND

During periods of economic downturn, local governmental agencies' budgets are hurt through lower tax revenues and collected fee income. In response, these agencies will often freeze hiring or layoffs and eliminate discretionary contracting. Civil service rules often call for a last hired/first fired personnel practice. Because a disproportionate number of low seniority employees are women and minorities (the result of relatively recent affirmative action programs), women and minorities are often the first to be laid off or have fewer opportunities for promotions as local agencies respond to tighter budgets. The same may also be true for minority and women contractors. The focus of this hearing will be to investigate the degree to which the current recession has adversely affected opportunities for women and minorities.

Affirmative Action

The Equal Protection Clause of the 14th Amendment to the United States Constitution mandates that all individuals are entitled to equal treatment under the law. In 1964 the Congress passed the Civil Rights Act of 1964 which allows a public employer to implement voluntary actions in order to overcome any



discriminatory treatment or impact engendered by that employer's own employment practices. Action to remedy the wrong created by a public employer is consistent with the Equal Protection Clause mandate.

Subsequently, in 1988 and 1989 United States Supreme Court decisions raised questions about methods of implementing affirmative action programs and about the direction that public agencies should take in the future. In order to initiate remedial action for any equal opportunity infraction, the employer must have a firm basis for taking such action. This means the employer must document one of two types of evidence: a) direct evidence of actual prior discriminatory conduct by the employer, or b) statistical evidence when the statistics are of value in identifying disparate impact. The first type of evidence demonstrates disparate treatment which maybe labeled intentional exclusion from employment. The second type may be labeled unintentional exclusion from employment. Using the second type of evidence, a public agency must make out a prima facie case of negative impact under the provisions of Title VII of the Civil Rights Act of 1964 to support a conclusion that a "firm basis" exists for remedial actions.

The evidence required to make out a prima facie case of disparate impact is predicated upon four considerations: a) the most relevant labor force comparison to determine underutilization of a particular group; b) substantiveness of any identified underutilization; c) statistical significance of any identified underutilization; and d) identification of specific employment practices causing the underutilization.

California State Government Code Section 19790 gives the State Personnel Board the responsibility for providing statewide advocacy, coordination, enforcement, and monitoring of the State civil service affirmative action programs. The Personnel Board has carried out this mandate, in part, through the goal and timetable process, where departments assess their degree of underrepresentation, and set

goals for achievement of organizations' parity using General Labor Force data, focused recruitment, and the use of special demonstration projects to provide an alternative means to recruit and hire underutilized groups. Enforcement remedies include the discrimination complaint process, and remedial orders that require specific selection and hiring procedures for departments where there has been a lack of progress in achieving a balanced workforce. In accordance with Federal law, the use of statistical data to demonstrate underutilization has played an important part in the State's affirmative action program.

There are no laws which require local government public and quasi-public agencies to establish programs such as those undertaken by the State Personnel Board. The Committee will consider whether the State of California should mandate that local governments establish programs such as those under Government Code Section 19790 and which state agencies would be responsible for monitoring the development and implementation of those programs.

Minority and Women Business Enterprise Procurement

In 1986, the California Legislature passed, and the Governor signed into the law AB 3678 (Moore), which requires California public utilities and their regulated subsidiaries and affiliates under the jurisdiction of California Public Utilities Commission to submit to the CPUC a detailed and verifiable plan with goals and timetables for increasing minority and women business enterprise (MWBE) procurement in all categories. The CPUC provides guidelines and utilities report to the CPUC annually regarding implementation of this program.

In 1987, AB 1933 (Waters) was approved to require that all contracts awarded by any state agency, department, officer, or other state governmental entity for construction, professional services

(with some exceptions), materials, supplies, equipment, alteration, repairs, or improvement shall have statewide participation goals of not less than 15 percent for minority business enterprises and not less than 5 percent for women business enterprises. These goals apply to the overall dollar amount expended each year by the awarding department, but exempt contracts of less than \$10,000. Each awarding department reports annually to the Governor and the Legislature on the level of participation. If the established goals are not being met, the awarding department reports the reason for its inability to achieve the standards and identifies remedial steps it plans to take. No state mandates of a similar nature have been placed on local government entities.

AB 3301 (Moore), passed and signed into law earlier this year, removes the \$10,000 exemption and requires that annual reports contain the levels of participation by minority, women, and disabled veteran business enterprises for specified categories of contracts.

Some local governmental bodies have established MWBE goals and objectives for their agencies. There are no state mandates which require local public agencies to establish goals and there is no reporting authority or oversight mechanism in place to assist in program evaluation.

Informational Hearing
of the
Assembly Committee on Utilities and Commerce
October 28, 1992

EQUAL OPPORTUNITY IN ECONOMIC DOWNTURN

**ARE WOMEN AND MINORITIES SACRIFICING
MORE THAN THEIR SHARE?**

CHAIRWOMAN GWEN MOORE: Good morning, I'm Assemblywoman Gwen Moore, and I am not the entire committee. At this moment, I am. I'm expecting others to join me as we begin, but since we have a long hearing, I don't want to delay.

The California economy has been mired in serious recession for at least 3 years. The impact has been seen vividly by government at all levels as revenue short falls result in severe budget reductions. These reductions translate into fewer employment, promotion and procurement opportunities.

Are women and minorities shouldering more than their fair share of these lessened opportunities?

The issues of equal employment opportunity, affirmative action and minority and women-owned business procurement opportunities have been of significant concern to the California Legislature. So much so in fact, that the State of California requires the State Personnel Board to provide statewide advocacy, coordination, enforcement and monitoring of state civil service affirmative action programs. State law requires that contracts

awarded by any state entity shall have statewide participation goals of not less than 15 percent for minority business enterprises and not less than 5 percent for women business enterprises. And, state law also requires the California Public Utilities Commission to oversee the plans of California utilities to set goals and utilize minority and women-owned business enterprises for procurement in all categories of purchasing.

While the federal government has addressed, in general terms, the rights of all individuals to equal treatment and allow employers to implement voluntary actions to overcome discriminatory treatment, there are no laws which require local government agencies in California to establish affirmative action programs.

Today's hearing will focus on the impact the current economic recession has had on local government employment and procurement opportunities and the extent to which four local agencies and the California Public Utilities Commission (CPUC) have established affirmative action programs which reflect the community being served.

After hearing from the witnesses who are scheduled on the agenda, anyone in audience who would like to make a statement before the committee will have the opportunity to do so. Now, we are going to hear from the East Bay Municipal Utility District. I'd like for them to come to the table.

I've been trying to figure out a way that we could manage. I've decided that what we would do is start with East Bay Municipal Utility District, and then, I may bring everyone else up. At

this moment, I'd like East Bay Municipal Utility District to come forward.

East Bay [East Bay Municipal Utility District (EBMUD)] has been cited as a model-type local agency. We're looking forward to your testimony.

MS. ARTIS DAWSON: Thank you. My name is Artis Dawson. I'm the Manager of the Public Affairs Department of East Bay Municipal Utility District.

Since the formation of the MBE [minority business enterprise] program was adopted in 1984, I have been the overall manager of the program. It is for that reason the MBE program was moved to...

CHAIRWOMAN MOORE: Excuse me. It was adopted when?

MS. DAWSON: In 1984.

CHAIRWOMAN MOORE: Before you get started, let me give you one of the rules of my committee. You can't read to me.

MS. DAWSON: Okay. That's no problem.

CHAIRWOMAN MOORE: Those of you who come behind her, I will take your testimony in its entirety and it will be included in the record, but basically we just like for you to talk to us.

MS. DAWSON: I was the manager of Personnel when we started the program. Our board was not involved in any consent decree or requirement or anything else. I'm talking about the MBE program. They decided that it was a better thing, it was the right thing to do and they should. So, they decided to have a program. We hired a MBE coordinator. Then, after the MBE coordinator was on

board, we began to craft a policy. We did it in that order because we had somebody dedicated to doing that. Therefore, our program actually started in 1984.

There were some crude records from about 1982, we had probably 2 percent or so of participation; although the records weren't that great. In 1984, when we started officially, we had about 7 percent. This year we have 22 percent MBE and WBE [women business enterprise] participation.

CHAIRWOMAN MOORE: What are your goals?

MS. DAWSON: The overall goal is 25 percent. They are bifurcated goals. We have an 18 percent goal for MBE, and we reached 14.1 [percent]. We have a 7 percent goal for WBE, and we reached 7.9 [percent]. Our overall goal is 25 percent.

When we started this program we had, and probably one of the most important things to have is, the support from the top -- the unwavering and support from the top, both internal in terms of the general manager, CEO [chief executive officer], and board in terms of policy statements and doing something about that. We have goal setting of MBE goals to the department managers. It's going to part of the performance plan of the department managers.

CHAIRWOMAN MOORE: You said "it's going to be." Is it now?

MS. DAWSON: It's not been formal. It's now going to be formal officially December 1.

CHAIRWOMAN MOORE: You also indicated that you have input or commitment from the top down. How do you make that assessment?

MS. DAWSON: It was the board who first said that there should be an MBE program. Actually, I keep saying that because our program started out MBE and not MWBE. We added the women's goals in 1988. So, we started out as an MBE program. That's still frankly the place where we need the most work. We are still working on that.

It was the board, because as they look socially in terms of what's happening in the community, we weren't giving the appropriate amount of money to the minority community. They are ratepayers. It is public money, and we should of been doing that, and we weren't. So, that's when we started. It was absolutely the general managers that kept driving it and wanted it very badly.

I was the manager of personnel when it started. It originally was supposed to be in the administration department. It turned out just the way the program worked, frankly, in terms of interest and effort. I turned out to be very involved and interested in this. So, eventually the general manager asked me if I would I take it as opposed to having it go to the administration department. Nobody had ever heard of the MBE program in our personnel department. But, the general manager said that the most important thing to do is to make it work as opposed to where it was placed. I agreed with that and that's where it started.

In 1988 I moved from the personnel department to the Public Affairs Department, and I brought it with me. There's a very important nexus, I think, and it makes sense in our organization, for it to be in the public affairs department whether I had wanted it or not. The importance of that is that we do a great deal of outreach.

We are always in touch with the external community by nature of the public information function that I have in the community, advocacy function that I also have in the department. A very important part of this -- I'm sorry, I didn't introduce Beverly Johnson. She's the MBE Administrator for the District [EBMUD]. A very important part of this is the exactly the kind of work that Beverly does.

For example, we have a construction project. In that construction project there was a lot of community opposition or community concern, actually. So, we went out from my department with the community advocates and the affirmative action officer, who is still in the personnel department, and the MBE coordinator, and we talked to the community over a long period of time about what this program would do, not do, how could it work, and how could it not work. So, it was a combined effort. We think it works best for us in the public affairs department, because the nature of the program for us is external and outreach. It is making sure that the external community understands what the program is and that they buy into it.

CHAIRWOMAN MOORE: Let me ask something because traditionally placing MWBE, affirmative action in a public affairs department generally would not be considered taking those programs seriously. You say that it works well for you. Generally, public affairs and public information-type activities are considered a show.

MS. DAWSON: At East Bay MUD [municipal utility district] we take public affairs very seriously. I am in no way considered a "show." I also have the legislative function.

CHAIRWOMAN MOORE: Let me finish the thought. Generally, it is felt that those programs that have worked best are the ones that have direct input into the executive offices. Are you saying that you think it works not because it's public affairs, but because of your access to the executive offices?

MS. DAWSON: No. It is a combination. I'm a member of the executive committee. I'm a department manager who reports to the general manager. Just as the chief engineer does.

CHAIRWOMAN MOORE: The concern is that I don't want people to walk away thinking that if it is a public affairs department that is not set up such as yours, where you are a part of the executive team, that it is the same...

MS. DAWSON: Yes. I am a member of the executive committee. If it had of been with the administration department -- at East Bay MUD it is part of the executive committee. If it had been with the administration department, it would have a member of the executive committee. So, yes, I report to the general manager, and we work in a lot of ways as a team for some practical purposes with engineering and others. So, no. It is not a show. It is not shoved out and it is not a second thought.

CHAIRWOMAN MOORE: I know that. I just wanted you to tell me that.

MS. DAWSON: There are a couple of other things. We have worked on the construction guidelines, professional services

guidelines, etc., so that the guidelines themselves are approved by the MBE administrator. Whenever any contract above \$20,000 goes to the board, there are a set of papers that must be approved -- it is not optional -- by the MBE administrator. It is not something that could be forgotten about or optional or pushed to the side. It is part of the actual packet. The packet cannot go otherwise. There are a number of situations, as we talk with the departments -- this is under the general manager -- sometimes with his knowledge and sometimes without his knowledge -- where things just don't go to the board until they're right or until they are a whole lot better than they started off. We have been working internally within the departments.

Typically, there is a person within each department who is sort of Beverly's primary contact. There are a number of people who do work who have to do something with professional services contracts or construction contracts. But, typically there is one person who pulls those kinds of things together. She can talk about it. She has an advisory committee that's internal. They meet quarterly, but they meet all the time in terms of working things out. The MBE officer and the manager of purchasing do training approximately every 15 months internally, because people get promoted and transferred and hired; to refresh, to reinvigorate, and to make it clear what we're doing and how we are doing. Especially when things change, because they do.

CHAIRWOMAN MOORE: Let me ask a question on your affirmative action. In your report that you submitted to us, just as

most of the other departments, you talked in percentages. I rather talk numbers. So, can we talk numbers?

MS. DAWSON: I know the percentages. I'll see if I can match them.

CHAIRWOMAN MOORE: What you gave me is your officials and/or administrators that 75.6 percent of the workforce is white, 13.5 percent is black, 5.4 percent is Hispanic, and 5.4 Asian/Pacific Islander. What does that translate into numbers? This is administrative positions.

MS. DAWSON: I understand. I don't know the numbers. I apologize. I don't have the numbers with me. I don't know the numbers. I don't want to tell you some numbers and they could be wrong. I have to get back to you with the correct ones.

CHAIRWOMAN MOORE: Okay.

MS. DAWSON: I don't have them with me. I have a little bit more than what we gave you. We gave you what there is. I have the goals, but it's still percentage goals.

CHAIRWOMAN MOORE: Can we get a later submission from you a breakdown by numbers and groups? You are going to tell me the same thing with professionals.

MS. DAWSON: Yes.

CHAIRWOMAN MOORE: What constitutes, as far as you're concerned, the population. What's the salary, what's the range, what categories of employment would be considered in this?

MS. DAWSON: The officials and administrators -- our hierarchy goes from the general manager to department manager to division manager. Probably there are a couple of other positions, but

primarily it's division manager and department managers that are the official administrators.

CHAIRWOMAN MOORE: What is the range of salary?

MS. DAWSON: Probably \$75,000 and up. When we give you the actual numbers, we can give you the exact the range on salaries also.

CHAIRWOMAN MOORE: Okay. What's the highest level and do you have any idea how many fall into that category?

MS. DAWSON: The highest level under the general manager?

CHAIRWOMAN MOORE: Yes.

MS. DAWSON: There are 8 department managers. There are two black department managers. One Asian department manager. The general manager is Hispanic. The others are white males.

CHAIRWOMAN MOORE: Could you break that down for me as well?

MS. DAWSON: Yes.

CHAIRWOMAN MOORE: On your minority/women business procurement program, you upgraded your goals, I guess, to 18 [percent] in 1988. Had you reached your 16 percent at that time?

MS. DAWSON: Yes, we exceeded. When we put the program together in 1984 we established an overall combined MBE goal of 16 percent. We exceeded that. It was in '88 when we decided to break it out to look at WBEs separately from MBEs. That's when we established 18 percent for MBEs and 7 percent for women. Now our goal is 25 [percent] overall, and we're at 22 [percent].

CHAIRWOMAN MOORE: Traditionally, one of the other concerns that I have is the kinds of contracts that are being let to minority and women-owned businesses. I did note that you have a review process for contracts that are being let over \$20,000, which would lead me to believe that you're looking to see or insure minority/women businesses have an opportunity for a variety kinds of contracts and not those that would often come to them, the very low level or low-end kinds of contracts.

MS. DAWSON: Probably our greatest and most specific goal is getting more prime contracts to minority businesses. Probably the largest one we have ever had was about \$800,000 which was a couple of months ago to an engineering firm. We are very committed and concerned about making sure that it's not garbage money. No, we want to be part of the action.

CHAIRWOMAN MOORE: What about personal contracts or professional contracts that goes to lawyers and CPAs?

MS. DAWSON: We were one of the leaders in 1985 or so in bonding with our financial advisors. Whenever we do bond sales we always have a minority...

CHAIRWOMAN MOORE: Minority counsel?

MS. DAWSON: Absolutely. Both bond counsel and sellers. In fact, this last time Carolyn Grigsby out sold Merrill Lynch so that we also have minorities on those kinds of contracts. We have a women-owned business -- I don't think it's minority. It's a woman-owned business.-- which has gotten 60 percent of the contracts. One portion of an insurance contract from the District. We are always interested in engineering contracts. Except, unfortunately, they are

typically subs [subcontractors]. Even if they're large amounts, they're subs. And, like I said, one of our goals is trying to get increasing numbers of primes.

Our overall construction dollars are down in the past two years. So, there are fewer opportunities than there have been in the past, but there are still obviously opportunities.

CHAIRWOMAN MOORE: It seems one of the areas that you did best was in construction, and the area where you need work, it would appear, to be your professional contracts. I'm just looking at your numbers.

MS. BEVERLY JOHNSON: I think, in reference to the numbers you're looking at, what happened during this past year is that overall numbers for professional service contracts went down in terms of the number of contracts that we normally deal with. We usually have the best success with professional service contracts, because basically those are negotiated items and they are not covered under the MUD Act. With purchases over \$20,000 and with construction projects over \$20,000, we are legally required to go to the lowest responsible bidder. Whereas with professional services and anything under \$20,000, basically we can say who gets what contract and who doesn't. As Artis mentioned, with a lot of the big key professional service contracts, what happens is, when you do have your bidding, the majority firms come in, we are able to either have them come in with the team or suggest that they form a team with someone else. We sort of, as Artis call it, put together marriages. Normally, I would say professional services is where we have the biggest plus, except when there are some things like fish

studies. There were a lot of unique professional service contracts that came up that were small in nature and few this past year. So, the numbers are somewhat deceiving..

MR. COOK: Beverly, would you identify yourself for the record, please?

MS. BEVERLY JOHNSON: Beverly Johnson, MBE
Administrator for East Bay MUD.

CHAIRWOMAN MOORE: You indicated that bids over \$20,000, you are obligated to go to the lowest bidder. What impact does that have on minority and women-owned businesses?

MS. BEVERLY JOHNSON: When you're basically talking about minority and women-owned businesses, usually you're talking about small businesses. Basically, small business versus a large business competing for the same piece of pie cannot necessarily be at the same competitive edge dollarwise. There may be things they can do better in terms of delivery, in terms of quality and things you really can evaluate when you're only looking at price. So, when you're going with the lowest, basically, you are just looking at the price. It has nothing to do with it being a local firm or someone can go get the information or materials. You can evaluate anything else except for the price, and basically having a license that it's a construction project.

CHAIRWOMAN MOORE: When you have a responsive bidder, you can set standards of quality and other things as a part of that. Why would that not come into play?

MS. DAWSON: I don't know that it has any particular constraints, because we operate under the MUD Act, so we have not

had any choices. We have not looked at any kinds of differences. However, I think that what happens is, we often encourage when we do the specs to break up contracts. So even though some of them are large, we look at schedules. We look at pieces to the degree possible. So, even when they are larger than \$20,000, we look at specific pieces of work, and we encourage bidders when they come in and that's how we get a lot of subs. So, I can't tell you that if they were all broken up, or if we had a higher expenditure level of \$50,000 or \$100,000 before it had to go to the board, I don't know if it would be substantially different in terms of the effect.

CHAIRWOMAN MOORE: No, my question was, the responsive bid ought to give you some flexibility other than just price.

MS. BEVERLY JOHNSON: In terms of the MUD Act itself, there is a Public Contract Code which had incorporated responsible and responsive in terms of defining low bidder. The MUD Act, however, really only says "lowest responsible bidder." When you look at the term "responsible," basically what you're looking at is responsible in terms of being financially responsible.

CHAIRWOMAN MOORE: I understand.

MS. BEVERLY JOHNSON: Our legal department has taken a stance on some things. They try to look at responsiveness, but they said we are...

CHAIRWOMAN MOORE: So, the problem is the MUD Act.

MS. DAWSON: Yes.

MS. BEVERLY JOHNSON: It's the MUD Act.

MS. DAWSON: We don't look at responsive and responsible.

CHAIRWOMAN MOORE: Let me let you close by asking if there were things you would change that make your job easier or give you the flexibility you need, could you name three things, what would they be?

MS. DAWSON: One of the first is, I would have responsiveness as one of the things we can do. We speak of it often longingly. I think there are a number of times when, as she has already talked about, being limited by responsible bidder is too limiting. That's the first thing.

I would have a one-stop state well-funded, appropriately staffed certification process. I think the greatest burden, in my opinion, for MWBEs is the onerous burden of responding to a whole bunch of local agencies different requirements for certification. I think that it is redundant. I think that it is unfair. I think that as long as IBM doesn't have to prove that it's white, that every black person doesn't have to prove that they're black. I think that one of the awful things that happens is, as an example in my area, the Port of Oakland does not accept the certification from the City of Oakland. Bart does not accept the certification from AC Transit. Berkeley does not accept Oakland and, etc. So, I don't have a certification program per se. I decided that early on and it's worked very well for us. We have a requirement that preserves and allows the right to, if it doesn't look right or whatever the reason, we could require their IRS. We can require their articles of incorporation. We can inquire through your bank records. We can require a number of issues and

pieces of paper if, in fact, we need to prove that. Frankly, that's usually more true for WBEs than MBEs. But, I think it is not fair for the small minority- and women-owned businesses who have the fewest administrative resources to be given the greatest administrative burden. That's my second thing.

My third thing is bonding. I think that in a perfect world the state would do something. If they can make the banks and bonding houses stop discriminating that they ought to do some kind of guarantee, because there are huge number of occasions when small minority- and women-owned businesses simply cannot get the banks to give them the insurance bonding. As a result of that, they can't bid.

CHAIRWOMAN MOORE: Did you want to add anything, Ms. Johnson?

MS. BEVERLY JOHNSON: Yes, one thing. There have been a lot of things happening in reference to AGC in terms of suits that have been filed against a lot of local agencies who are trying to promote minority and women businesses. The state itself should look at some type of disparity study. Ever since the Supreme Court decision with Croson, there has been the whole thing in terms of disparity studies in justifying that we have been discriminated against.

CHAIRWOMAN MOORE: Did you want to make any comment about affirmative action?

MS. DAWSON: I read in a piece that I've gotten from you that there was a concern or thought, I guess, in terms of whether or not there should be a state oversight of compliance. I think that

would probably be a good idea. In our particular agency we are over parity. We have been over parity for a long time, just in overall numbers. When I was a manager of personnel and even since, it's been about distribution in the workforce, not about actual numbers in the workforce of minorities. But, I think that if there were some kind of a requirement that had teeth, not just another paper requirement, that more agencies would make a more concerted effort to do something. I think now it's sort of on the good faith of a few people who might be elected to the board and CEO spots.

CHAIRWOMAN MOORE: That's exactly why we're having this hearing. We're a little concerned there are good guys and bad guys, and it just depends on who's in charge of what happens with affirmative action.

MS. DAWSON: There's not enough good guys in charge.

MR. COOK: By what definition to do you define relative labor force?

MS. DAWSON: Our relative labor force -- we define our goal as labor force. East Bay MUD is located in Oakland. The main office is located in Oakland. We take our labor force from the nine bay area counties and the City of Oakland. We combine those statistics and we look at them in that way. So, it's everybody in our area. We look at the past hiring... [break in tape].

CHAIRWOMAN MOORE: Why don't we hear from the City of Los Angeles. Good morning.

MS. BETTY JOHNSON: My name is Betty Johnson. I'm the Director of Affirmative Action and Equal Employment Opportunity

for the Department of Water and Power. This is Richard Moore who is our Director of Purchasing.

My responsibilities as the Affirmative Action/EEO Coordinator for the Department deals with employment opportunities. So, my presentation is going to focus on affirmative action as it relates to equal employment opportunity. Mr. Moore, who is in charge of our purchasing, will talk about our MWBE programs.

CHAIRWOMAN MOORE: Why don't I throw your presentation off, but let's start with my brother here, Mr. Moore, and then, come back to you.

MR. RICHARD MOORE: Good morning. My name is Richard Moore, Director of Purchasing for L.A. Department of Water and Power.

The Department of Water and Power does have a MBE/WBE procurement program. Current goals are 15 percent for MBE and 7 percent for WBE. This is total dollars awarded in the areas of construction contracts, personal services and service contracts. The Department of Water Power has been active in doing business with small minority- and women-owned businesses since the early 1970s, when we were getting a list from aerospace firms from the federal government. We were out visiting small minority visitors encouraging them to bid to the Department. At that time we didn't have any computer support so we were maintaining manual lists of these firms.

In 1983, the Mayor of Los Angeles issued Executive Directive 1B establishing guidelines for a formal MBE/WBE program

and directing all departments to establish such programs. In 1985 our board of commissioners directed us to establish an active program to report back to the board, and to establish the Office of Contract Compliance. At that time goals were set by our board at 12 percent MBE and 4 percent WBE. The Contract Compliance officer is in purchasing and reports to me and I report to the assistant general manager.

CHAIRWOMAN MOORE: Okay. Stop right there. Let's go through that reporting hierarchy.

We're being joined by Assemblyman Xavier Becerra, soon to be Congressman Xavier Becerra.

MR. MOORE: The contract compliance officer is in purchasing. He's a manager in purchasing and reports to me, the director of purchasing, and I report to the assistant general manager. However, awards of our contracts over \$100,000 is done by the board, I present the procurement package to the board and explain our efforts and our accomplishments or lack of accomplishments in meeting their goals. So, I sit at the board table and hear directly from the board regarding their concerns.

CHAIRWOMAN MOORE: Has that always been the process?

MR. MOORE: Yes, it has.

CHAIRWOMAN MOORE: Since 1984 the board has been apprised of all contracts over \$100,000.

MR. MOORE: Since 1985.

CHAIRWOMAN MOORE: I'm sorry. Since 1985 the board has been apprised of all contracts over \$100,000 and have been advised as to why there is not or is minority participation?

MR. MOORE: Yes. In '85 the board issued a directive, so we started reporting shortly after that. I would say in 1986. Our first full year of the program was in '87 and '88. The board awards all contracts currently over \$100,000. Prior to that it was over \$25,000. I don't remember when that change took place.

CHAIRWOMAN MOORE: The board's participation in reviewing the MWBE procurement in our attempts to meet the goals, how is that done? Is that just done by a report saying these are all the contracts over \$100,000?

MR. MOORE: Each specific package that's presented to the board for award will indicate a number of bidders, the number of minority- and women-owned bidders that were on the list. Then, those that responded. In addition, we indicate the percentage participation by minorities. We try to meet the goals of the board which are currently 15 and 7 percent.

CHAIRWOMAN MOORE: I guess the question that I'm asking is, is it something that the board reviewed decisions where they do indepth questioning or look at it, when we know that the board can be innodated with a package that is this thick and don't really look at it unless somebody has raised a question, and generally, routinely approve it. Is it a routine approval or is it some separate individual reviewing of each project?

MR. MOORE: It's separate review of each board package; each award as it comes to the board. So, it is not routine.

CHAIRWOMAN MOORE: Is it listed like Item #25000, and you have a separate package, and then the board either votes "aye" or "nay."

MR. MOORE: They scrutinize very carefully each individual award.

CHAIRWOMAN MOORE: Each individual award is carefully scrutinized. So, the board has actively participated since the first year of 1987/88 in the practice?

MR. MOORE: That's correct.

CHAIRWOMAN MOORE: So, that's going to be the time period that I'm going to be interested in from 1987 on, because then, we can assume that management is involved in the minority- and women-owned procurement program from that point forward.

MR. MOORE: Since that period of time we have met our WBE goal every year. However, in the last two years we have failed to meet our MBE goal.

CHAIRWOMAN MOORE: The goal for MBE is 15 percent?

MR. MOORE: It is currently 15 percent, yes. Prior to 1991, it was 12 percent.

CHAIRWOMAN MOORE: Having seen some of your reports, in fact, you're going backwards. Is that not correct?

MR. MOORE: 1987 through '91, the goal was 12 percent. Since '91, it's been 15 percent MBE.

CHAIRWOMAN MOORE: I think your numbers have gone down rather than up. Something I was looking at last night.

MR. MOORE: Our total procurement has gone down, and yes, the percentage has also gone down.

CHAIRWOMAN MOORE: Why is that?

MR. MOORE: We find that with the...

CHAIRWOMAN MOORE: You did good in '87 and '88. You went to 9.6 percent, then you went to 11.3 percent in '89. It was downhill in '89 and '90. You slipped from 11.3 to 7.5 percent. Then, you went up again in '90/91 at 10.3 percent. Then, you dropped again in '91/92 back to 7 percent.

MR. MOORE: Yes, that's correct.

CHAIRWOMAN MOORE: Does that mean your board changes regularly?

MR. MOORE: No, it does not. Their concern hasn't lessened. They are very concerned about this drop. We found that last year with the economy the way it was, we were having many prime contractors that normally don't deal with agencies like the Department actively competing for our business. We found there were less awards last year to WMBEs than the previous year. When we investigated we found that a lot of new major contractors involved in our procurement process that were never there last year. Basically, sharpening their pencils as much as they could and giving us prices that a lot of folks were unable to compete with.

CHAIRWOMAN MOORE: So, when all else fails that the board looks first for price, and then, for minority and women business procurement.

MR. MOORE: That's correct. We have an outreach program. Until the disparity study is completed in the City of Los Angeles; basically, we award to the lowest bidder that does a good faith effort to comply with the program. That good faith effort is

measured by about ten criteria. In fact, there may be a good faith effort and low participation. We look at our program two different ways. We examined it based on the number of primes that bid and also subcontractors. We find that total participation by subcontractors last year wasn't any different from the year before. It was pretty much the same. The big decrease was in the number of contracts awarded to prime contractors.

CHAIRWOMAN MOORE: Let's stay with the good faith effort for a minute. You say it's measured by ten criteria. Could you rattle them off for me?

MR. MOORE: Yes. Attending a pre-bid conference is one of the criteria. Advertising in the local newspaper, breaking the world up into parts that could be subcontracted out, making contact with organizations, such as the Mayor's Office of Small Business and some of the minority organizations to try to obtain qualified contractors, assisting them in bonding and so forth.

CHAIRWOMAN MOORE: How do you check to be sure that all these things were done?

MR. MOORE: We ask for documentation along with the bid package. It is thoroughly reviewed, and if it not sufficient, then we go back to the contractor for additional information .

CHAIRWOMAN MOORE: So, then, if I submitted a bid, and said I advertised in the local newspaper and I advertised in the L.A. Times or some paper, is it a requirement that it be in ethnic papers? Is that the requirement?

MR. MOORE: No, it's not.

CHAIRWOMAN MOORE: So, I would be in good stead if I advertised in the Times? Let me ask, then, what else did you indicate?

MR. MOORE: Working with organizations such as the Mayor's Office of Small Business Assistance.

CHAIRWOMAN MOORE: So, if I called the Mayor's Office and indicated in the bid procedure that I contacted the Mayor's Office and they gave me three names, do I get a gold star?

MR. MOORE: Yes, you would.

CHAIRWOMAN MOORE: Okay. Then, I told you that I contacted those three and none of them can do it, do I get another gold star?

MR. MOORE: Yes, you would.

CHAIRWOMAN MOORE: Okay. What else do I get gold stars for?

MR. MOORE: Breaking portions of the work up into small areas that they can bid on.

CHAIRWOMAN MOORE: Okay. Then, if I break it up into small portions that they can bid on and no one is acceptable or I don't get any bids, do I still get a gold star?

MR. MOORE: Yes. You can basically do all ten and get ten gold stars and come up with zero participation and have been found to have made a good faith effort.

CHAIRWOMAN MOORE: Okay. I don't have to tell you what I'm getting at. Do I?

MR. MOORE: Yes.

CHAIRWOMAN MOORE: I can beat the hell out of that good faith effort and with the intent of never coming up with anyone.

MR. MOORE: That's correct.

CHAIRWOMAN MOORE: Now, suppose I do advertise in ethnic papers and I get ten names from the Mayor's office and contact each and every one of them and have a statement in my report, do I get two gold stars?

MR. MOORE: No, you don't.

CHAIRWOMAN MOORE: In other words, it doesn't matter as long as you touch all basis?

MR. MOORE: That's correct. This program, which is the Mayor's Directive 1C, I believe will remain in effect until the disparity study is completed and goals established. That project is well underway.

CHAIRWOMAN MOORE: So, the real deciding factor is good faith effort?

MR. MOORE: That's correct.

CHAIRWOMAN MOORE: Which doesn't work.

MR. MOORE: I agree. We work very hard to make sure there is participation at the times presented by the board, because the board does scrutinize it and have at times asked us to rebid projects.

CHAIRWOMAN MOORE: Not a lot, though?

MR. MOORE: Well, I don't like getting beat up by our board, so we make sure there is some participation in there.

CHAIRWOMAN MOORE: Okay. Generally, is there participation?

MR. MOORE: There generally is, yes.

CHAIRWOMAN MOORE: At a minimal level?

MR. MOORE: It all depends on the type of projects. Construction projects usually exceed the level that we ask for. There are some service projects such as Xraying, radiological testing and so forth where it is some times difficult. There are portions of work that can be broken off and given to subcontractors.

CHAIRWOMAN MOORE: Generally in the construction area, what kind of participation is generally that of minority businesses?

MR. MOORE: I would say that we don't always come up with 15 and 7 [percent] in large construction projects. In street paving projects, cement borderlining projects we always exceeded.

CHAIRWOMAN MOORE: When you exceed it, what are the minorities doing in the contract?

MR. MOORE: They are providing the paving services.

CHAIRWOMAN MOORE: So, they are laborers?

MR. MOORE: Yes.

CHAIRWOMAN MOORE: Generally, what it is, it's not like coming in with a joint venture with a minority construction firm. It's more utilizing the laborers who are actually doing the bidding and showing they are using minorities on the project.

MR. MOORE: It varies from project to project.

CHAIRWOMAN MOORE: That would count if I hired...

MR. MOORE: No. Only if the firm that they've subcontracted with is a minority-owned or woman-owned business. Not the ethnic composition of the workforce.

CHAIRWOMAN MOORE: Okay. So, if I gave a small portion of the contract to the minority that we joint ventured with is there any review? You indicated that they don't always meet the 15 and 7 [percent]. How do you make a determination that the minority firm shouldn't have more or is incapable of doing more?

MR. MOORE: We review the specifications prior to going out to bid, take a look at the history of participation in those particular projects, and either increase or decrease the stated goals and specifications. We try to make them basically reach and propose a larger amount than they are currently doing.

CHAIRWOMAN MOORE: One of the criticisms that I heard of your department in particular, and many of the others as well, I guess, is your bonding requirements. Often your bonding requirements are very unrealistic inasmuch as you may be paying a minority firm \$400 a month or \$400 a week or whatever it is, that they may be required to have bonding at a million dollars. The bond costs almost exceed what you're actually paying them or whatever their contract and duty is for. Is there any review or realistic requirement of bonding for jobs being done?

MR. MOORE: Yes, there is. Unfortunately, bonding is either a state requirement or a city charter requirement. However, we have been working with risk managers from other city departments, taking look at things that we may be able to do to help minorities in that area. This is an area where we need help. It's

always a barrier to a lot of businesses to be able to afford the bonds. If they can't afford the normal bond market, then they go into the collateral-type market where they need a certain percentage of collateral to get a bond and that becomes very expensive. We are currently trying to put together an educational program with some...

CHAIRWOMAN MOORE: I guess the question I'm asking, do you require bonds on almost everything whether a bond makes sense or not?

MR. MOORE: The city charter requires that we obtain bonds on all construction service type contracts. Yes. We have to do that until there's a charter change.

CHAIRWOMAN MOORE: Does it make sense on some of them?

MR. MOORE: On some of them it does not, especially some of the service contracts. Then, there's a state requirement, labor, material and payment bond. In addition, a lot of our small and minority vendors lack working capital or capital sufficient to enable them to have collateral to provide some of these bonds. There are times when -- it's obvious that the cost of the bond makes the difference between the low bidder and being second.

CHAIRWOMAN MOORE: Is there any attempt to look at it? If there were things you could do, would bonding be an area that you would be concerned about and think needs some review? I don't mean to lead you.

MR. MOORE: We are looking into that area. In addition, we have a WMBE council that's assisting the Department to help us with these barriers. They consist of 14 community leaders, and one

of their recommendations is that we work to change the city charter in this particular area.

CHAIRWOMAN MOORE: Do you have any questions
[Speaking to Assemblyman Becerra]?

What major projects do you have planned? How will you advertise for MWBE requirements for both prime and subcontractors?

MR. MOORE: We have some cement borderlining jobs that are coming up. We have some asphalt paving jobs that are coming up. We advertise in local minority papers. In addition, we have workshops. We had one last month with the Asian Business Association in which our contract administrators provided their schedule of upcoming projects for about the next six months to let them know what was coming up, and basically told them who you contact if you would like additional information. We like to keep people posted on what's coming up down the line.

CHAIRWOMAN MOORE: You said that you advertise in minority papers. I'm going to ask for some more information from you. One of the things we'd like to see is the kind of minority publications that you do use and the frequency in which you use them.

My last question is, how do you get on your bid list?

MR. MOORE: We do not prequalify bidders. All it takes is a request to get on our list of bidders; a telephone call into our office, seeing buyer or just a letter.

CHAIRWOMAN MOORE: When you indicated you submitted to the board the people who are the bid list, the bid list is

not a bid list in the sense that we know it to be in other agencies where there has been a prequalified bid and only those who meet those qualifications are included. You're saying everybody who applies is put on the bid list and can be selected?

MR. MOORE: That's correct. Anyone who is capable of doing that kind of work and have identified themselves as being interested to do that kind of work, we try to include in the bid list.

CHAIRWOMAN MOORE: Of course, you just said something to me. You said "capable", and have submitted their names. Are those not synonymous?

MR. MOORE: They should be, yes.

CHAIRWOMAN MOORE: Are they?

MR. MOORE: No, not all the time. This is something that we are working on constantly to make sure we match the right package with the right type of bidders. There are firms that are only capable of being bonded to a certain level or only interested in a particular kind of work.

CHAIRWOMAN MOORE: If I submitted my Moore Construction Company, and don't let any of you go out and tell people I have a construction company and I'm trying to get a contract -- but, if I submitted Moore Construction and the Department felt what I do is not what you're looking for, would I not then be on the bid list?

MR. MOORE: We would send you a bid and wait and see if you respond. If you didn't, then we would find out why you didn't, and if we found that we put you on the wrong type of package, we would correct that later on. We do send out a tremendous number of

bids on a construction project. We will have sometimes up to 200 invitations. Basically, letting the bidders tell us is this the type of project they're interested in, then we make the corrections to our database.

CHAIRWOMAN MOORE: I think there's a misunderstanding of what I'm asking. I guess what I'm really asking is, what you've told me in the beginning is correct. You're saying that there isn't any attempt to assure that the list reflects the kind of people who can provide the services that you're looking for. Even if I'm not qualified to do what it is that you're looking for, if I submit my name I will end up on the bid list?

MR. MOORE: If you tell us you can do this type of work, you will get a request for bid.

CHAIRWOMAN MOORE: If I return that bid, I will be on the list?

MR. MOORE: That's correct.

CHAIRWOMAN MOORE: Even if it's clear that I don't meet the criteria?

MR. MOORE: If you're the low bidder, then we start determining whether you are capable of doing that particular project or not. However, if you want to bid on that particular project and you tell us you are interested and you can do it, we will send you a request for bid. We do not have a process where we prequalify people.

CHAIRWOMAN MOORE: Okay. So, everybody who bids is in?

MR. MOORE: That's correct.

CHAIRWOMAN MOORE: If there were a couple of things you can change, what would they be?

MR. MOORE: One that we already talked about and that is the bonding and insurance area. That is a real barrier to small minority businesses. The other would be providing some kind of capital to minority- and women-owned businesses whether it be for staying in business or have collateral for bonds. Another would be educational process. We find a lot of bidders do not know how to present their financial documents to bonding companies. We are going to be working on that ourselves in trying to assist them with that.

CHAIRWOMAN MOORE: Looking at your numbers, last year you spent the least amount of money with minority- and women-owned businesses than you have in five years. Although we have spent around the same level, and even more than you spent in '87 and '88, is pretty close to what you spent in '88 and '89, and yet, your numbers are dramatically different than what you spent in those years. Is there any reason for that?

MR. MOORE: We use to do some, I guess you can call it, arm twisting at that time in the early years in trying to really require contractors to subcontract as much as they could. We have been advised by our city attorney we can't do that. It has to be basically on the good faith effort provided in the response for proposals. We do go back now and ask for clarifications, and sometimes are able to get additional participation, but we were very aggressive in the first number of years of the program.

CHAIRWOMAN MOORE: In other words, some of your commitments have slackened?

MR. MOORE: Not the commitment. It's the strains that are put upon is.

CHAIRWOMAN MOORE: So, I can blame the city attorney.

MR. MOORE: What the concerns we have is obviously seeing this lessening of what you call aggressiveness and we call fairness in terms of trying to balance out the correct formula. So, we will take another look. Let's go to the affirmative action portion.

CHAIRWOMAN MOORE: Let's hear from the affirmative action officer.

MS. BETTY JOHNSON: Again, my name is Betty Johnson, Director of Affirmative Action and Equal Employment Opportunity. I report directly to the general manager, and my responsibilities include general oversight for the affirmative action programs in the Department.

DWP [Department of Water and Power] has been involved in affirmative action programs since the early '70s. The mayor issued an executive directive in the early '70s that required the City of Los Angeles to adopt an affirmative action plan.

CHAIRWOMAN MOORE: Can I interrupt just for a minute? Brother, I just figured out that I'm not quite through with you for a second. I want to go back. You don't break out by ethnicity the expenditures of your dollars. Is that correct?

MR. MOORE: No, no.

CHAIRWOMAN MOORE: Why not?

MR. MOORE: It's not the city or board's policy to do that. Our board hasn't directed us to do that. We don't do any reports by breaking down by ethnicity.

CHAIRWOMAN MOORE: Okay. It's a little unusual since most do. Let me ask you something. Tell me what you do in computer work? Don't you do some outside contracting with people who do computer work?

MR. MOORE: Yes, we do.

CHAIRWOMAN MOORE: How does that work?

MR. MOORE: Computer programming contracts is basically personal service contracts. They do contract for analysts and programmers. This is done on a noncompetitive basis based on qualifications.

CHAIRWOMAN MOORE: Do these contracts go before the board?

MR. MOORE: Yes, they do.

CHAIRWOMAN MOORE: Eventhough they are noncompetitive?

MR. MOORE: That's correct. They go before the board. They are not processed by purchasing. They processed by the individual divisions. We are proposing new guidelines that these contracts do come through purchasing for review.

CHAIRWOMAN MOORE: Tell me what would be the high-end of a personal service contract through an individual department, a central computer services.

MR. MOORE: I imagine it could go up to a million dollars for assistance.

CHAIRWOMAN MOORE: So, you have a million dollar contracts being let that your division that minority and women business enterprises have no jurisdiction over?

MR. MOORE: That's correct currently.

CHAIRWOMAN MOORE: I like the way you did that. "Currently." From what I've been told and from what I can see in the number of instances, this appears to be an area that's being abused. I take it that's part of the reason that it is being reviewed.

MR. MOORE: That's correct. Our board is very much concerned. So is our MWBE counsel, and also management has always been concerned and directed me to establish procedures that will tighten down on these areas.

CHAIRWOMAN MOORE: Are there other areas other than computers that you can think of that are high-end kind of services?

MR. MOORE: I would weigh our personal services contracts such as architect and engineering type contracts would also fall into that category.

CHAIRWOMAN MOORE: Do you have any statistics on how many of those contracts have gone to minority- and women-owned businesses?

MR. MOORE: Yes, we do. We do report those to the board on a monthly basis.

CHAIRWOMAN MOORE: We'd like to see that report as well.

MR. MOORE: That will be included in your package as well. It should have been included in there.

CHAIRWOMAN MOORE: Not in any form we can read.

MR. MOORE: I apologize for that. We do have a good report that comes out every month to our board. It breaks it down by construction services and personal services, dollars and percentages.

CHAIRWOMAN MOORE: Of the total that was spent on those kinds of services, is it done on an accumulative basis or what?

MR. MOORE: It's done on a monthly basis. We indicated what was done per month, and then, a running total of what it is to date for the fiscal year.

CHAIRWOMAN MOORE: If I have a million dollar contract, am I reported once or am I reported monthly on how much was expended on that contract?

MR. MOORE: You're reported in that particular month, and then the total is reflected in the year-to-date figure.

CHAIRWOMAN MOORE: But, I'm not mentioned again.

MR. MOORE: Excuse me. I didn't understand that.

CHAIRWOMAN MOORE: I guess what I'm asking is that what is reported monthly. The ones I mentioned as the ones who are getting this million dollar contract. Are they mentioned every month until the money is expended?

MR. MOORE: No, just the first time it is awarded.

CHAIRWOMAN MOORE: So, conceivably, what you see in the monthly report would not give an idea of the total picture except how much is being expended?

MR. MOORE: That's correct. Contract administrators are then required to submit to purchasing monthly reports of actual

expenditures. We're are in the process of upgrading our database that will help capture that information.

CHAIRWOMAN MOORE: For example, if I got a computer contract from you for a million dollars for a given year, and for some reason we had a family fight, and we didn't get along, could you avoid giving me any work on that million dollar contract by giving it to someone else?

MR. MOORE: Not without permission from the Department of Chief Subcontractors. That requires written permission. The administrators are supposed to have a good reasons why they would change subcontractors if the subcontractor was MWBE, they should replace it with another MWBE.

CHAIRWOMAN MOORE: All right. The million dollar contract that I got is not a commitment that I'm going to get a million dollars, because you put certain conditions on it that would allow you to drop me at any point. Is that correct?

MR. MOORE: No, it is a commitment for a million dollars for a specific type of work with certain number of subcontractors that have been identified. Any change in those subcontractors would require written permission.

CHAIRWOMAN MOORE: All right. So, you would give me a contract and I would hire Betty Johnson, Gregg Cook and Xavier Becerra to work for me on my million dollar contract. Now, if I wanted to drop Betty Johnson, could I do that without going through the Department or does the Department have some say so?

MR. MOORE: The Department has to give permission in order to do that -- written permission.

CHAIRWOMAN MOORE: But, the contract is with me.

MR. MOORE: Yes.

CHAIRWOMAN MOORE: And, Betty Johnson works for me on my contract. Would you still be involved?

MR. MOORE: We would require written permission from the contract administrator to change subcontractors once the contract is awarded.

CHAIRWOMAN MOORE: And, that's with the prime as well. Let's reverse it. If it was your contract, is the same requirement made of you? I'm doing it as an MWBE, and you're doing it as a majority firm.

MR. MOORE: We would not allow the prime to change. The prime would be required to perform the contract.

CHAIRWOMAN MOORE: Okay. So, no matter who it is in the department if they want to change a subcontractor, they have to get permission.

MR. MOORE: That's correct. Written permission.

CHAIRWOMAN MOORE: Is that normally hard to do?

MR. MOORE: I have to say that I'm not familiar with the contract administration area.

CHAIRWOMAN MOORE: Because basically it would just a letter from me saying that I'm dropping Betty Johnson and here's my new replacement.

MR. MOORE: I would expect that there would be some reason for doing that, and that if it's a minority subcontractor to be replace with a minority subcontractor.

CHAIRWOMAN MOORE: Okay. Who reviews these monthly reports? That's totally out of your department's hands, right?

MR. MOORE: Personal service contracts are currently out of our area. That's correct.

CHAIRWOMAN MOORE: Do you have any idea overall how much money is spent in that forum?

MR. MOORE: Personal service contracts amount to about \$60 million a year.

CHAIRWOMAN MOORE: From what we're seeing you spent \$166 million, so roughly a third of the money is in personal contracts?

MR. MOORE: That sounds high.

CHAIRWOMAN MOORE: You spent \$166 million last year. If you spent \$60 million.

MR. MOORE: Can I refer to my chart?

CHAIRWOMAN MOORE: Sure. I don't mind charts, because you can't read your chart. You can tell me about it, but it's not like reading.

MR. MOORE: Personal services contracts last year were \$46 million. Prior to that there were \$72 million. We did achieve 14.3 percent MBE participation, and 10.5 percent WBE participation in personal services contracts.

CHAIRWOMAN MOORE: But, that's the minority portion of it. I'm thinking in terms of the total percentage.

MR. MOORE: That would have been \$46 million out of a total of \$166 million.

CHAIRWOMAN MOORE: That's about a fourth. Actually, it's more than a fourth and less than a third.

MR. MOORE: That's correct.

CHAIRWOMAN MOORE: That's still a large portion not subject to the same kind of scrutiny as other contracts. I'm assuming that your department gives great scrutiny.

MR. MOORE: And, we have plans to change that.

CHAIRWOMAN MOORE: Okay. All right. Now you're on.

MS. BETTY JOHNSON: Thank you. I'm starting to get excited about my new subcontracting job.

Let me back up and start over again. As I said earlier...

CHAIRWOMAN MOORE: You are?

MS. BETTY JOHNSON: I beg your pardon?

CHAIRWOMAN MOORE: Who are you?

MS. BETTY JOHNSON: I didn't start back far enough. I'm Betty Johnson, Director of Affirmative Action and Equal Employment Opportunity. My position as Affirmative Action and EEO Coordinator reports directly to the General Manager at Water and Power. We have had an affirmative action program since early '70s. Mayor's Executive Directive #1 mandated the City of Los Angeles to develop an affirmative action plan. That plan in turn directed each city department to establish their own affirmative action programs. So, DWP has had a program that was approved by our Board of Water and Power Commissioners in the early '70s.

We also have operating an advisory affirmative action committee made up of recognized employee groups from our African-American population in the department, women groups,

Hispanic groups, Asian-Americans, and recently we added Los Angeles Vietnam Veterans Association. These are all recognized employee groups, and they send representatives to sit on our Affirmative Action Advisory Council.

In terms of goal setting, we have two processes. The general manager sets overall goals for the Department with the Mayor. In each division he establishes goals for the individual divisions which become Department goals. These goals are essentially broken down by category based on the federal guidelines that have been established for categories. These goals are set on a yearly basis with generally a 5-year projection.

There's a report produced on a yearly basis, which is the affirmative action progress report, where each division is required to submit a report to determine the effectiveness in meeting the goals that they set for that particular year. That report is given to our Board of Water and Power Commissioners. It's also reviewed by our Employee Affirmative Action Advisory Council for input and discussion on whether or not they've met their goals.

We have a process where the managers are selectively called in to make presentations to the board, to discuss their goals and talk about some of their successful programs and their not-so-successful programs. And, that process happens on a yearly basis.

We're also monitored by the City of Los Angeles' Personnel Department. The mayor has established an Advisory Affirmative Action Committee for the city. They review the affirmative action progress of all the city departments. That process

is an ongoing process by the time they get through all the departments that are in the city.

With respect to our break down, we have about 11,000 employees. Approximately 52 percent of our workforce are minorities. In terms of numbers, that breaks down to approximately, a little over, 2100 African-Americans, about 2300 Hispanics, about 1,000 Asian-Americans, a little over 400 Philipinos and approximately 2700 women. In many of our statistics, we do separate out our women from our minority statistics, so we will have a more adequate count of our women.

CHAIRWOMAN MOORE: So, you don't double count?

MS. BETTY JOHNSON: We don't double count.

CHAIRWOMAN MOORE: Okay.

MS. BETTY JOHNSON: In terms of our goal setting, we set goals for the individual categories based on population parity. For the Department of Water and Power and the city, population parity is based on the City of Los Angeles' population, and we use the census figures as our base for our parity figures.

CHAIRWOMAN MOORE: Let me ask you a question. May we have a copy of your progress report?

MS. BETTY JOHNSON: Yes, these are handouts that I'd be happy to leave with you.

CHAIRWOMAN MOORE: Okay. And, all the backup data, because you again talk to me in percentages and not numbers. Why don't we fast forward a little bit and get to your executive management and professional staff. In your report you cite percentages. Tell me about the top 45.

MS. BETTY JOHNSON: In our official administrator's category, which is basically our system and division heads and our principle engineers, in terms of numbers we have 13 African-Americans, 18 Hispanics; the total number is 154 in that category.

ASSEMBLYMAN XAVIER BECERRA: May I ask a question? You gave us percentages?

CHAIRWOMAN MOORE: I just asked for that. That's all we have is percentages.

MS. BETTY JOHNSON: I can give you both.

CHAIRWOMAN MOORE: They have given us percentages.

ASSEMBLYMAN BECERRA: I don't have their report.

CHAIRWOMAN MOORE: Do you have another copy of your report?

MS. BETTY JOHNSON: I don't have another copy. But, I can give you both.

ASSEMBLYMAN BECERRA: Why don't you give us both. If you could cite the percentages as well.

MS. BETTY JOHNSON: For our officials and administrators categories, again, the total number is 154 employees. For blacks, that represents 8.5 percent, which is 13 employees. For Hispanics, 11.7 percent, which is 18 employees. Asian-Americans, 7.1 percent, 11 employees. Philipino, 5.8 percent, 9 employees, and women, 11.7 percent; that's 18 employees.

CHAIRWOMAN MOORE: Of the 154, what's the salary range?

MS. BETTY JOHNSON: The salary range for our officials and administrators are probably from \$100,000 to \$165,000.

CHAIRWOMAN MOORE: So, there are 154 people that make over \$100,000 with DWP?

MS. BETTY JOHNSON: That's approximately right. In this particular category we do have some field superintendents who probably who are maybe a little bit below the \$100,000 mark. But for our engineering personnel, that would be correct.

CHAIRWOMAN MOORE: Are engineers the only ones that make over \$100,000?

MS. BETTY JOHNSON: No, we have finance and accounting professionals who are in that range. We also have some administrative positions.

CHAIRWOMAN MOORE: Roughly, can you give me some idea how many are over \$100,000?

MS. BETTY JOHNSON: Maybe 75 to 80 percent of that 154.

CHAIRWOMAN MOORE: Okay. So, we're talking about at least 100.

MS. BETTY JOHNSON: I beg your pardon. We have about 46 people who make over \$100,000.

CHAIRWOMAN MOORE: That gets back to my group of 45. That's where I was trying to get you to go. Of that 46 -- I'm at the understanding that it's 45, but if you say 46, fine.

MS. BETTY JOHNSON: Forty-five or 46.

CHAIRWOMAN MOORE: Okay. Of that group, how many are minorities and women?

MS. BETTY JOHNSON: Let me give you numbers. I don't think I have percentages as I go through in my mind the positions

that we have in the departments. Probably of that 45, maybe 5 or 6 are minorities.

CHAIRWOMAN MOORE: How many are women?

MS. BETTY JOHNSON: I believe there are two women in that category.

CHAIRWOMAN MOORE: Are you in that category?

MS. BETTY JOHNSON: No, I'm not.

CHAIRWOMAN MOORE: So, you're not one of those women.

MS. BETTY JOHNSON: No, I'm not. Our chief financial officer and our director of human resources. I may be mistaken about our director of human resources, but I do know that our chief financial officer is in that category.

CHAIRWOMAN MOORE: You might be mistaken. You're right probably from what I understand.

Are you in that category?

MR. MOORE: No, I'm not.

CHAIRWOMAN MOORE: For the first time people are happy to tell me that they are not in the \$100,000 category.

MS. BETTY JOHNSON: Wrong signal.

CHAIRWOMAN MOORE: What did you say? Wrong signal?

ASSEMBLYMAN BECERRA: Madame Chair, may I ask what the population parity numbers are?

MS. BETTY JOHNSON: Yes. We use the population parity numbers currently for the 1990 census. For blacks that is 13 percent; for Hispanics, that's 39.9 percent, for Asian-Americans, 6.7

percent; Philipinos, 15.5 percent, and for women, it's 49.8 [percent]. In the handouts that I have for you, I can cite them now if you like, but I do have some charts in here that indicate where we are in terms of population parity.

ASSEMBLYMAN BECERRA: Thank you.

CHAIRWOMAN MOORE: Let's go back to the top 45. You said that you thought there were 5 or 6 as you could think of offhand. Can you help her?

MS. BETTY JOHNSON: Our chief financial officer, we have, I believe, three principle engineers.

CHAIRWOMAN MOORE: They are? The three principle engineers are of what ethnic background?

MS. BETTY JOHNSON: Black and Hispanic.

CHAIRWOMAN MOORE: Okay.

MS. BETTY JOHNSON: One of our assistant system heads is Asian, and in our division heads, I believe we have an Hispanic division head.

ASSEMBLYMAN BECERRA: You think or you know?

MS. BETTY JOHNSON: I know we do. I'm just trying to ...

CHAIRWOMAN MOORE: She doesn't know if he makes \$100,000 or not.

MS. BETTY JOHNSON: I believe he does, and I can ask him.

CHAIRWOMAN MOORE: Can anybody help? Is that who we're thinking about?

MR. FRANK SOLIS: I'm trying to come up with a summary now. Bear with me, I'm trying to write their names.

CHAIRWOMAN MOORE: Okay. Who is the voice in the back?

MS. BETTY JOHNSON: That's Frank Solis. He's our governmental affairs representative.

CHAIRWOMAN MOORE: You can join them at the table if you want. Okay, go ahead. So, that's the five.

MS. BETTY JOHNSON: There's maybe a little more than 5. Our assistant system head is an Asian.

CHAIRWOMAN MOORE: The reason that I'm asking this question is, looking at your workforce and also looking at the parity, I just wondered how many are at the top. To that end, given the pool that you have to draw from, that's the numbers that I'm trying to tie together that I couldn't figure out from the way the report is submitted.

MS. BETTY JOHNSON: Well, the report for our statistical purposes are officials and administrators. The categories are set, as I said, by the federal government. So, the classifications that go into those categories aren't determined by the Department.

CHAIRWOMAN MOORE: So, we would have needed to have asked more specific kinds of questions in order to get the kind of information that I am now asking you from the top of your head you are trying to tell me. Is that correct?

MS. BETTY JOHNSON: I can provide you with a list of specific classifications that go into each of the categories that we have established at the Department. It is not in this package.

CHAIRWOMAN MOORE: I guess the last question I'd ask is, when you submit that to me would you let me know the date of promotion of the people that we're talking about?

MS. BETTY JOHNSON: The date of their most recent promotions?

CHAIRWOMAN MOORE: The promotion that probably put them over the top.

MS. BETTY JOHNSON: Okay.

CHAIRWOMAN MOORE: That would be real helpful.

MS. BETTY JOHNSON: My statisticians who are busily working over here tell me we have about 10 minorities and females in that 45.

CHAIRWOMAN MOORE: In the \$100,000 category?

MS. BETTY JOHNSON: Right.

CHAIRWOMAN MOORE: And, minorities?

MS. BETTY JOHNSON: They are all minorities, because the one female is a minority, a black female.

ASSEMBLYMAN BECERRA: Do you know the break down within the 10 ethnicity or race?

MR. SOLIS: I think about 4 or 5 Hispanics. One Asian, one black female...

CHAIRWOMAN MOORE: Wait, wait. You have 10 down there and you guess 4 or 5. Come on. Give us a break.

MR. SOLIS: From memory, we have 4 Hispanics that I'm aware of.

CHAIRWOMAN MOORE: All right. Speak into the mike.

MR. SOLIS: Approximately 4 Hispanics out of the 10 are in that category of over \$100,000.

CHAIRWOMAN MOORE: And, go ahead. One black?

MR. SOLIS: One black male, one black female...

CHAIRWOMAN MOORE: Then, two blacks.

MR. SOLIS: I'm sorry. Two black males, one black female.

CHAIRWOMAN MOORE: So, three blacks.

MR. SOLIS: Two black males, one black female.

CHAIRWOMAN MOORE: Three blacks.

MR. SOLIS: Three blacks.

CHAIRWOMAN MOORE: Thank you. I want corrected figures, too. If you give me 10 and there are only 5, then we're going to be real mad.

MR. SOLIS: It's somewhere around 9 or 10. Again, it's by memory.

CHAIRWOMAN MOORE: All I'm saying is when you give me your figures, because I know this is unfair. You didn't know I was going to ask you that.

MS. BETTY JOHNSON: We have statistical reports that break out the person by category and their salary. But, no, I did not bring that.

CHAIRWOMAN MOORE: We can wait. So, when you send it, give it to us as accurately as you can.

MR. SOLIS: Yes, we have it in the office.

CHAIRWOMAN MOORE: Let me ask you about EEO complaints. How are they processed?

MS. BETTY JOHNSON: They are processed in a number of ways. We have an internal procedure. We have an affirmative action unit that's responsible for investigating discrimination complaints. Each division in the Department also has an equal employment opportunity coordinator. That person involves himself in working with employees and advising them on their affirmative/EEO rights and also working with them on discrimination complaints.

CHAIRWOMAN MOORE: Did you say each division?

MS. BETTY JOHNSON: Each division has what's called an equal employment opportunity coordinator, which is an individual who usually has an alternate that reports variously directly to the division head or through second or third reports. It just depends on the division itself. Some of the divisions are larger and some of them are smaller. So, the reporting relationship...

CHAIRWOMAN MOORE: Let's do a little role playing here so I can understand the process. I work for my brother, Mr. Moore, and I have a complaint against him of racial discrimination. I, then, go to Frank with my complaint. Frank is the EEO coordinator. I, then, go to him and say, "Look, I got a complaint against Mr. Moore." What do you tell me?

MR. SOLIS: I call Betty and say, "Betty, we got a problem."

MS. BETTY JOHNSON: The division EEO coordinator responsibility is to look at it from an informal basis, and to be able to determine whether or not that's something that can be resolved within the division, or at the option of the employee, if the employee

doesn't feel or eventhough the division EEO coordinator may feel that it is something that can be resolved and the employee feel they may want to take it to another level, they have that option. Given those circumstances, the employee then...

CHAIRWOMAN MOORE: Wait a minute. I already spilled my guts to Frank, and he decides he's afraid of Mr. Moore, and I ought not take it any further. Then, I decided I want to take it further. Hasn't my case already been tainted in the sense that Mr. Moore knows what I'm going to say, and he can clean up his act before I get a chance to get it to the proper division?

MS. BETTY JOHNSON: Well, not necessarily. Yes, he has the information, but no matter what form you use to file the complaint, they would have the same information. Because, if they go to internally into our affirmative action unit and file the complaint...

CHAIRWOMAN MOORE: No, it's a little different. If I go out of my division and go directly to the EEO office and make that complaint, I would suspect that there was some confidentiality at least until that it might be handled a little differently than having someone who also reports to the same person that I do.

MS. BETTY JOHNSON: Unless the employee specifically requests that the EEO coordinator not be involved, generally for our internal process, we do involve the EEO employment opportunity coordinator in the discrimination complaint process. The employee does not have to file the complaint internally. They have the option of going outside to either one of the state or federal agencies or the City Civil Service Commission, who has their own...

CHAIRWOMAN MOORE: The concern is the position that as second level manager would be in reviewing the complaint and having to report potentially to the person who inflicted the pain, it seems to me would be rather an awkward kind of process in sense of really getting to resolving whatever the issue might be.

MS. BETTY JOHNSON: And, it can be an awkward process. In fact, some of our division heads are designated the EEO coordinator for their own divisions or their assistants. However, again, the employee does have the option of opting not to go to the division EEO coordinator. The affirmative action unit can advise the employee that it's something that can be addressed by the division EEO coordinator, and sometimes that advice is given. But, again, it is up to the employee to make the determination whether or not they want it handled or whether or not they want to go ahead and file a formal discrimination process. Our process involves an informal step initially. That's the step where generally the EEO coordinator is involved, and there are some discussions around what the complaint is. But, the employee can then opt to file a formal complaint either within the department, with the City Personnel Department, through the Civil Service Commission or with a state or federal agency or any other compliance agency that they might want to direct their complaint to.

CHAIRWOMAN MOORE: Who responds to the charges?

MS. BETTY JOHNSON: The charges are responded to from the affirmative action unit. If it is an outside agency, the City of Los Angeles Personnel Department is the responding agency for the Department of Fair Employment and Housing and Equal Employment

Opportunity. The complaint is filed with the City of Los Angeles. The complaint is then forwarded to the Department, and there is a cooperative effort with the main assignment being given to the Personnel Department, and they will work with an investigator who is assigned from our department on the complaint.

CHAIRWOMAN MOORE: It sounds like coverup.

MS. BETTY JOHNSON: Well, because we're a city department and the Personnel Department has responsibility for affirmative action on a citywide basis, that's how it's handled with an outside agency. Internally, the process is different. If it's internal and it's filed in the City Personnel Department, then the Personnel Department comes into DWP and does the investigation themselves. Outside agencies will send their own investigator in.

CHAIRWOMAN MOORE: To the extent that the city is responding to the complaint, is there a tendency, then, to protect the department?

MS. BETTY JOHNSON: We have not found that to be so. In fact, we have found it to be the opposite.

CHAIRWOMAN MOORE: So, you're comfortable with the process?

MS. BETTY JOHNSON: I think the process works, because it gives, as you already pointed out, the employee the opportunity to have an outside investigation for a complaint that might be involve some of the players that we described.

CHAIRWOMAN MOORE: Does the informal processs work?

MS. BETTY JOHNSON: The informal process works as well because it also gives the employee the opportunity to perhaps meet

with higher level management and get their complaint aired. Without going through that process, then, the opportunity might be further down the road. They may not get the opportunities, because the conversation might be between the investigator and management rather than with the employee directly.

CHAIRWOMAN MOORE: Would you also include a line about your EEO complaint process, so we can of review it and see where we're going?

MS. BETTY JOHNSON: Yes.

CHAIRWOMAN MOORE: I'm taking longer than I probably should. Is there anything you might want to add or if there are things you can change about the affirmative action program, what would you do?

MS. BETTY JOHNSON: I think one of the things that we are already doing is, we're in the process of updating our affirmative action plan. We're trying to add, along with the responsibilities that are outlined in the plan, for the various levels, all the way from the employee up to the general manager, to include some accountability measures to go along with that.

CHAIRWOMAN MOORE: Such as?

MS. BETTY JOHNSON: Such as when there are complaints that are filed, there's some followup on the discipline. The way our department works is that the discrimination complaint might be filed in our affirmative action unit, but the disciplinary process is handled in our labor relations unit. So, that the discipline then becomes a labor relations issue, and not necessarily an affirmative action issue. So, that the followup and the response that goes along with the

discipline is taken out of the arena of affirmative action, and it goes through a different process.

CHAIRWOMAN MOORE: So, that would make people reluctant to really do it, because of the way it's treated?

MS. BETTY JOHNSON: I don't think we've seen a reluctance in employees wanting to file complaints?

CHAIRWOMAN MOORE: Give me an example of a response by the labor division to a valid complaint.

MS. BETTY JOHNSON: In labor relations, they look at past practice. In affirmative action, I think, if you have an employee that has perhaps been late for work, and you might mete out some discipline. Two and three years have gone by and employee hasn't been late. When you look at discipline again, then you're looking at well, there's been a good period of time where that employee has not been late. So, in terms of discipline, it may not be as severe. When we're talking about an affirmative action practice, there really isn't any time that I see that weighing simply because the act happened one year ago or three years ago. But, when you get into the labor relations area and you're looking at past practices, sometimes they may look at the fact that, well, the discipline that was received was more than 4 years ago, and based on our labor practices now the discipline we might want to mete out we can't build on that one because it was too long ago. Sometimes, again, and this is my opinion, in asking me what some of the things that I think can be changed, I think that sometimes the discipline cannot be meted out maybe as severely as it needs to be in the affirmative action area because of the issue of the labor relations.

CHAIRWOMAN MOORE: In other words, I can be a racist or a sexual harrasser four years ago, and if I'm good for four years, then it doesn't matter. You're not really saying that, but the point is the pattern is not established in the same manner that it would be if you were solely looking at that as an affirmative action matter.

MS. BETTY JOHNSON: Yes. Sometimes. Again, because of the disciplinary process, once the discipline is meted out, then the employee has certain rights to appeal the discipline. Then, again, it's taken out of the hands of affirmative action, and internally, their appeal is to the Board of Civil Service Commissioners or through, if it is something where they filed a grievance, then it goes through that process where there's possibly an abitration hearing. So, again, now we moved completely out of the arena of affirmative action, and we're in a totally new arena where the rules change. Things that are are appealed can be turned around.

CHAIRWOMAN MOORE: I understand. Okay. What else?

MS. BETTY JOHNSON: I think just in terms of some programs that the Department has been involved with. We have what we consider to be a fairly successful engineering recruitment program. We do rely on the personnel department, because we're a city agency for a lot of our referrals. But, we do have an engineering recruitment committee, and we recruit at a number of colleges and universities throughout the country. We send out recruiters out many times with kind of a partnership relationship with employees that are recent graduates of the school. We have been successful in increasing the number of engineers in our department in terms of

our minorities and women through our engineering recruitment program and our student engineering program.

CHAIRWOMAN MOORE: One of the concerns that I hear about your agency and others who are going to come up is that obviously engineers and engineering is a critical component of the organization. But, the premium on engineers and engineering positions generally exceeds other things of administrative kinds of positions. Is that an accurate statement?

MS. BETTY JOHNSON: I'm not sure I follow you.

CHAIRWOMAN MOORE: That engineering positions are generally paid considerably more than maybe comparable administrative positions on another level that don't require the typical training. In some of the engineering positions, while they are headed by an engineer, may not necessarily need an engineer to do what the engineer does and the salary somewhat reflects a different value or premium on the service.

MS. BETTY JOHNSON: I think on the surface that's probably right. However, in classifying our positions at the Department that classification is approved and worked on by the Personnel Department. So, we can send over a position description and justification for a position, but the final authority on how that position is classified and salary that's attributed to it is done by the Personnel Department. However, we are an engineering dominated organization, and that's true. Many of our management level positions for the most part are engineers. Many of our administrative positions, the salary is not as high. In our finance and accounting area that's probably an exception. But, generally for our

administrators, the salaries are not comparable. Once you reach a certain level of engineer, probably it begins to separate about the principle engineering level.

CHAIRWOMAN MOORE: Is there any sense or any thought by the Department to maybe take a look at the comparable work and skills? While you may be an engineer, and you may not be using your engineering skills to do certain positions, but there seems to be some differential even when you're an engineer in a nonengineering position, but you still make more than perhaps someone who is not an engineer in a similar situation.

MS. BETTY JOHNSON: The Department is trying to look at the whole civil service system and determine what barriers there are and upward mobility. We also recently completed, not really completed -- it's in the final stages -- a glass ceiling study where a consultant established focus groups of women and minorities to try to get at what they felt were the barriers in the Department for promotions. We don't have the results of that study, but I think more than likely some of those kinds of issues with administrators versus engineers are some of the things that are going to come out of that study for the Department to take a look at.

CHAIRWOMAN MOORE: We will probably be in contact, because there are some other things we're going to ask for in terms of us making our final report. We thank you all.

ASSEMBLYMAN BECERRA: Madame Chairwoman, if I can ask a few questions before we close.

Under Question #5 on page 7 of your answers, you mentioned that you've been able to succeed in most goals on

affirmative action. Then, page 8 under Question 6, you mentioned that you have been successful. That most of your programs have been successful with exception of the category of Hispanics. I notice from some of the figures that you did mention that you are far below parity for Hispanics. Given the success of some of the programs in helping recruit some minorities and women, is the Department doing anything particular to try to increase the number of Hispanics?

MS. BETTY JOHNSON: We have increased our goals in that area, and because of the census figures, there was a dramatic increase in the population in the city. So, what happened was, as we were moving toward our goals, once the 1990 census figures came out we found that our goals were further behind than we had anticipated.

ASSEMBLYMAN BECERRA: But, you would have still been behind in 1980 parity.

MS. BETTY JOHNSON: We were behind, but we were ...

CHAIRWOMAN MOORE: Substantially.

MS. BETTY JOHNSON: Substantially behind, but we do have some directed recruitment efforts in engineers and some of the other things that I'd talked about in the report in accounting and in our management information services where we do use our employee groups. We have two employee groups that are Latin-American employee group and a Hispanic employee group that work on our affirmative action advisory council. We use them to help us recruit. We do advertise in various Spanish language and other types of newspapers. We use the City Personnel Department for recruitment, and we do some targeted recruitment.

ASSEMBLYMAN BECERRA: How long as that been occurring?

MS. BETTY JOHNSON: That has been going on every since we had our recruitment program, which has been for last 10 or 15 years.

ASSEMBLYMAN BECERRA: What success have you had over those 10 or 15 years? I know you've had some success. I know it's always difficult, especially from the professional levels, to recruit some minorities, because as you mentioned in the report, the graduates coming out of these professional schools are clearly far below even the parity numbers, much below. So, I know it's difficult, but if you have been doing this for 10 or 15 years, and you still have, for example, in the numbers that you mentioned 11.7 percent in the administrative staff and 39.9 percent as your parity goal, if you have been working at it for 10 or 15 years, how long would it take to get close to parity?

MS. BETTY JOHNSON: That's a question that I don't think I'm prepared to answer. One of the things that I do want to add is, being in a civil service system, our recruitment is not just recruiting someone in. It is also a civil service process that the person has to go through to become a part of the city system, which is the same for our promotions. We can recruit and get them in at the entry level, and then, from each step, there's a promotional examination that is administered by our city personnel department that has much to do with promotions and moving people up the ladder in the Department.

ASSEMBLYMAN BECERRA: Do you have any information with you today on the entry level statistics or the number of entry level positions for the different minority groups?

MS. BETTY JOHNSON: Yes, there is a report here that breaks out all of the categories that we have and gives you an ethnicity breakdown of the various categories from the entry level up to our officials and administrators.

ASSEMBLYMAN BECERRA: For example, in the high level administrator positions, those that lead to the very well paying administrative positions, any idea, just off the top of your head, what those percentages might be for minority groups, more specifically Latinos?

MS. BETTY JOHNSON: For professionals, and that's generally the feeder class into...

CHAIRWOMAN MOORE: Is that part of the 154 employees?

MS. BETTY JOHNSON: No. Our professionals make up a total of about 2,000 employees. The classes that are in the professional class or feeder classes for our officials and administrators. With respect to Hispanics, we have 10.7 percent which equates to 220 in the professional category. Those are our engineers below the principle engineering level, our administrative positions, and some of our field supervisors.

CHAIRWOMAN MOORE: Take it all the way out. What about Asians? What about African-Americans? What about women?

MS. BETTY JOHNSON: For African-Americans, 8.9 percent, which equates to 183 employees. I gave you Hispanics. For Asian-

Americans, it's 413, which is 22 percent. For Philipinos, it's 121, which is 5.9 percent. And, for women, it's 495, which is 24 percent.

ASSEMBLYMAN BECERRA: Let me return, then, to the question, because you mentioned you have been working on it for 10 or 15 years, and I don't want to detract from those efforts because when I was with the Attorney General's office, I was part of an employee advisory committee that dealt with that particular issue we're discussing now. Is there anything new, novel, additional that the Department is planning to do to try to beef up the numbers in this particular category which are so underwhelming?

MS. BETTY JOHNSON: Other than our recruitment efforts, we do have a program that is a utility class trainee program which is entry level. But, in terms of getting more minorities and women into that category, we're embarking on a new program where we're going to develop some partnerships, hopefully, with some of the schools in the area. For instance, we have been talking with the Maxine Waters Employment Preparation School to be able to actually have classes that our Department employees teach. That's an entry level class. However, the opportunity for advancement through our technical series and all the way up to our officials and administrators, because we do have some superintendents that are in that class, and again, because we are a civil service agency, we are not supposed to directly target women and minorities for our recruitment efforts. But, hopefully, we are going to try to work with some women groups, Hispanic groups and other groups to try to get a good core of people in. We're looking at our training methods to gear it to some women who don't traditionally have the knowledge about tools and

equipment that, for instance, boys have with the advantage of taking shop classes and etc. So, that's a big program we are going to be entering into.

ASSEMBLYMAN BECERRA: Who is going to run these programs?

MS. BETTY JOHNSON: That particular program is in our human resources division.

ASSEMBLYMAN BECERRA: Who is the person who will run that program?

MS. BETTY JOHNSON: That person is Judy Davis who is the one who is now coordinating that. She's one of our directors of human resources.

ASSEMBLYMAN BECERRA: Are there any other people who will be directly or managing some of these programs to help recruit minorities?

MS. BETTY JOHNSON: Yes. There are a number of people. We do have, as I said, a recruitment committee. I can provide you with the name of the person who is heading up that recruitment committee.

ASSEMBLYMAN BECERRA: Do you have the name of that person?

MS. BETTY JOHNSON: I don't have it.

ASSEMBLYMAN BECERRA: In terms of the directors or the managers of departments within the entire operation, you mentioned Judy Davis. Is there anyone else you would have some direct supervision of some of these programs?

MS. BETTY JOHNSON: Our director of human resources is Beverly King, and Judy reports to her, but she does right now have responsibility for that program. The engineering recruitment unit also reports to Beverly King in the human resources division. However, the recruitment committee, I believe, is headed by Ken Myoshi, who is one of our assistant system heads, and he was at one time, and I'm not positive that he still has direct lead over that particular committee.

ASSEMBLYMAN BECERRA: It sounds like Ms. Beverly King is the person who really has the most influence or authority over whatever recruitment duties that occur.

MS. BETTY JOHNSON: I think it is more of an coordination effort being over human resources, but she works with the city personnel department, because they have responsibility for recruiting for the city. She works with the individual system heads, because they set the goals and criteria for their individual systems. In terms of making the decisions on how many, etc. are hired, those are not made by her. But, she coordinates the effort through her staff.

ASSEMBLYMAN BECERRA: Who lights the fire under these managers?

MS. BETTY JOHNSON: That would be our general manager, the board and the commissioners.

ASSEMBLYMAN BECERRA: Then, it would be beyond Beverly King.

MS. BETTY JOHNSON: If you want ultimate, you want the Board of Water and Power Commissioners. Yes.

ASSEMBLYMAN BECERRA: One last question. You mentioned in the answer to number 5b on page 8 that because of civil service rules you cannot base compensation on someone's attainment of certain goals. I know you can't do that, but I also know you can monitor your manager's ability to try to achieve those goals. You can, if not discipline, you can come to the point of making sure the person is clear that his/her evaluation will be based in part on those goals being achieved. Which departments would you say have not met their goals or have not come close? I know that Latinos across the board have pretty much have not. Give me a section of the department that has really have not come close to attaining the goals that it should.

CHAIRWOMAN MOORE: That would basically be a department that is tremendously under objectives.

MS. BETTY JOHNSON: I'm not sure that I could categorize it out. We have systems, and then, our systems are broken up into divisions. Most of the reporting is by division. If you wanted me to take the time to go through this affirmative action progress report, that information is in here.

ASSEMBLYMAN BECERRA: Could you think of any particular division that has not come close to meeting its goals in any of the different categories overall?

MS. BETTY JOHNSON: I don't think there is a division that is that far behind any other division. There maybe a particular category where they are behind, but on an overall basis, I can't point to a particular division.

ASSEMBLYMAN BECERRA: Have any of the managers with any of these divisions, and I guess I would just cite the fact that just about in every division there's a lack of Latino representation of employees, have any of these managers been cited or been evaluated and told they are being monitored because they have not reach certain parity levels?

MS. BETTY JOHNSON: Yes, and the process that I described earlier where our Board of Water and Power Commissioners does meet individually with division managers once they reviewed their affirmative action progress report. If there's a determination that a particular division has not been as aggressive the board would like, yes, there is an individual meeting with that particular division, and it has to report on why they are not making progress. The board, then, works with that particular division or gives direction to that division head.

ASSEMBLYMAN BECERRA: Is that documented, the discussion and the evaluation?

MS. BETTY JOHNSON: No, it's not documented in the sense that it's an evaluation from the board. But, there is a meeting with representatives from the personnel and affirmative committee of the board with those managers.

CHAIRWOMAN MOORE: But, that wouldn't be a matter of public record, because it would be a personnel issue.

MS. BETTY JOHNSON: No, it would not be a matter of public record. It's not a formal evaluation in the sense that I think you're talking about.

ASSEMBLYMAN BECERRA: But, how would the next evaluation committee or how would the next members of the committee or even those who become to the supervisors of these managers know that these managers have been to some degree reprimanded or ...?

CHAIRWOMAN MOORE: That there was a pattern?

ASSEMBLYMAN BECERRA: Right. If it is not documented, how do you know that a manager has not been succeeding and been told, so that the next time a person gets called in, you say, "This is the third time, Mr. So and So, that we've ask you to try to beef up your numbers."?

MS. BETTY JOHNSON: We do not have a formal evaluation process in the Department. We do not have that. The progress reports are record of the progress for the divisions, and we have these dated back to 1980.

ASSEMBLYMAN BECERRA: Any reason why you wouldn't have some type of written documented evaluation?

MS. BETTY JOHNSON: That's something that has not been..., since I've been in the Department of Water and Power. I don't know, other than for probationary employees. We have what's called a rating and promotibility. Other than that, we do not have a formal evaluation process at the Department.

ASSEMBLYMAN BECERRA: Does that rate of promotibility take into account a person's achievement of affirmative action and parity goals?

MS. BETTY JOHNSON: I don't think that's specifically stated in the rating.

ASSEMBLYMAN BECERRA: In your position, and I'll just ask you for your opinion, do you think it should?

MS. BETTY JOHNSON: In my opinion, I think the Department might do well to have an evaluation process for its employees.

ASSEMBLYMAN BECERRA: How can we help you to make sure that the Department does?

MS. BETTY JOHNSON: Well, I think I can take back to them the questions that I've tried to respond to today, and indicated that's a concern of the Committee.

ASSEMBLYMAN BECERRA: Could you do me a favor on that, because I know it's always difficult for a lonely voice at times to push within the department for something like that? Could you go ahead and do to me a favor, and perhaps you could even address to Madame Chair or me, can you send me a letter identifying the fact that you have no way of documenting the evaluations of any individual managers who are not achieving their affirmative actions?

CHAIRWOMAN MOORE: Let's do it another way. There are a number of things, I think, the Committee is interested in, and certainly the line of questioning that Mr. Becerra has just followed is one. We will send a letter asking for additional information from you. That will be one of the items we will include in the list of things we would be interested in following up with the Department. We will send you a letter and ask for additional information. It will go along those regards. Other questions?

ASSEMBLYMAN BECERRA: No, thank you.

CHAIRWOMAN MOORE: Let me ask another question. I note that you cite large numbers of minorities and women as Department employees. The numbers that you cited for management and feeder level categories is very small in proportion to the numbers that you cited. What are the rest of the folks doing?

MS. BETTY JOHNSON: I'm not sure...

CHAIRWOMAN MOORE: You cited, I think, 2,000 African-Americans, 3,000 Hispanics; I don't remember, but you have 200 in the feeder classes and 10 in the over-the-top group. So, the other thousands are doing what?

MS. BETTY JOHNSON: In terms of the kinds of work they're doing?

CHAIRWOMAN MOORE: Basically, entry level and low ...

MS. BETTY JOHNSON: Well, we have a service maintenance category, which are janitorial staff, and I believe it includes -- well, we do have a protective service class, so our service maintenance is basically our service personnel and would be janitorial staff. We have skilled craft people.

CHAIRWOMAN MOORE: Of your skilled craft people, how many of those are ethnic minorities?

MS. BETTY JOHNSON: Probably, around...

CHAIRWOMAN MOORE: How many skilled craft people do you have?

MS. BETTY JOHNSON: We have a little over 4,100 skilled craft people, and 13.7 percent of them are black. It equates to 569 employees; 18.7 are Hispanic. That equates to 776 employees. Asian and Philipino combined; that's about 5 percent, and that equates a

little over 200 employees. Close to 300 employees, I'm sorry. We have 38 women in our skilled craft, which is .92 percent.

CHAIRWOMAN MOORE: So, your skilled craft, particularly for Hispanics, is terribly underrepresented.

MS. BETTY JOHNSON: That's correct.

CHAIRWOMAN MOORE: The other category would be what? That you have large portions of minorities?

MS. BETTY JOHNSON: We have a paraprofessional category.

CHAIRWOMAN MOORE: Clerical?

MS. BETTY JOHNSON: No. Paraprofessionals are entry level administrators. We have a classification in the City of Los Angeles which is an aide classification, which is someone who can be promoted from the clerical ranks without the benefit of a degree based on their experience and the number of years they have in a particular area. So, paraprofessionals are our student engineers who are in that paraprofessional category. We have 136 employees in that category, and close to 75 percent of that category is minorities and women. It, again, is a feeder class into the professionals.

CHAIRWOMAN MOORE: Tell me just a little bit about that class. Once I get into that, do I stay there forever?

MS. BETTY JOHNSON: No. In fact, our aide series, there's a 5-year limitation on how you can be in an aide. So, it's more of a training class.

CHAIRWOMAN MOORE: Are you usually stuck there for 5 years?

MS. BETTY JOHNSON: No. Well, it depends on how often the Civil Service Department gives their civil service exam for the next class. But, generally the employees move in and out of that because of the requirement for not being in there for longer than 5 years. During that time they're training and studying to promote.

CHAIRWOMAN MOORE: There's a whole series of questions I can ask you about that, but I will put that in a letter, because I do really need to move on because I do have a long agenda. It's been very interesting hearing from the Department, and certainly as always more questions are raised than answered. So, we will be back to you. An area that I'm particular concerned about and interested in, in your minority and women business enterprise program, is a breakdown by ethnicity in terms of what's being let. Also, one of the things that we understand from the Department is many of the areas that we're concerned about, activity has only been of recent duration. I'm also interested in getting some idea what the numbers that you will give me reflect what period of time.

MS. BETTY JOHNSON: Okay.

MR. MOORE: Thank you.

ASSEMBLYMAN BECERRA: Thank you very much.

CHAIRWOMAN MOORE: The next group is the AQMD [South Coast Air Quality Management District]. I may have to shift the agenda around only because the PUC [California Public Utilities Commission] has a plane to catch. I know that you can't get out of Los Angeles after a certain hour. Why don't I take AQMD after the PUC, because I have a lot of their information, so they can make their plane?

MR. NEAL SHULMAN: Thank you very much. I appreciate you taking us out of order this morning.

CHAIRWOMAN MOORE: Okay. Who are you?

MR. SHULMAN: I'm Neal Shulman, Executive Director of the California Public Utilities Commission. I would like to introduce Sandi Barsell, who is our Affirmative Action Officer and serves as my administrative assistant within the Commission.

With your permission I have just a few general statements I'd like to make both with regard to our affirmative action program, as well as, with regard to our women and minority...

CHAIRWOMAN MOORE: Let me ask you a question. You just peaked my interest. You said she is your administrative assistant and affirmative action officer.

MR. SHULMAN: That's correct.

CHAIRWOMAN MOORE: Is there not a position for an affirmative action officer?

MR. SHULMAN: She serves in that capacity. Now, whether that's a classification or not, I don't know.

MS. SANDI BARSELL: I am the affirmative action officer for the Commission.

CHAIRWOMAN MOORE: Tell us who you are.

MS. BARSELL: I'm Sandi Barsell. I wear several hats. I'm the Affirmative Action Officer for the Commission. I'm also the Personal Services Contracts Officer. I'm also Neal Shulman's administrative assistant.

CHAIRWOMAN MOORE: In what order of importance?

MS. BARSELL: For importance for this Committee, the affirmative action officer.

CHAIRWOMAN MOORE: And, in reality probably the administrative assistant. How do you work in three jobs?

MS. BARSELL: It isn't easy sometimes, but that's the way it is.

CHAIRWOMAN MOORE: Why is it that we don't have an affirmative action officer for the Public Utilities Commission? How many employees do we have at the Commission?

MR. SHULMAN: We have slightly over 1,100 employees at the Commission. The experience in the past, and certainly the experience during my tenure is that a person of Sandi's capability is able to handle extremely well the functions she has within the office. I really believe that the two major functions focus on her affirmative action activities as well as her personal service contracting activities. In terms of serving as administrative assistant to the executive director, there's virtually no duties associated with that other than reporting on the two areas that we've mentioned and have primary emphasis. That is AA [affirmative action] and personal service contracting.

CHAIRWOMAN MOORE: So, your main function are the two.

MS. BARSELL: Yes.

CHAIRWOMAN MOORE: How long have you been doing this?

MS. BARSELL: I've been the affirmative action officer for a little over 10 years, and personal service contracts officer for a little over 7 to 8 years.

CHAIRWOMAN MOORE: I'm familiar with all the departments and agencies that we will talk to. This is probably the one I know best, and I have some idea of the record, and I'm not very happy with the record. I was hoping you would tell me that you just got the job. Since you didn't, I'll let you tell me what the problem is in terms of your ability to recruit minorities and women, particularly, at the executive level.

MS. BARSELL: If you're referring to the CEA [chief executive administrator] level?

CHAIRWOMAN MOORE: Yes, I am.

MS. BARSELL: In my experience, as affirmative action officer, being that we're located in San Francisco, which is a very high cost-of-living area and being a state agency, we cannot differentiate between salary at the CEA level because we're in San Francisco. So, candidates, any candidate, at the CEA level would prefer to live, from my experience, in a not-so-high-cost living area, and get the same amount of money. I think that's one of the problems that we face in being in San Francisco.

ASSEMBLYMAN BECERRA: Madame Chairman, may I ask a question on that issue?

CHAIRWOMAN MOORE: Sure.

ASSEMBLYMAN BECERRA: You're saying that it's difficult to recruit minorities because of the high cost-of-living in San Francisco?

MS. BARSELL: It's difficult to recruit anyone outside of San Francisco.

ASSEMBLYMAN BECERRA: Once we accept that fact, which it is, then the question becomes how do you explain the differential in minorities versus nonminorities on staff given everyone has to live with the fact that San Francisco is a high cost-of-living city?

MS. BARSELL: I don't have an answer for that.

MR. SHULMAN: I think some of that may have to do with the fact that probably a lot of people who are in the executive categories, for instance, are people who have had lengthy tenure with the Commission. They have been with the Commission for some period of time. The affirmative action program certainly is not new to the Commission, but emphasis on those programs has, over the last 5 or 10 years, certainly taken on additional meaning and has been given additional impetus. So, I think the fact that you have tenured people who have been around for 20 or 25 years -- in fact, we have people in our CEA category who have been with the Commission for as long as 30, 35, or 37 years -- I think that may have some bearing on the question that you've raised.

ASSEMBLYMAN BECERRA: That raises a good question. Of the 24 CEAs, how many have been hired within the last 10 years?

CHAIRWOMAN MOORE: Let's try a more recent figure. How about the last 5 years?

ASSEMBLYMAN BECERRA: Well, let's try this, when was a black male hired? You have one black male out of 24?

CHAIRWOMAN MOORE: I take it that's Wes Franklin.

MS. BARSELL: Yes, within the last 5 years.

CHAIRWOMAN MOORE: No, he wasn't hired. He was promoted to the division.

MR. SHULMAN: He was promoted. I think that's correct. He has been with the Commission for 14 or 15 years, perhaps longer.

CHAIRWOMAN MOORE: Maybe a better way to get at this is, how many people in the CEA category are recent hires or hired outside of the division or a department?

MR. SHULMAN: I look at those categories in terms of my experience with the Commission which has been just within the last 3 years. With regard to the CEA category, I am presently looking at 2 who are in that category. They are both female who have been hired from outside of the Commission. Very specifically, they are the Director of Public Affairs, Cary Fletcher, who came in from outside of the agency, and most recently, Fredericka Oakley, who serves in our Office of Governmental Affairs in Sacramento who also came from outside the agency. Right off the top of my head, those are the only two I can think of who have recently come into the CEA category and have come from outside of the agency.

ASSEMBLYMAN BECERRA: This looks like a closed shop.

CHAIRWOMAN MOORE: What about the management area?

ASSEMBLYMAN BECERRA: I think you did go into management. There is only, as I can tell, one female working as a CEA. You mentioned two women.

CHAIRWOMAN MOORE: No, the executive category is separate from the management. They have 24 positions in that category.

ASSEMBLYMAN BECERRA: Mr. Shulman mentioned 2 women. Obviously, since he only lists one woman...

CHAIRWOMAN MOORE: They have two.

MR. SHULMAN: Four.

ASSEMBLYMAN BECERRA: I'm sorry. That's management. So, you're talking management, not CEAs.

MR. SHULMAN: 16.7 percent white female, 4 in numbers.

ASSEMBLYMAN BECERRA: I see. I apologize.

CHAIRWOMAN MOORE: If you don't have the answer just off the top of your head, why don't you break it out and get back to us.

MR. SHULMAN: Specifically to the area that you're interested in was how many came from outside the agency in the management area...

CHAIRWOMAN MOORE: What we're really looking at is that when you had the opportunity to try to better your numbers, did you? In other words, if you brought people in from outside, how did you recruit? When you brought people from the outside, it was an opportunity to improve your dismal record and did you?

ASSEMBLYMAN BECERRA: You can take the "rather" out.

CHAIRWOMAN MOORE: Of the commissioners' advisors, are any of those minorities? I know there are women.

MR. SHULMAN: There are women. At the present time there is an advisor to President Fessler who is Hispanic. There is

currently an interim advisor to Commissioner Shumway who is Afro-American.

CHAIRWOMAN MOORE: How many advisors do the commissioners get?

MR. SHULMAN: Each commissioner has two advisors with the exception of the president's office. The president's office has three advisors because of the additional duties that falls on that office. The current makeup as far as advisors, there's one Afro-American, one Hispanic and three female advisors out of a total of nine due to the fact that we only have at present four commissioners.

CHAIRWOMAN MOORE: One of the major complaints I hear from the Department is that there is no attempt to really look at people who have been there or any kind of real recruitment in folks who have been there and have some responsibility. There is some question about how you jump over and pick the people for various positions. Is there a systematic approach where you actually post positions and select or allow people to know the position is available?

MR. SHULMAN: As a matter of fact, there is. When I first came on board, I championed the necessity of having an open door policy as far as the executive director's office was concerned. As a result, as one can imagine, particularly in the early months of my tenure -- I got a lot of input from employees -- one of the things that I heard over and over again was that there was a lack of equity that was perceived, if not real, within the organization in terms of promotion, training and other opportunities within the organization as a whole. As a result of that, we set to work to develop what has become known as the staff relations and development program, and

we've supplied you with a copy of that. The program itself is laid out in conceptual terms. It's thrust is to try and provide all of the kinds of equities that were preceived not to exist in the past, and we are now embarking on the implementation phase. As a matter of fact, we have a consulting team coming in to work with our staff over the next several years. We envision this as a 3-year program to implement the staff relations and development program to assure that there are, in fact, equitable opportunities for all employees in terms of training, promotion and other availabilities.

CHAIRWOMAN MOORE: I guess the concern is that you had people who don't feel like they need to go through a training program and probably don't, who in some instances have even have to train others who are subordinates who have risen above them, but no clear understanding of how that was accomplished.

MR. SHULMAN: Certainly, all of our promotional opportunities, number one, are in fact advertised within the agency. And, number two, go through an examination and selection process. So, people are in fact tested on their substantive knowledge and their ability to serve in whatever position it is that they are opting to apply for, so it is a very competitive process within the organization.

CHAIRWOMAN MOORE: I guess I should say that people get on lists and find that subordinates are often selected above them which gives the perception that something other than skill and ability is under consideration when these selections are made in that manner.

MR. SHULMAN: Well, again, that is one of the purposes of the staff relations and development program so that those who are,

for instance, in the top rank or top two ranks, and perhaps even in the top three ranks, if somebody is passed over, the thrust is, they should know exactly why it is that they were passed over, or at least have an opportunity to discuss the reason they were passed over.

CHAIRWOMAN MOORE: What would be helpful, if you could give some idea of in your recent promotions, how many ethnic minorities or others were available at the time you made your promotive choice. Let's jump to procurement.

MR. SHULMAN: I would welcome the opportunity to talk about procurement, because I have to believe you cannot be all that dissatisfied with the procurement program that has been placed within the Commission. If I may, I would just like to make a couple of comments by way of background.

As you are very much aware, I appeared before your Committee several years ago, and quite frankly, I was embarrassed at that point in time because our figures as far as the MWBE program were so bad.

CHAIRWOMAN MOORE: Yes, like 1.2 percent.

MR. SHULMAN: 1.2 percent as far as minorities; 6.1 percent as far as women business enterprises were concerned. As you recall, after that appearance I pledged to you that those figures would be turned around. As far as I was concerned, I would do my utmost to dramatically turn those figures around.

The following year, 1990/91 as our report reflects, those figures did change dramatically. Our minority business enterprise procurement rose to 10.9 percent, while our women enterprise procurement contracts rose to 12.7 percent. Now, we're pleased to

report to you, as far as our '91/92 figures are concerned, minority business enterprises are in the area of 15.4 percent, while woman are at 11.6 percent. So, there has been a dramatic effort. I might indicate to you my belief as to how that came about.

CHAIRWOMAN MOORE: Let me just ask one question. Obviously you know me by now that I am going to be suspicious if you can jump from 1 percent to 15.4 percent in a two-year period. So, I need to ask you a couple of questions. On your professional service contracts where you had a lot of flexibility, how many of these contracts represents personal services, for example, your computer programs and some of the other kinds of things that you do? I don't see that as a part of your submission.

MR. SHULMAN: Sandi broke those figures out for me. As far as the personal service aspect or concern, and as far as minorities, and we're talking now for '91/92, the minority business enterprises, the dollar total is \$517,000. Percentage-wise, it was 13.7 percent. For the women's business enterprises, the dollar total for '91/92 was \$398,000 at 10.5 percent.

CHAIRWOMAN MOORE: Do we have some idea where those figures are and the categories? I mean, what they were for and what size contracts. You once gave me a breakdown.

MR. SHULMAN: We have the size of the contracts. We don't have the information here as to what those contracts were for, but certainly can provide that.

CHAIRWOMAN MOORE: I'd like to see that. In fact, I'd like for you to follow the same format in your submission so I can compare the 1.2 percent with your 15 percent in terms of the

direction you have move. It would be real if helpful I could have that.

MR. SHULMAN: We will be pleased to give you the best available information we have.

CHAIRWOMAN MOORE: And, if your numbers are right, congratulations. You're doing a good job.

MR. SHULMAN: I'm confident that they are. You will be the final judge of that obviously, but I'm confident.

CHAIRWOMAN MOORE: Okay. Since you didn't give me a lot to react to, I can't really react today. We do want to hear more. Why don't you tell us a little bit more about what you did, and then, I'm going to let you catch your plane.

MR. SHULMAN: As I indicated, I think there are really three reasons, and they are all somewhat interconnected as to why we have been able to make the progress that we have. I think the primary one really has been desire and motivation. I was so thoroughly embarrassed on behalf of the agency when I appeared before you several years ago that when I went back to the headquarters in San Francisco, I made it clear that one of our primary goals was going to be to start working on those statistics and to make significant improvements. Along those lines we had a couple of other things that happened. We immediately moved ahead and formed a contract with the Mason Tillman group to assist us in improving those figures. One of the things that group did for us, which has been a substantial help, is to work with our division directors and identify some major areas that our division directors are primary interested in developing contracts. Mason Tillman then

went out and supplied for us the names of certified women and minority business enterprises that could provide the kinds of services that we most frequently sought. So, that opened up the pool to us to a much greater extent and allowed us much greater responsibility as far as contacting potential bidders or other firms that we might do business with.

CHAIRWOMAN MOORE: You're not going to tell me that you solely used the pool that was presented to you by Mason Tillman, are you?

MR. SHULMAN: No, not solely by any means. No. But, it did open up a lot of other areas for us that we otherwise would not have the opportunity to contact. A lot of firms we had no knowledge of, existed prior to that time. So, it greatly expanded our list of potential contractors that we can send notices out to.

The other thing, again, that you are very much aware of, is our work with the Cordoba Corporation with regard to the verification process for women and minority business enterprises. We began working with Cordoba several years ago in an attempt to gain access to their database for our utilization within the Public Utilities Commission. We did, in fact, gain access to that database which, again, greatly expanded the potential pool for MWBEs that we would then send notices out to, so I think the desire, the increased database usage through Cordoba and the assistance of Mason Tillman really were the three major areas that allowed us to make the kinds of improvements that you see reflected in these statistics.

CHAIRWOMAN MOORE: Let me ask you as, a final question, what would you suggest that we need to do at the state level to help you continue to improve?

MR. SHULMAN: Well, if you would refrain from cutting our budget further in the future, we would love to increase our improvement program or get back into our recruitment program.

CHAIRWOMAN MOORE: Now, realistically, what would you ask of us?

MR. SHULMAN: One of the things, very obviously we were listening to some of other questions and we have had an opportunity to think about, was just that; Sandi and I were kicking around a little bit. One of the things that I would like the opportunity to explore are the pros and cons that would be associated with the potential of providing preference points in contracting for minority and women business enterprises. I'm not certain at this point and time that that's really the solution, because we really haven't explored it, but I'd like the opportunity to explore that as a potential.

CHAIRWOMAN MOORE: Okay. Any more comments?

MR. SHULMAN: I don't know. Sandi, do you have any comments?

As far as affirmative action is concerned, I think state agencies perhaps operate under a few different constraints than other agencies in the sense that we are constrained obviously by tight budgets. We do have certain hiring constraints that are now placed upon us, both internally that we even placed on ourselves, as well as externally as far as hiring from the outside.

CHAIRWOMAN MOORE: I think the real concern is, given all that; you have a pool of employees who feel that they are never recruited from who would give you a good base and a good place to start. It would appear that you really need to fully explore insuring people who are capable, or people who are there, have an opportunity for upward mobility. One of the greatest criticisms of state agencies is that's not always true.

MR. SHULMAN: Exactly. In many of our categories we are at parity as far as state labor force is concerned. Obviously, Hispanics is one area where we are not at parity. But even in those areas where we have reached parity, we still do have the upward mobility problem, and that's a problem that we're hoping to address in large part through our staff relations and development program at the very least.

CHAIRWOMAN MOORE: I can't let you go away with just saying that, just because we reduced the budget. We just did that. So you can use that as an excuse at this hearing anyway. With that, let me thank you for coming.

ASSEMBLYMAN BECERRA: Madame Chairwoman, if I could ask one quick question. I know you want to move along. The series of questions that I ask the Department of Water and Power and the response to one of the questions that's on page 5, you indicate that you do not specifically evaluate employees based on their achievement of your affirmative action goals. Is there any reason why you don't?

MR. SHULMAN: We're talking about employees generally, because I think it's important that you realize that I, as an executive

director, in evaluating those directors who report to me do, in fact, evaluate based obviously not only on affirmative action, but our ability to move ahead in our procurement practices as well. As a state agency we do have very specific form that is utilized for employee evaluations. I don't believe that form includes a category as far as affirmative action is concerned.

ASSEMBLYMAN BECERRA: Should it?

MR. SHULMAN: I'm not sure that's necessary as far as most employees are concerned. Employees generally. I think perhaps when one gets into the management categories, then that becomes a very important aspect of the manner in which one is fulfilling their managerial functions. That's why I have made it a point to utilize both procurement and AA practices as an evaluation question or an evaluation subject in my evaluations of division directors, and in addition have asked that they, in turn, when they are evaluating their immediate subordinate managers, do the same thing.

ASSEMBLYMAN BECERRA: And, that's good to hear. Do you know if your directors have a written evaluation of their managers on the manager's ability to accomplish the affirmative action goals?

MR. SHULMAN: Now, I know they have written evaluations that do appear in their personnel files. Whether or not those specific forms contain any reference to AA goals, I don't know. I cannot respond to that.

ASSEMBLYMAN BECERRA: Given that you may not know offhand if the written evaluation does contain any questions

regarding affirmative action achievements, do you think the written evaluations for those managers who have direct authority over hiring and promotion should include a provision that deals with the issue of affirmative action achievement?

MR. SHULMAN: From my own personal perspective, yes. I think they should.

ASSEMBLYMAN BECERRA: Do you, as the executive director, have the authority to require that those forms contain that particular question?

MR. SHULMAN: I believe that I probably could take the action to make sure that is included, if it is not in the form now, that it is included in the form.

ASSEMBLYMAN BECERRA: And, I ask you this now from your own personal opinion or sentiment, do you think that's something you might consider doing that if, in fact, it is not already contained in the forms? It may already been contained in the forms, but if it is not, is that something you, as executive director of the Commission, would consider including on those forms?

MR. SHULMAN: I would certainly be willing to consider including those on the forms of those managers who do have some direct role to play within the affirmative action or procurement area. Personally, I think it is a good idea. As I said, I utilize that in evaluating those who report to me and encourage that be used for subordinates.

ASSEMBLYMAN BECERRA: Again, from my own experience in having worked for the Attorney General's office, unless you have some way to document a manager's role in the hiring and

promotion of minorities, if you can't document it, there's never going to be an established pattern of abuse or neglect by that particular manager. It is always going to be difficult to enforce any particular affirmative action. I'm glad to hear that is something that you might consider, because it seems to me that you have to light a fire under some of these managers.

MR. SHULMAN: I just feel compelled to share with you the fact that when we're talking about examination for promotions into particularly the higher managerial positions, that the candidates are tested on their abilities and experience with affirmative action programs in specific and what their attitudes are with regard to affirmative action. So, as one moves into the higher managerial slots or applies for the higher managerial slots, those very definitely are among the areas that are tested particularly during the oral interview process.

ASSEMBLYMAN BECERRA: Now, we're speaking about the candidate's commitment to affirmative action. But, I'm talking about those who are managers and looking for candidates to hire or promote. I'm speaking specifically about the manager's role in making sure that when he or she is looking for someone to fill a spot that he or she is making every effort or has a fire lit under him or her to make effort to look for a qualified minority to take that vacancy.

MR. SHULMAN: I understand.

ASSEMBLYMAN BECERRA: And, that's where the written evaluation is a good way to document whether or not someone has in

the past performed and what the person's practices have been as a manager who has some role in hiring or promoting.

MR. SHULMAN: I thoroughly understand. Yes.

ASSEMBLYMAN BECERRA: Thank you.

CHAIRWOMAN MOORE: Thank you very much. Go make your plane.

MR. SHULMAN: Thank you.

CHAIRWOMAN MOORE: South Coast Air Quality Management District? Let me apologize for not having you come in order.

DR. JAMES LENTS: Good afternoon, my name is Jim Lents. I am Executive Officer for the South Coast Air Quality Management District [AQMD]. Since you wanted to talk both about your procurement program and our affirmative action program, I brought with me my Deputy Executive Officer, Mr. Edward Camarena, who is in charge of procurement and human resources program, and Dellena Floyd, who is in charge our affirmative action program. I'm going to let Mr. Camarena describe the procurement program, and then, Ms. Floyd describe the affirmative action program.

CHAIRWOMAN MOORE: Okay, Mr. Camarena, you're on.

MR. EDWARD CAMARENA: Good morning, my name is Edward Camarena. I'm the Deputy Executive Officer for the Technical Support Services office. I would like to say a few words about our procurement program.

In the case of our agency, federal law requires that EPA [Environmental Protection Agency] establish for us some minimum fair share objectives in handling our expenditures, and has

established for 1992 and 1993 a fair share objective of 8 percent. On our initiative we set our own goal, however, for 12 percent for next year and 8 percent in fiscal year '92.

For fiscal year '92, we achieved 16.4 percent for MWBE enterprises.

CHAIRWOMAN MOORE: Wait a minute. Let's kind of back up a little bit. Unfortunately, you did not give us a copy of your report until just a few minutes ago. So, we haven't had a chance to look at it. So, you have to bear with me while I try to follow your report as you speak. The overall goals for the agency are what?

MR. CAMARENA: For fiscal year '92, it's 8 percent.

CHAIRWOMAN MOORE: Why 8 [percent]?

MR. CAMARENA: Pardon me?

CHAIRWOMAN MOORE: Why 8?

MR. CAMARENA: That is a number that was negotiated with the Environmental Protection Agency who we report to on these matters.

CHAIRWOMAN MOORE: Excuse me? What was the basis of 8 [percent]? How did you get to 8 [percent] when the basin where you are has a much larger minority population. State, county and city and every other agency has far higher than 8 [percent] as their overall goals? I just wonder why 8?

MR. CAMARENA: This is the number that was negotiated with the Environmental Protection Agency.

CHAIRWOMAN MOORE: What do you mean "negotiated?" I'm trying to follow you.

MR. CAMARENA: I appreciate that. I can only speculate since I was not involved in the negotiations.

CHAIRWOMAN MOORE: Who was involved in the negotiations?

MR. CAMARENA: That was between members of the controller's office and the Environmental Protection Agency.

CHAIRWOMAN MOORE: Who is the controller?

DR. LENTS: I think what he is referring to in that case is the federal law was 8 percent, and that's what was originally required that we have. I think what Mr. Camarena was saying we actually tried to do 12 percent and exceed that of the official goals.

CHAIRWOMAN MOORE: Wait, wait. The 8 percent is based on the federal goals. Though you are not a federal agency, you just elected to do less than you could.

DR. LENTS: Because we receive federal funds, we have to at least a minimum meet the federal goal.

CHAIRWOMAN MOORE: At a minimum, but you selected a minimum rather than something that was more realistically based on the population served.

DR. LENTS: I think on the procurement we could certainly have been more aggressive in that area.

CHAIRWOMAN MOORE: That's kind of an understatement, but 8 percent was your goal.

DR. LENTS: I think when you look at our achievement, it is not far different.

CHAIRWOMAN MOORE: I want to talk about your achievement. I'm looking at \$22,157,757. Is that the absolute total of all your expenditures?

MR. CAMARENA: These are for services and supplies. That includes contracts for professional and specialized services, which is our largest category.

CHAIRWOMAN MOORE: What things are not on this list?

MR. CAMARENA: What is not on that list are ...

CHAIRWOMAN MOORE: What's the total expenditure with the agency?

MR. CAMARENA: \$100 million. The balance is for personnel salaries and employee benefits.

CHAIRWOMAN MOORE: This represents all monies that the agency spends outside?

DR. LENTS: Yes, I believe so.

CHAIRWOMAN MOORE: All categories?

MR. CAMARENA: That is correct.

CHAIRWOMAN MOORE: Okay. So, you only spent \$22 million last year?

MR. CAMARENA: This is what we spent outside. We spent about \$80 million.

CHAIRWOMAN MOORE: If you brought in a consultant, is that part of your professional special services?

DR. LENTS: Yes.

CHAIRWOMAN MOORE: When you place newspaper ads and other advertising, is that covered in this category?

MR. CAMARENA: Yes, it is.

CHAIRWOMAN MOORE: Where would I find that?
Professional and special services?

MR. CAMARENA: In "public notices," just below
"temporary help."

CHAIRWOMAN MOORE: I see "public notices and
advertising." When you say \$12,664, just for example, was spent
with minority newspapers through the California Newspaper Service
Bureau, what does that mean? That's all but \$1,000 was spent...

MR. CAMARENA: Where are you looking?

CHAIRWOMAN MOORE: I'm looking at the bottom.
There's a footnote to that category.

MR. CAMARENA: Oh, I see.

CHAIRWOMAN MOORE: What does that mean?

MR. CAMARENA: That is the amount of money that we
spent in advertising our request for quotations and requests for
proposals, also advertising for position openings.

CHAIRWOMAN MOORE: Is that the total that was spent
with minority newspapers, the \$12,664? The overall category for
public notices was \$13,864. Then, down below, you say an additional
\$12,664 was paid to minority newspapers through the California
Newspaper Service Bureau.

MR. CAMARENA: I believe that's in addition to the
\$13,000 that's above.

CHAIRWOMAN MOORE: You do understand that the
California Newspaper Service Bureau can disburse however they
wish. How do you know that the \$12,664 was actually spent with
minority newspapers?

DR. LENTS: That's why we didn't claim it. We just noted it. The \$13,000 was spent, I think, exactly where we were confident, with minorities. The \$12,000 was paid to the California Newspaper Service Bureau for that purpose, but we don't know how they spent it, so we didn't count it.

ASSEMBLYMAN BECERRA: But, you did say it was paid to minority newspapers. So, you claim it has having gone to minority newspapers.

MR. CAMARENA: We direct where that needed to go. The \$13,000 was ads that we placed directly.

CHAIRWOMAN MOORE: What you mean is that the California Newspaper Service lists certain minority newspapers that they place ads through as a part of their process, and you indicated that you wanted a certain portion of your money to go to those newspapers. Is that correct?

MR. CAMARENA: It is my understand my that we directed where it should go.

CHAIRWOMAN MOORE: I'd like to hear more about it and get some better idea of how you do it, because obviously 3 percent of your budget for advertisement in minority- and women-owned business newspapers is certainly not adequate, since part of what you ought to be doing is educating people about the quality of air and whatever other things that you do. It would seem to me they have as much a need to know as anyone else.

MR. CAMARENA: I fully agree. I think the figures are distorted, because much of that money is spent for postage also for public notices for our governing board meetings, rule proposals when

our governing board is considering the adoption of a new rule or regulation. This is going on on a regular monthly basis.

CHAIRWOMAN MOORE: So, if the figures are misrepresented or if they give a poor picture, they are your figures.

MR. CAMARENA: This is a budget category in which are expenditures for...

CHAIRWOMAN MOORE: If it's misleading, I'm saying, these are your figures.

MR. CAMARENA: It was set up for the purpose of demonstrating our expenditure for advertising in minority papers.

CHAIRWOMAN MOORE: Okay. But, I'd like to know what your budget is for minority newspapers. Let's put it like that. And, what newspapers it goes in and the frequency. Go ahead, you were describing the program.

MR. CAMARENA: When we issue request for proposals and requests for quotation, these are published in minority newspapers such as the Los Angeles Sentinel or La Opinion. Each of those ads carries affirmative action or procurement statements which is shown on page...

CHAIRWOMAN MOORE: Are those the only ads or inserts that you ever put in newspapers?

MR. CAMARENA: Those are not the only ads that we place in newspapers. We also place ads for job openings.

CHAIRWOMAN MOORE: Any informational pieces that you do? Supplemental things? I think I've seen some things on AQMD and the job that you do.

DR. LENTS: Our public affairs people have run some ads, I believe, in some newspapers. Yes.

CHAIRWOMAN MOORE: Are minority newspapers the beneficiaries of those kinds of ads?

DR. LENTS: I think so. I think we need to report back to you on that.

CHAIRWOMAN MOORE: All right. Go ahead.

MR. CAMARENA: We have placed in those ads, a statement that appears on page 5 of the handout regarding our affirmative action program and procurements. In addition, we maintain a directory that we use on our procurements when we send out RFQs and RFPs. We directly mail the request to those on our list that provides services or goods in that particular area. In addition, we attend various trade fairs to establish and maintain contacts with MWBE operations. We do have a vendor self-certification program.

CHAIRWOMAN MOORE: Let me take your list, because the bulk of what you spend with minority- and women-owned businesses are in basically three categories: professional services, temporary help and fixed assets. Why don't we take temporary help? What does that mean?

MR. CAMARENA: Some of our workers are seasonal, so we bring on employees on a temporary basis.

CHAIRWOMAN MOORE: Give me some idea who they are.

MR. CAMARENA: This might be people who help in the annual emission fee billing program.

CHAIRWOMAN MOORE: Say that again.

MR. CAMARENA: Emission fee billing. Some of our revenue is based on emissions from industrial sources, and they are billed on an annual basis. When these bills go out, there's a tremendous amount of work that's associated.

CHAIRWOMAN MOORE: So basically, these are clerical people who come in periodically to help you?

MR. CAMARENA: Yes, they are.

CHAIRWOMAN MOORE: So, most of this \$591,344 is for you to bring on additional clerical help?

MR. CAMARENA: That is one kind of help that we use.

CHAIRWOMAN MOORE: What percentage would you say is clerical?

MR. CAMARENA: I don't know.

CHAIRWOMAN MOORE: Would you have any idea, Madame Personnel Person?

MS. DELLENA FLOYD: Of the temporary positions, I don't know. I can't give you a number on that [presently], but we can certainly get that information for you. The percentage of temporary help who are clerical?

CHAIRWOMAN MOORE: Yes.

MS. FLOYD: We should be able to provide that.

CHAIRWOMAN MOORE: This is an annual need?

MR. CAMARENA: This particular need is on an annual basis, yes. It is temporary and it is seasonal.

CHAIRWOMAN MOORE: Do you fill it through a temporary service employer? In other words, do you have an annual person that you go to or a group that you use?

MR. CAMARENA: We use a temporary service that provides the employees.

CHAIRWOMAN MOORE: Are these minority-owned firms?

MR. CAMARENA: I don't know if that firm is a minority-owned firm.

CHAIRWOMAN MOORE: Well, how would you count the temporary help dollar that was expended there?

MR. CAMARENA: This is the money that goes to the employees.

CHAIRWOMAN MOORE: In other words, if you hired a temporary help service, then you would count the employees that they gave you in terms of the dollars that were expended in a separate category?

MR. CAMARENA: I believe that is correct. But, I'd like to check that.

CHAIRWOMAN MOORE: What else is in the temporary help category?

MR. CAMARENA: Others that we use are computer programmers.

CHAIRWOMAN MOORE: Is that seasonal as well?

MR. CAMARENA: That is less seasonal. That comes up on an as-needed basis.

DR. LENTS: Sometimes we have some overload of special programming needs. It is more random than it would be seasonal.

CHAIRWOMAN MOORE: What percentage of the temporary help would you say constitutes that? I would think that was a professional level which would be well paid.

MR. CAMARENA: I don't know the breakdown on any of the temporary help.

CHAIRWOMAN MOORE: How are those people selected?

MR. CAMARENA: The service sends us candidates, and they are selected by the hiring authority.

CHAIRWOMAN MOORE: What service?

MR. CAMARENA: The service that provides the temporary help employees.

CHAIRWOMAN MOORE: Do you have a regular ongoing relationship with the service agency?

MR. CAMARENA: Yes, we do.

CHAIRWOMAN MOORE: What service agency is that?

MR. CAMARENA: I don't know the name of that agency.

MS. FLOYD: Although I'm not familiar with the one for our data information, I know with our clerical people we have a number of temporary agencies that we call upon. What we do is, let them know what we're looking for. They come back letting us know what kinds of salaries they have available for us and the personnel they have available. So, there's a pool of temporary agencies that we do use for that purpose.

CHAIRWOMAN MOORE: But, you don't know about the data group?

MS. FLOYD: No.

CHAIRWOMAN MOORE: So, you could give us a list of your temporaries?

MS. FLOYD: Yes.

CHAIRWOMAN MOORE: Would you do that?

MS. FLOYD: Yes, I will.

CHAIRWOMAN MOORE: I also want to know how you break out the personnel category as to professional and special services. I'm sorry, the temporary help category; how it's broken up, and how you differentiate between professional and special services. In the breakdown in each of these categories you've given me that one professional group is computer. What else?

MR. CAMARENA: Those are two that readily come to mind.

CHAIRWOMAN MOORE: Why don't we jump down to fixed assets. What on earth is that?

MR. CAMARENA: These are furniture, computers, testing equipment.

CHAIRWOMAN MOORE: So you spent a large portion on whatever you bought and did you buy it from minority- and women-owned business firms?

MR. CAMARENA: That's correct.

CHAIRWOMAN MOORE: A number of firms? How many firms? One firm? What?

MR. CAMARENA: I don't know the breakdown on that.

CHAIRWOMAN MOORE: Can you get us those numbers as well.

MR. CAMARENA: We can.

CHAIRWOMAN MOORE: The final category that you spent money with minority- and women-owned firms is professional and special services. Can you give me a breakdown of that category?

MR. CAMARENA: We will provide that.

CHAIRWOMAN MOORE: What will the federal government do to you if you don't meet your goals?

MR. CAMARENA: They can withhold our funds.

CHAIRWOMAN MOORE: Have they ever?

MR. CAMARENA: They have not.

CHAIRWOMAN MOORE: I'm sorry that you have to bear with me. Since I didn't have a report to review beforehand, I have to do it as we go along. You're responsible for the administration of the minority and women business enterprise program. Is that correct?

MR. CAMARENA: The procurement programs are under my direction.

CHAIRWOMAN MOORE: You're responsible?

MR. CAMARENA: Yes.

CHAIRWOMAN MOORE: Tell me how the organization works? Tell me where you are on the organizational chart?

MR. CAMARENA: I report directly to the executive officer.

CHAIRWOMAN MOORE: To Dr. Lents?

MR. CAMARENA: Yes.

CHAIRWOMAN MOORE: And, your title is?

MR. CAMARENA: Deputy Executive Officer.

CHAIRWOMAN MOORE: How many deputy executive officers are there?

MR. CAMARENA: Four.

CHAIRWOMAN MOORE: Would you be considered a deputy executive officer in charge of administration, personnel or what?

MR. CAMARENA: The director of administrative services reports to me. The director of human resources reports to me. The director of technical services reports to me, as well as, the director of informational services division.

CHAIRWOMAN MOORE: Where does the MWBE person falls? In which category?

MR. CAMARENA: In administrative services.

CHAIRWOMAN MOORE: Is personnel also under you?

MR. CAMARENA: That's correct. That's human resources.

CHAIRWOMAN MOORE: And, human resources would have personnel and EEO?

MR. CAMARENA: That's correct.

CHAIRWOMAN MOORE: Under your division, you have minority women business enterprises, EEO, and personnel officer all report to you.

MR. CAMARENA: The affirmative action officer is under the direction of the human resources director who reports to me.

CHAIRWOMAN MOORE: Is the human resources director and the personnel officer one in the same?

MR. CAMARENA: It's the same, yes. We just call it something else.

CHAIRWOMAN MOORE: Don't you usually separate personnel and EEO?

MR. CAMARENA: We have our affirmative action officer within the human resources division.

CHAIRWOMAN MOORE: I see my own friend out here, Phil Montez from Civil Rights Commission. Could you come up to the

table, Mr. Montez? I know you're not on the program. I know of no one who knows the business better. Help me a little bit. Is it the normal procedure that one usually has affirmative action officer and personnel officer separate? One is sort of a watchdog of the other. Don't you usually separate the departments?

MR. PHILIP MONTEZ: It's pretty difficult to achieve efficiency in affirmative action when it's tied into your personnel department. The history of the personnel department has generally been one of the great problems in achieving affirmative action. So, generally throughout the nation you find that EEO officers or affirmative action officers directly report to the executive officer to keep them informed rather than going through the human resources section which, to me, would imply a conflict of interest.

MR. CAMARENA: Out of curiosity, we looked at other sister agencies throughout the state to see where they have their affirmative action officer, and they did have them located in...

CHAIRWOMAN MOORE: Tell me who your sisters are.

MR. CAMARENA: There are 33 other air pollution control agencies in this state.

CHAIRWOMAN MOORE: So, that's who your sisters are?

MR. CAMARENA: Yes, and I think we also looked at the Metropolitan Water District.

CHAIRWOMAN MOORE: Thirty-three agencies all do it the same way?

MR. CAMARENA: They don't all do it the same way, no. It's in different locations, but those that were most similar to ours had it in the human resources department.

CHAIRWOMAN MOORE: That may be part of their problem.

MR. CAMARENA: I think the important thing is, how are you doing?

CHAIRWOMAN MOORE: We're going to come to that. We will definitely come to that.

MR. CAMARENA: The other thing that I think is important is that our affirmative action officer has direct access to our executive officer, meets with the executive officer on a monthly basis, on a one-on-one basis so if she has a problem she has direct access to the executive officer.

CHAIRWOMAN MOORE: Any problem that I would identify as a problem; the executive officer is a part of the problem.

MR. CAMARENA: Well, a part of the problem if there is a problem.

CHAIRWOMAN MOORE: You said she meets one-on-one with him, and I have to assume that is so because he can iron out any problem that she perceives as a problem and followup on recommendations. She has direct access. The minute that you have direct access, then you become a part of whatever is going on. Is that correct?

MR. CAMARENA: Including the solution.

CHAIRWOMAN MOORE: Yes. But, what I'm saying is that anything that would be considered a problem, then the executive would have direct knowledge, probably.

MR. CAMARENA: If the affirmative action officer has brought it to his attention, yes.

CHAIRWOMAN MOORE: So, Dr. Lents, you would have made some decision or have some opportunity on affirmative action concerns.

DR. LENTS: Yes. If it had been brought to my attention, I would have. Yes.

CHAIRWOMAN MOORE: When the affirmative action officer who is under your jurisdiction does the unusual and goes in for a solo meeting with the executive officer, you're not kept informed on what she may or may not say. Is that correct?

MR. CAMARENA: Not necessarily. I should say that it is not the unusual. When I took over this responsibility earlier this year, when she came onboard, one of the things I told her was that the meetings should be on a regular basis so it would not be an unusual thing for her to go in and see the executive officer.

CHAIRWOMAN MOORE: You're not a part of the meeting?

MR. CAMARENA: Not that meeting. She does meet with me also on a one-on-one basis.

CHAIRWOMAN MOORE: Okay. She would have direct access. Is that correct?

MR. CAMARENA: That is correct.

CHAIRWOMAN MOORE: If an emergency came up and it wasn't one of the regular scheduled meetings, does she have that same ability to just go directly to the top?

MR. CAMARENA: Absolutely.

CHAIRWOMAN MOORE: With no interference?

MR. CAMARENA: That's correct.

CHAIRWOMAN MOORE: You said you assumed the responsibility earlier this year. When?

MR. CAMARENA: March of this year.

CHAIRWOMAN MOORE: What were you doing before then? What was the reporting procedure? Was this a promotion for you?

MR. CAMARENA: A lateral shift. We had a major reorganization within our agency. I was deputy executive officer in charge of operations prior to March.

CHAIRWOMAN MOORE: How long have you been with the agency?

MR. CAMARENA: Since its inception in 1977, and prior to that with the predecessor agency since 1960.

CHAIRWOMAN MOORE: So, from 1977, you have always been in an executive position. Is that correct?

MR. CAMARENA: That is correct.

CHAIRWOMAN MOORE: So, you have been one of those four guys the whole time?

MR. CAMARENA: The deputy executive officer position was created, I believe, in 1987. Prior to that I was director of one of several divisions. I had the opportunity to move along.

CHAIRWOMAN MOORE: So, in 1987, you then became the deputy executive officer.

MR. CAMARENA: Yes, the deputy executive officer.

CHAIRWOMAN MOORE: At that time you were holding what position when you were promoted?

MR. CAMARENA: Director of enforcement.

CHAIRWOMAN MOORE: Are you one of the guys who were after my barbecue people?

Back on the minority/women business procurement program. What is the review process? How does the board know how well the procurement is going? Is there any report to the board or is it totally left up to the division or to your department?

MR. CAMARENA: The board has asked that any contracts going before it that they be informed as to whether or not the recommendation by staff is for a minority- or women-owned business enterprise. They also ask to know whether or not this is a business that has their employees locally, because sometimes we get offers for services from firms outside the state.

CHAIRWOMAN MOORE: What action do they take?

MR. CAMARENA: The board approves it. Prior to it coming to the full board, there is a review before the administrative committee of the board, and they look at it rather carefully and make a recommendation to the governing board for adoption or not.

CHAIRWOMAN MOORE: Say that again. You're so soft-spoken, I can't hear you.

MR. CAMARENA: My mouth is very dry. No water. When we have an award that we are recommending be approved by the governing board...

CHAIRWOMAN MOORE: What level has to be approved by the governing board?

MR. CAMARENA: Contracts of \$50,000 and larger.

CHAIRWOMAN MOORE: So, anything below \$50,000 the board never sees.

MR. CAMARENA: There are some exceptions as to what they see.

CHAIRWOMAN MOORE: What would be the exceptions?

MR. CAMARENA: If they fall into certain subject categories.

CHAIRWOMAN MOORE: Like what?

MR. CAMARENA: Can't give you any examples at the moment.

DR. LENTS: We try to make a judgement even though it's less than \$50,000, the board should see it, because it's controversial or some particular issue we feel they should see. It's hard to say it is a specific category. The staff tries to make a judgement on what they should see that's below \$50,000.

MR. CAMARENA: Upon approval of the administrative committee, it then goes to the full governing board at a public meeting, at which time they make a decision to award the contract or not.

CHAIRWOMAN MOORE: So, the full board views only contracts \$50,000 and above.. Do they see it in a package of recommendations or do they actually have a contract and some explanation given to any contract above \$50,000?

MR. CAMARENA: It is a separate board letter with a staff report making a recommendation. As I said, the board wants to know whether or not this is a minority- or women-owned business enterprise.

CHAIRWOMAN MOORE: Do you just check a box and say "no?"

MR. CAMARENA: There's a statement in the cover letter.

CHAIRWOMAN MOORE: It states, "This is not a minority firm, but we couldn't find any minority firm... or we weren't looking for a minority firm or this is the only firm that could do it."

MR. CAMARENA: There is a justification in the letter based on criteria that is established in the request for proposals or the request for quotations. That criteria gives weight to the organization, and in that category we consider whether it is a minority-owned business or not. We give weight to the experience that vendor has, the quality proposal, and the price. The bidder with the best score is normally recommended for the award.

CHAIRWOMAN MOORE: So, every proposal that comes in you do a scoring kind of approach to who would get the job?

MR. CAMARENA: There is a scoring for the proposal.

CHAIRWOMAN MOORE: What criteria is used to make a determination?

MR. CAMARENA: It varies depending on the type of proposal. But, in general, it includes the organization, the resources it has both in terms of equipment and personnel, its experience and the quality of the proposal.

CHAIRWOMAN MOORE: Who makes the decision?

MR. CAMARENA: It's generally done by a panel of individual employees within the direct. Usually somebody from our fiscal division. Somebody who has expertise in that particular area.

CHAIRWOMAN MOORE: And, who else? Two people?

MR. CAMARENA: It's generally three people.

CHAIRWOMAN MOORE: Anyone from the affirmative action or minority/women business enterprise?

MR. CAMARENA: It may include that, but not necessarily so.

CHAIRWOMAN MOORE: So, generally two people make a decision about a contract.

MR. CAMARENA: Three people.

CHAIRWOMAN MOORE: So, three people can make a decision about what happens to the contracts.

MR. CAMARENA: They make a decision to make a recommendation. It is the governing board that makes the decisions.

CHAIRWOMAN MOORE: Who picks the people to serve on the committee?

MR. CAMARENA: The panels are generally selected by the deputy executive officer who is responsible for that particular area.

CHAIRWOMAN MOORE: Is that you?

MR. CAMARENA: It maybe me or one of the other deputy executive officers if the contract is being awarded by that office.

CHAIRWOMAN MOORE: So, there's no standard criteria on who's chosen for those panels?

MR. CAMARENA: There is no standard criteria, no. It's selected on the judgment of the deputy.

CHAIRWOMAN MOORE: So, it's nothing for people to go back and say, you needed to do this, that and the other in order to get on this panel. I can go and pick the same people all the time if I were one of your executive officers, and conceivably get anybody

picked that I wanted to choose. Is that correct? Never mind, don't answer that.

Moving right along. Tell me if there were things that you could change or you would do to redirect the minority/women business program and to make it more effective, what would you do?

MR. CAMARENA: I think the one thing that would make it a lot easier for us is, if there were a clearinghouse and directory. We developed our own directory and we use directories that are available from other agencies. But, we don't have the resources to verify the self-certification. We think that's an important thing to do. I also think it is inefficient for each agency throughout the state to do the same.

CHAIRWOMAN MOORE: Certification is important.

MR. CAMARENA: I think if there was a single clearinghouse we could have access to, perhaps on a subscription basis, so everybody would pay their fair share, that would be a big help.

CHAIRWOMAN MOORE: Anything else?

MR. CAMARENA: That's all.

CHAIRWOMAN MOORE: Okay. Let's go to affirmative action.

MS. FLOYD: I get a chance to speak for myself. I'm Dellena Floyd, formerly Dellena Matthew. I am currently acting as the Affirmative Action Officer. I have been acting somewhat in this capacity since approximately April. Prior to that I took on some of those responsibilities for a couple of years for 1989 and 1990.

CHAIRWOMAN MOORE: So, you were originally the EEO officer, and then, you went and did something else, and then, came back again?

MS. FLOYD: No, we always had someone who handled the affirmative action plan and the affirmative action duties. I was acting as the affirmative action officer at that time. I was a personnel analyst. We did not have the classification at that time. In 1990 we came up with the affirmative action classification.

What I'd like to do is go back and talk a little bit about the reporting relationships since that seems to have been of some concern. I felt that I'm really the person who should address the problems if there are any.

Before I took on this responsibility, I met with both Dr. Lents and Ed Camarena to discuss the reporting responsibilities, because it had been an issue. I assured them I had no problems with the reporting relationship to human resources, because that is where I had been working. I have had, in the past, some experience with affirmative action, but I felt I could work comfortably with both of them. I had no problems as far as conflict of interest. I didn't feel that way. I felt that because of personal integrity, I would be able to separate the two. That was my personal feeling. I let them know that if I felt there was a problem that the only way I would really be comfortable in accepting this job is if I knew I could go to either of them if there was a problem. I have not had any problems in that area. I have been able to meet with Dr. Lents at any time he's available when I like to see him. Although we have talked about meeting once a month, I am free to meet with him on issues when I

feel that it's necessary. I felt that I should explain that since there was some concern.

We have looked at other agencies to see what their reporting relationships were, and truly, it has been varied for different reasons. Some of these I did on my own, because I had a personal concern since it seemed to have been an issue with a number of people within the District, and found that in many instances that the affirmative action officer does, indeed, report to human resources and has a direct line, also, to the executive office.

CHAIRWOMAN MOORE: Let me just say this to you so you're clear where I am on this issue. I had another life before I became an Assemblyperson. I used to be a director of personnel so I have some sense of what it is. And, you're correct. It can be any place. Generally where there has been conflict and concern, it takes on a whole different atmosphere. Sometimes where it may be perfectly safe and perfectly okay and work just fine any place, it is generally accepted. Generally, when there has been a perception that there's some problems, there is generally an attempt to separate the two. So, the question here is, obviously there has been some concern that there may be some problem, so that's why I pursue it from that end. Whatever the others are doing, the problem may not be perceived in the same manner as one at AQMD, at least at this time. But, you're comfortable with it.

MS. FLOYD: I am. Anyway, I just wanted to make that statement.

In my capacity as the affirmative action officer, I monitor the District's affirmative action plan. I look at the District's program,

make recommendations on where I feel we can improve, and try to get suggestions from all of those around. I work closely with the affirmative action committee, which is a 19-member committee made of District employees. These employees are from each of the EEO categories, bargaining units and all of the ethnic groups within the District are represented on that committee. We meet once a month. They bring their concerns.

CHAIRWOMAN MOORE: Is this new?

MS. FLOYD: No, we've had the affirmative action committee for approximately three years, they have been pretty active.

CHAIRWOMAN MOORE: Has their role been the same for three years?

MS. FLOYD: Well, it's changed. I think it has become a little more involved. I guess that's with any position as it goes on. I have become a little bit more involved with them over the years. They are very active in monitoring our affirmative action plan, and they also give input. I kind of work as a liasion between them, human resources and Dr. Lents.

CHAIRWOMAN MOORE: Who is this affirmative action committee?

MS. FLOYD: Nineteen employees from the District. What we do is, we let the employees know when we have openings on the committee, and they can apply. The co-chairs of the committee interview all the employees who are interested.

CHAIRWOMAN MOORE: And, they are responsible for what?

MS. FLOYD: Who? The co-chairs?

CHAIRWOMAN MOORE: The committee.

MS. FLOYD: The committee? Monitoring the affirmative action program, bringing forth employee concerns.

CHAIRWOMAN MOORE: Who do they bring forth employee concerns to?

MS. FLOYD: Well, they can bring them to me. The two co-chairs also meet with Dr. Lents on a regular basis. In the plan, one of the objectives is for them to meet with Dr. Lents on a quarterly basis.

CHAIRWOMAN MOORE: Do they have any authority or any teeth in terms of what they do?

MS. FLOYD: No, not any real authority, but they do make recommendations, and because they represent the employees, they are taken quite seriously. But, I wouldn't say that they have any authority.

CHAIRWOMAN MOORE: Have any of their recommendations been taken to heart?

MS. FLOYD: Yes.

CHAIRWOMAN MOORE: Who are they? I mean, are they management types?

MS. FLOYD: In every EEO category that's covered, we have management, professional, clerical, technical and skill crafts.

CHAIRWOMAN MOORE: All categories are represented?

MS. FLOYD: Correct.

CHAIRWOMAN MOORE: And, they meet monthly, and then, quarterly with Dr. Lents.

MS. FLOYD: Right. The full body committee meets monthly, and then, there are subcommittees that also meet an additional day within the month. It may be even more.

CHAIRWOMAN MOORE: This is more of a voluntary period. Do they actually have time-off from the job to meet?

MS. FLOYD: It is understood they would be able to meet on the committee. It's not overtime or anything. They do all of their work during the work hours, but they are allowed to attend the meetings and carry out their duties.

CHAIRWOMAN MOORE: Okay. Has anybody ever been kicked off the committee?

MS. FLOYD: No. No one has every been kicked off.

CHAIRWOMAN MOORE: So, no one on the committee has ever tried to rock the boat?

MS. FLOYD: No, I wouldn't say that either. It depends on how you want to look at that. Rocking the boat sometimes bring about change. So, we have a lot of real vocal people on the committee.

CHAIRWOMAN MOORE: Can you cite any change which was a direct result from what they have done?

MS. FLOYD: Over the past years when we first started with the committee, I think they were wandering aimlessly. They didn't know what they were there for. In the past couple of years, they have taken a real interest in overall the District's plan looking at our outreach efforts. They had a lot of say about that. They have held us accountable for that. They have held the District accountable

for the outreach efforts, training, career development; they had a great deal of input on that also.

CHAIRWOMAN MOORE: Your submission is terrible in terms of my trying to really get to any kind of substance from what you've given me. Let me ask some basic questions. The total workforce is 1,000 employees. Is that correct?

MS. FLOYD: We're about at 9 [900].

CHAIRWOMAN MOORE: You have 1,100 employees.

MS. FLOYD: Nine hundred.

CHAIRWOMAN MOORE: Of the 1,100 employees, what is your ethnic break out.

MS. FLOYD: I'm going to go back to 998 employees.

CHAIRWOMAN MOORE 998? Is that what you said?

MS. FLOYD: Yes. The overall workforce, we have 477 white, 122 blacks, 149 Hispanics, 8 Native Americans, 242 Asian Pacific Islanders, and of those, there are 435 females.

CHAIRWOMAN MOORE: All total?

MS. FLOYD: All total, 998.

CHAIRWOMAN MOORE: How many are clerical or not professional positions?

MS. FLOYD: The clerical would represent 234. We have our skill craft which is 8 and 7 in service maintenance.

CHAIRWOMAN MOORE: Is that your janitors?

MS. FLOYD: Yes.

CHAIRWOMAN MOORE: And of the clerical, can you give me a break out on that?

MS. FLOYD: We have 80 whites, 41 blacks, 67 Hispanics, one Native American and 45 Asian Pacific Islanders. All except 26 are females. So, we have 208 females.

CHAIRWOMAN MOORE: Now, let me go back up through here. Give me percentages.

MS. FLOYD: Okay. Of the total?

CHAIRWOMAN MOORE: Yes. Eighty whites is what?

MS. FLOYD: 34.2 [percent].

CHAIRWOMAN MOORE: Black?

MS. FLOYD: 17.5 [percent]. Hispanic, 28.6 [percent]; Native American, .4 [percent]; Asian Pacific Islanders, 19.2 [percent], and females, 88.9 [percent].

CHAIRWOMAN MOORE: Okay. The skill crafts or the 8 positions?

MS. FLOYD: We have three whites. They represent 37.5 percent. There are no blacks in that category. Two Hispanics, representing 25 percent. One Native American at 12.5 percent. Two Asian Pacific Islanders at 25 percent. Of that number we have one female at 12.5 percent.

CHAIRWOMAN MOORE: What is skill crafts? What are they?

MS. FLOYD: That would include our building maintenance building and our automotive services.

CHAIRWOMAN MOORE: Your janitorial services?

MS. FLOYD: I'm sorry. I got that totally screwed up. I have that backwards. Our skill crafts would be our print shop people and we ended up having our automotive people in that group. In

service maintenance, these would be our building services people. We have 2 whites at 28.6 [percent]; 2 blacks, again at 28.6 [percent]; 2 Hispanics, the same [percent], one Asian Pacific Islander, 14.3 percent, and again one female at 14.3 [percent].

CHAIRWOMAN MOORE: Your professional categories?

MS. FLOYD: Of our professional categories, we have a total of 440 people. We have 227 whites, representing 51.6 percent; 39 blacks, representing 8.9 percent; 39 Hispanics, 8.9 percent; 3 Native Americans, representing .5 percent; 133 Asian Pacific Islanders, representing 30.2 percent, and of those, we have 123 females representing 28 percent.

CHAIRWOMAN MOORE: In your administrative category.

MS. FLOYD: We have a total 26 in that category.

CHAIRWOMAN MOORE: Who is included in that category?

MS. FLOYD: Our designated deputies. That would be the assistant director level and above.

CHAIRWOMAN MOORE: Okay. Is this category where you would be found?

MS. FLOYD: No, I'm in the professional category. We have 19 whites.

CHAIRWOMAN MOORE: Wait a minute, you are the affirmative action officer, and that's not a high level position?

MS. FLOYD: What we did was, we looked at all of the positions that had overall responsibility for programs. These are all of the designated deputies. Dr. Lents is a designated deputy.

CHAIRWOMAN MOORE: Dr. Lents, you don't feel that affirmative action represents a need for a designated deputy?

DR. LENTS: No, I did not.

CHAIRWOMAN MOORE: All right, go ahead.

MS. FLOYD: We have 19 whites, representing 70.4 percent; 2 black, representing 7.7 percent; 3 Hispanics.

CHAIRWOMAN MOORE: Who are the blacks?

MS. FLOYD: We have two intergovernmental affairs officers.

CHAIRWOMAN MOORE: So, intergovernmental affairs get a higher rating than affirmative action?

MS. FLOYD: Yes, they are designated deputies.

CHAIRWOMAN MOORE: Okay, what else?

MS. FLOYD: We have 3 Hispanics at 11.1 percent; one Native American, one Asian Pacific Islander, each of those represents 3.7 percent; and of those, there are 9 females, representing 33.3 percent.

CHAIRWOMAN MOORE: Of those, how many are newly promoted into that category?

MS. FLOYD: The Native American is newly appointed.

CHAIRWOMAN MOORE: Everyone else has been there?

MS. FLOYD: Yes, over the last year. When you say newly, do you mean within the last year?

CHAIRWOMAN MOORE: Let's say within the last year and a half.

MS. FLOYD: Let me go back.

MR. CAMARENA: We have a hiring freeze. I think the director of technical services has also been hired within that timeframe.

MS. FLOYD: An Asian Pacific Islander male.

CHAIRWOMAN MOORE: How does one get promoted at the department?

MS. FLOYD: Openings are listed. We have bulletins. More recently all of our openings have been placed on E-mail so that all employees are made aware of openings. Employees complete applications, and submit them to human resources for review. They are reviewed to determine if they meet the minimum requirements, and depending on the number of applicants, there would be an additional screening or, after meeting the minimum requirements to go on, either a written exam or any exam that is set up for that particular position.

CHAIRWOMAN MOORE: How many of the people in the designated deputy, administrative and above category were recruited from outside?

MS. FLOYD: Of the most recent ones? Neither.

CHAIRWOMAN MOORE: Not just the most recent ones. How many of those did not come through the agency?

MS. FLOYD: Let's see.

MR. CAMARENA: I count five that came from outside the agency.

CHAIRWOMAN MOORE: Of those, how many were ethnic minorities?

MR. CAMARENA: All five.

MS. FLOYD: They were governmental affairs officers... All five.

CHAIRWOMAN MOORE: So, there were no ethnic minorities within the department who could be recruited or promoted or given any opportunity for upward mobility?

MS. FLOYD: At the time based upon the review of applications, they were the more competitive candidates.

CHAIRWOMAN MOORE: That's a nice way of putting it.

MS. FLOYD: It's the most honest way I know.

CHAIRWOMAN MOORE: And, the criteria was clear?

MS. FLOYD: In all of the exams I have reviewed, yes, the criteria was clear.

CHAIRWOMAN MOORE: Tell me what the complaint process is internally within the organization.

MS. FLOYD: It depends on what kind of complaint it is. If it's an EEO complaint, an employee can elect to come to me with the complaint or they can talk to, if they feel comfortable, the manager. It depends on what kind of complaint it is. But, generally the complaint will come to my office. I would review the complaint. Talk with the complainant. Do a preliminary investigation. If I feel there is some wrongdoing, then I would contact our labor attorney also as back up to have them review what my findings are.

CHAIRWOMAN MOORE: So that I'm clear, the informal process is to first go to my general manager. But if my complaint is against my general manager, obviously I'm not going to go there.

MS. FLOYD: Right.

CHAIRWOMAN MOORE: Then I would come to you?

MS. FLOYD: You can come to me or you could also, if you feel comfortable going to deputy executive officer over that particular division, you can go to that person.

CHAIRWOMAN MOORE: I don't feel comfortable with any of those guys.

MS. FLOYD: Okay. Come to me.

CHAIRWOMAN MOORE: So, I come to you, then what do you do with my complaint?

MS. FLOYD: Will take the complaint and get all the information, talk to any witnesses.

CHAIRWOMAN MOORE: There are no witnesses ever.

MS. FLOYD: I talk to the person who is being complained about. I would bring them in and get their side of it also. If I have any problems with it at all, then I will call the labor attorneys in, too.

CHAIRWOMAN MOORE: Would you do an investigation before you brought in the person that I'm complaining about?

MS. FLOYD: Yes, I do an investigation, because I want to find out if I feel it warrants any further investigation.

CHAIRWOMAN MOORE: I guess the concern I would have is that at what point do you advise me you are going to do whatever you're going to do?

MS. FLOYD: I advise the complainant immediately after I've talked to them, and let them know that I think this is something that I need to look into further.

CHAIRWOMAN MOORE: Have you had any complaints in recent times?

MS. FLOYD: Yes. I've had some.

CHAIRWOMAN MOORE: And, how were they handled?

MS. FLOYD: In this manner.

CHAIRWOMAN MOORE: Were they resolved satisfactorily to the complainant?

MS. FLOYD: I've had three and I say two were. One was not. What I tell the employees, if they are not satisfied with what I'm doing in my office, they have some recourse. They can go to the EEOC. At this time, no one has. I don't know if the one who was not satisfied is still thinking about it or not.

CHAIRWOMAN MOORE: The position you currently hold, has it always been at the level it is now?

MS. FLOYD: Yes. Since it's been an affirmative action officer position? Yes.

CHAIRWOMAN MOORE: What was it before?

MS. FLOYD: It's a new position. For the last couple of years it was new. It's always been at that level.

CHAIRWOMAN MOORE: So, it's always been at just a professional level?

MS. FLOYD: Yes.

CHAIRWOMAN MOORE: Tell me what the top salary is for the agency.

MS. FLOYD: For the affirmative action officer?

CHAIRWOMAN MOORE: Tell me what the top salary range for the category of the 26 manager-types.

MS. FLOYD: \$80,000 to about \$120,000.

CHAIRWOMAN MOORE: In that category, are there others who are in that range and are the ethnic minorities at the high-end of the low-end of that range or scattered throughout?

MS. FLOYD: At the low and the medium. I'm sorry. Ed is at the high-end.

MS. CAMARENO: And, Peter is too.

DR. LENTS: Since you ask that question, I anticipated it and took the opportunity to count.

CHAIRWOMAN MOORE: Why did you guys hold back on this stuff. If you gave it to me then I wouldn't have to ask for it. If you give me all the things that you anticipating me asking you, then I wouldn't have to ask you and we could move this along.

DR. LENTS: In the officials and administrators category, there are 26 people. They are what we call designated people.

CHAIRWOMAN MOORE: I got all of that.

DR. LENTS: There are actually 24 who are there at this point. There are 16 males and 8 females in that category. Of the 16 males, 5 are minorities. Of the 8 females, 2 are minorities.

CHAIRWOMAN MOORE: Let me ask you another question. Of people who are outside the agency, do you have consultants who make more than some of your folks inside? What is your highest outside consultants paid?

DR. LENTS: I don't know if I can answer that question.

CHAIRWOMAN MOORE: You don't know?

DR. LENTS: No.

CHAIRWOMAN MOORE: You don't know what your outside consultants make?

MS. FLOYD: No.

CHAIRWOMAN MOORE: Tell me again, you're the affirmative action officer? You have personnel. What would be your highest paid outside contract on an ongoing basis?

MR. CAMARENA: Probably the labor attorney we hired, and he's on an hourly basis.

CHAIRWOMAN MOORE: So, you just bring him in periodically. Do you have any set contracts where people make a certain amount of money for the year?

DR. LENTS: We have a number of computer programmers and we have two governmental affairs people.

CHAIRWOMAN MOORE: Are those the two governmental affairs people we just heard about?

DR. LENTS: No. We're talking about people outside the agency that you asked for.

CHAIRWOMAN MOORE: You have two governmental affairs inside and two government affairs outside.

DR. LENTS: We have three inside; two outside the agency.

CHAIRWOMAN MOORE: Does the governmental affairs inside and outside all make the same thing, since your two of the ones inside you indicated were minorities? The question is, do you pay outside folks more than you do inside folks, and is there any connection to the fact that you have your two African-Americans, I guess you said, who are governmental affairs who are inside, are they making less than the people outside? If you can't answer, then I'd like to see the numbers.

DR. LENTS: I will get you the exact numbers, but I would say, no. We actually spend more inside than we do the outside people.

CHAIRWOMAN MOORE: Okay. So, they all make more than everybody outside the agency?

DR. LENTS: The contracts we have with the outside contractors, I believe, are less than the total compensation package than for our inside people.

CHAIRWOMAN MOORE: If you're paying one category, for example, \$125,000 and another \$100,000, but you say that doesn't take into consideration the benefits, therefore, you're paying the \$125,000 less than the \$100,000. Is that what you're telling me?

DR. LENTS: What I'm saying is, when you have outside people, you hire typically a firm which involves personal services and which also involves other services of that firm, and they bid it and you pay a certain dollar amount. Obviously, when you have an employee, you pay them a salary and health benefits, etc.. I can't tell you what ...

CHAIRWOMAN MOORE: I guess it's a little unusual if your highest ranking and your highest level employees are being subsidized by people who are outside who are making even more, that is a highly unusual situation, and that's why I raised the question. I'd like to hear more about it, because it doesn't seem to jell, particularly in a time when generally the first thing that gets cut is your government affairs-type folks. I'm just a little curious. This just seems a bit unusual in the way that's structured. I'd like to at

least see the numbers and get a better understanding. Is that one of those questions you anticipating me asking?

DR. LENTS: No, no.

CHAIRWOMAN MOORE: Okay. What else do you have?

DR. LENTS: You asked who made over \$100,000. Of our designated deputies, 4 of them do. One is a white male, two are white females and one is a Hispanic male.

CHAIRWOMAN MOORE: Okay. What else is on that list. I'm more interested in your list. You shouldn't have told me you had that.

DR. LENTS: I was just sitting in the audience while you were asking the questions.

CHAIRWOMAN MOORE: Who is the personnel officer?

MR. CAMARENA: Mr. Robert Hale is the director of human resources.

CHAIRWOMAN MOORE: Is he here? He's not here.

MR. CAMARENA: He's not here today, no.

CHAIRWOMAN MOORE: Okay. Do you have any relationship at all with the personnel officer?

MS. FLOYD: I report directly to him.

CHAIRWOMAN MOORE: I thought you reported directly to Mr. Camarena.

MS. FLOYD: No. I work directly for the director of human resources, and he works for Mr. Camarena, with the understanding that I knew there was some concern about that reporting relationship. My understanding with Mr. Camarena that if there were any problems, I would go directly to him, and this is the

understanding that we have. I report directly to the director of human resources who, in turns, reports directly to Mr. Camarena, who reports to Dr. Lents. I have a relationship with all three, for a lack of a better word. I can meet with all three.

CHAIRWOMAN MOORE: I guess the question then is, does the personnel officer meet with you directly as well? There have been some questions about irregularities in the way that you hire. There seems to be some perception that there are often preselected candidates. I don't have to tell you. You know what some of the accusations are with the Department. Our concern is to see where there are problem areas and where there is not the appearance of fairness. There have been criticisms of your department that candidates preselected who test, or what have you, are fixed so that people can pass them or meet the requirements. Tests are written or requirements are developed with the intent of a particular candidate, therefore those requirements are... -- I wouldn't expect you to say, yes. So, let me see if I can phrase it a little differently so that we can get a better understanding of some of the concerns that have been raised.

How do you do your testing procedures or how are your positions developed and posted?

MS. FLOYD: When there is a position available to fill, the appointing authority will notify the human resources division. Now, that may or may not require classification work. Maybe it's an existing position with no changes.

CHAIRWOMAN MOORE: For example, there's an existing position, and I call you, I guess. You are personnel. I wish Mr. Hale

was here so I can get a better understanding of what is what. My concern is that we all know how it works. If you want somebody in particular, you contact the personnel officer and say, "I want to hire Mr. Cook, and Mr. Cook has expertise in legislative hearings. He has expertise in writing a certain style. He had experience in the Legislature." Then, the exam comes out and asks for someone who has legislative experience. Who has had extensive experience in Sacramento, and there are not many people who could meet that same kind of criteria. One of the criticisms of your agency is that how it operates.

MR. CAMARENA: First of all, Mr. Cook has to meet the minimum requirements.

CHAIRWOMAN MOORE: He would meet the minimum requirements. The test was designed for him.

MR. CAMARENA: The minimum requirements are established in the job classification/job spec which is adopted by the board. These do not change with great frequency. They are established after a classification study is conducted by the Department of Human Resources.

CHAIRWOMAN MOORE: So, you're saying that's full of baloney. The tests are not changed. They are always posted the same job requirements each time that job comes up.

MR. CAMARENA: The minimum requirements remain until they are changed by the governing board. This is done at a public meeting.

CHAIRWOMAN MOORE: But isn't that just a matter of me as the personnel officer submitting a classification? How would the

board know any differently? If I'm the expert and I'm the personnel officer, and I'm saying this is the way and we need somebody in this position that meets Mr. Cook's criteria, that I just established for you. What does the board know?

MR. CAMARENA: The hiring authority who requests the position identifies what they need. We have in almost every case a classification form for that. That is what the recruitment is conducted for.

CHAIRWOMAN MOORE: I'm sure you would have a classification that meet whatever the criteria is. But, whether I needed that in my department or not, may not be. But, if I'm the hiring authority, for example the division chief, and I say this is what I need right now at this time and place, and give the description to the personnel officer, generally the personnel officer goes along with it respecting the expertise of the individual department head.

MR. CAMARENA: Let's suppose this is a new classification that needs to be set up because we have a job that has to done for which there is not a classification. A new classification will be established with minimum requirements. Then, there's a recruitment conducted, and it is open to all those who meet those minimum requirements.

CHAIRWOMAN MOORE: How do you control when the criticism is that you agency does selective hiring? Any manager who wants to get a certain individual and wants to come up with categories, can somehow have job descriptions written tailor made for individuals. You tell me that the safeguard on that is that every position is approved by the board. I say to you that the personnel

director is the controlling force of what's approved by the board. The board relies on the personnel office for its expertise. I guess the question that I'm asking is one of how better can it be controlled? I don't expect you to tell me that it's not being controlled, but I think at least there would be some consideration given since it is an ongoing criticism of that agency. I'm sure this is not the first time you've heard it.

MR. CAMARENA: Before a recommendation for a new classification comes to the governing board for approval, it must meet my approval. It must meet Dr. Lents' approval. It must go to the administrative committee of the governing board.

CHAIRWOMAN MOORE: Would you stop me or would you depend on your personnel officer?

MR. CAMARENA: I would look fresh at the justification and determine whether or not the ...

CHAIRWOMAN MOORE: Are you a personnel professional?

MR. CAMARENA: I am not a personnel professional, but I have common sense.

CHAIRWOMAN MOORE: Often, common sense is not enough. Because, if I were a personnel officer, the first thing I would do is write it so that any person with common sense would assume that this is necessary and appropriate. It's got to go beyond common sense, because certainly the first thing one would do would be to write it in such a manner that it pass all the muster. You're not much of a personnel officer if you couldn't do that.

MR. CAMARENA: The questions one asks are, "Why do you need this position? What are the minimum requirements that you believe are needed to carry out this job? How do you justify it? What are the duties of that position? What experience are you requiring? Why do you require them? Could somebody with lesser experience do that?"

CHAIRWOMAN MOORE: So, pretty much a manager, if he stays within budget, can have some flexibility in what he does in terms of hiring and firing. The district manager has a job to do and if they tell you, this is what I need to do the job, they pretty much have the flexibility.

MR. CAMARENA: The manager has some flexibility. There are some checks and balances.

CHAIRWOMAN MOORE: Okay. All right. There have been criticisms of your agency in terms of affirmative action. Most of it seems to center around this notion there are no constraints. You just have a free will in the sense of how you go about doing things. You don't meet the minimum standards that often public agencies are required to do. You operate more like a free willing private agency where you can just bring in people off the street or however. Although you go through a process, and it's like me asking, "Are you still beating your wife" or something of that nature. I'm trying to see if I can get a better understanding. I don't know how to ask a question of that nature without going directly to some of the criticisms that are out there.

Another is that politics play a role in what you do and how you hire people. There seems to be some favoritism that's

shown for people who come with some political ties. Is that an accurate statement?

MR. CAMARENA: That is not accurate.

CHAIRWOMAN MOORE: Why not?

MR. CAMARENA: It simply isn't.

CHAIRWOMAN MOORE: It's a criticism of the department. Are any of these questions on your paper?

DR. LENTS: No.

CHAIRWOMAN MOORE: You would think I would ask you, these things are out there in the community.

DR. LENTS: No. These aren't things I look at as questions of affirmative action.

CHAIRWOMAN MOORE: But, they are to the extent that the problem, and the reason I raise them in the affirmative action context, these are reasons why people who are of ethnic minorities believe that they are not being promoted, because merit is not always the consideration within the Department.

DR. LENTS: As he clearly said, we believe that it is. We do not believe candidates are preselected. Our managers, I think, should be given the opportunity to specify who they need to get the job done. We expect a lot out of them, and they should have some say-so over the qualifications of the people they need to have in their place. That doesn't mean specific individuals, but the qualifications that they need...

CHAIRWOMAN MOORE: Given the criticisms and the lawsuits that are now out there, what are you doing differently if anything?

DR. LENTS: First, let me say that I am unaware of any lawsuits out there.

CHAIRWOMAN MOORE: Isn't there a class action lawsuit that I saw in the paper?

DR. LENTS: There was a claim in the paper, but we have never been able to identify or found such a lawsuit or have had any paper served on us that such a situation was occurring.

CHAIRWOMAN MOORE: Is there anything your department is doing in looking at any of the things at AQMD, Mr. Montez or can you say?

MR. MONTEZ: I am not at liberty to discuss it. That is in the preliminary investigation stages, so I really can't discuss it.

CHAIRWOMAN MOORE: There is an investigation. What you're saying to me is, you don't know any people who are unhappy, and there haven't been any kind of class action suits. None of the things that were said in the paper, that you have any knowledge of it.

DR. LENTS: Well, there had been 3 EEOC complaints filed by three individuals which are being thoroughly investigated by the EEOC. The Department of Labor wrote us a letter and said they wanted to look at some of our contracting policies, and that's the extent of anything we are aware of at this point in time. The rest of it is allegations in the paper we have not found any basis for.

CHAIRWOMAN MOORE: So, then you're totally ignoring that until you're actually served, and believe there is no basis for any of the charges that are being made.

DR. LENTS: We believe there's no basis for any of the charges.

CHAIRWOMAN MOORE: So, basically, you feel comfortable with going ahead and looking at it. I note you didn't give me the same chart that you gave me earlier where we found so many problems. We, being the members of the Legislative Black Caucus in Sacramento. You did a much better job this time of hiding of what I'm really looking for. This one is just real hard to follow. I'd like to see if I can get a copy of the initial chart and report you gave us in terms of affirmative action program in Sacramento in July. Are you familiar with that report? I'd like to see those numbers. They were a little clearer and better break out in the terms of statistics we have.

DR. LENTS: The numbers we've given you are entirely accurate numbers and should be consistent.

CHAIRWOMAN MOORE: Well, I'd just like to take a look at them if I could.

DR. LENTS: Okay.

CHAIRWOMAN MOORE: Since you don't see anything wrong within the Department, and particularly when you look at the numbers that you cited me, I guess it's a fair question if there were anything you thought needed to be changed, what would it be?

DR. LENTS: We indicated what we thought would be helpful on our contracts.

CHAIRWOMAN MOORE: Just the certification.

DR. LENTS: I think the toughest thing, when you're an agency like ours that hires a lot of professional folks, is the difficulty

of actually finding those types of people with those types of degrees available. I think a lot more can be done to encourage minorities to the technical field and give them financial help and aide in the colleges to get in there. I think that would be useful. We're attempting to develop a program where we could mentor and bring in high school age kids who are minorities, and not likely to go to college and see if we can encourage them. But, I think that would be a useful addition, and something the state could be more active in.

CHAIRWOMAN MOORE: When we look at your professional staff, you have 39 African-Americans and 39 Hispanics, and you tell me that you're doing everything you possibly can, one has to be concerned with that when you look at the numbers and you look at the kind of agency you are. Obviously that's totally unacceptable. Are there means to what you're doing in terms of trying to recruit at least at the professional level of minority employees?

MS. FLOYD: I have to say that the District has been very aggressive with its outreach for minorities, especially over the past few years. We are contacting...

CHAIRWOMAN MOORE: I know you're not going to tell me that 39 is the best that you can do.

MS. FLOYD: No. I'm sure we can do better, and I don't doubt that for a minute, and we are trying our best to do better. But, I'm saying we have been going out to the campuses, and not just meeting with the engineering groups, but we have developed over the past few years relationships with the minority engineering organizations in trying to encourage them to consider the District.

Now, this is when we had positions to fill. Needless to say at this point we are not filling any positions at that level.

We have done a great deal as far as advertising in trying to get to the minorities. Publications. This is not even locally. We have done this throughout the nation. Although, we're trying to focus more locally. We are on the local school campuses at least twice year to meet with, not only their entire engineering group, but with their minority engineering groups; meeting with them in small groups, going to their career fairs,...

CHAIRWOMAN MOORE: Of your professional category, how many of those are engineers? What would the percentage be?

MS. FLOYD: I can look it up real quickly.

CHAIRWOMAN MOORE: Just roughly.

MS. FLOYD: I would say probably two-thirds of them are engineers.

CHAIRWOMAN MOORE: So, 66 percent of your professional category are professional engineers.

MS. FLOYD: Approximately. So, we do look very closely at engineers.

We're also finding that the number of engineers coming out of the schools are not what we've liked. As Dr. Lents was saying, we're focusing some attention at the high school level. We figured we would go back and do some work there and encourage the students to go into the science and math areas, because this is what we're looking for. We don't have that large of a pool for mechanical and chemical engineers in the minority groups. We're doing very well with Asian Pacific Islanders, as you can tell from my numbers.

The problem is there. But, with blacks and Hispanics, the numbers are very small.

CHAIRWOMAN MOORE: You said you are going back, but obviously another criticism of the agency is that it is elitist kind of thing and elitist kind of organization that doesn't look to minorities or think we have a problem with the air we breathe, and there's has not been enough outreach. You're saying you are now doing that in terms of going back to the high schools in the minority areas and working with youngsters in those high schools.

MS. FLOYD: Right. We have quite a minority population in our Diamond Bar area: La Puente School District, the Pomona School District. I have been recently in contact with superintendents there, and I will be meeting with one next week. Hopefully, with another one in the next couple of weeks, to start up an adopt-a-school program which is pretty similar to the one we have here in the Los Angeles area.

More recently, I have had the opportunity to meet with the District's ethnic community advisory council and ask for their input. I told them what our program was all about, and asked them for some suggestions, and they were very eager. That resulted in us going out to two high schools already and talking with their students of what the District is about, giving them our stay-in-school message, and let them know what we're...

CHAIRWOMAN MOORE: That's terrific, but I'm back on affirmative action within the Department. I think early outreach is good. Certainly, it ought not be limited to just the school districts since the south coast area extends well into Los Angeles and well into

the south coast area. But, the concern is one, and obviously you pointed out a major point in terms of the availability of the workforce, if engineering is a major requirement. Mr. Camarena, are you an engineer?

MR. CAMARENA: I have a masters in engineering.

CHAIRWOMAN MOORE: So, you have some sense of what the problems are in recruiting for minorities and others in terms of engineering and other kinds of programs. Do you, yourself, go out and do a lot of the recruiting?

MR. CAMARENA: I do not go out, but I have a contact with some of the professional minority organizations. I should point out that we are developing a career development program that perhaps Dellena can discuss with you.

CHAIRWOMAN MOORE: That's what she was kind of eluding to and I wouldn't let her tell me about it. I do want to hear more about it. I would hope it's in your submission. I'm just sorry I didn't bring some of the articles that I do have with regard to the Department. I have to put some of those things in writing and maybe you can respond, Dr. Lents. I can give it to you so can respond specifically to those questions. I think it is an area we really do want to look at. I know sometimes we beat up on agencies unnecessarily, but there has been a lot of concern that has been raised just about insensitivity of the AQMD. Certainly, the one that I beat up on you all the time for is my barbecue pits. If you guys keep harrassing those guys. It's a cultural thing.

DR. LENTS: We put Leo on our ethnic advisory committee.

CHAIRWOMAN MOORE: Terrific. I'm glad to hear that. Is there anything you want to say by way of closing?

MR. CAMARENA: I would. You've asked that in our hiring practices whether or not favoritism is played. I have been in public service for 32 years. I have worked for a lot of bosses. Dr. Lents, more than anyone I have ever worked for, holds his senior management team accountable for getting the job done. The 24 designated deputies he spoke of are under contract. We do not have civil service protection. We can be let go.

CHAIRWOMAN MOORE: You are at will.

MR. CAMARENA: At will, yes. He sees to it that we get the job done. So, there isn't, even if one wanted to, a luxury of playing favorites. You get the best person. You take into consideration the affirmative action goals. When a list is presented to the hiring authority, if there is a minority or protected group member, woman, on that list, and if the hiring authority, the manager, the director, or whomever, wants to pass over one of those individuals, they have to have the approval of the deputy executive officer. With respect to playing favoritism, no.

CHAIRWOMAN MOORE: You said Dr. Lents hold everybody accountable. Again, we're back where I came in, a full circle, is that Dr. Lents is aware of everything that goes on in the agency, particularly as it relates to his managers with those who do have contracts. Has there ever been any manager let go because of some concern with insensitivity or other things?

MR. CAMARENA: There have been managers let go. I don't know the specifics.

CHAIRWOMAN MOORE: In recent time?

MR. CAMARENA: Designated deputies?

DR. LENTS: Sensitivity of what?

CHAIRWOMAN MOORE: Because of concerns about their treatment of minorities, women or any discriminatory practices? Has there been any person let go for any reason, short of stealing or any of those things?

DR. LENTS: We let our original deputy executive officer for public affairs go, and we let one of our directors of rural development go. I think it was within the last five years.

CHAIRWOMAN MOORE: We'll be in touch. Thank you for your testimony. Those of you who are at the last of this hearing are at luck, because we are going to move this hearing along real quickly. Those of you at MWD [Metropolitan Water District], thank Ray Corley for your place on the agenda.

MR. WILEY HORNE: Madame Chair, my name is Wiley Horne. About one month ago I became Assistant General Manager of Metropolitan Water District (MWD). There are two others holding that title also.

Five divisions report to me, as well as the affirmative action officer. Today I brought along a few of the people who report to me: Henry Alva, who is division head of personnel. Kaye Barsell is Manager of Purchasing . She is filling in for Gil Ivy, who is actually her division head. He was called away about a half hour ago because of accident.

CHAIRWOMAN MOORE: You're just trying to confuse me. I know.

MR. HORNE: Dorothy Davis is our affirmative action officer.

CHAIRWOMAN MOORE: Is there a reason why the affirmative action officer is at one end of the table and the personnel office is at the other?

MR. HORNE: We don't want a conflict of interest.

CHAIRWOMAN MOORE: I just wanted you to know that didn't go unnoticed.

MR. HORNE: I will be evaluated on my total performance which does include carrying out the board's policies, goals, and the general manager's program.

CHAIRWOMAN MOORE: I find it interesting that you did not have any kind of affirmative action program until September 1992.

MR. HORNE: Affirmative action we've had since...

CHAIRWOMAN MOORE: I'm sorry. MWBE program.

MR. HORNE: That's correct. It was just adopted in September 1992. You're absolutely right. We're very much a fledgling program. We're trying to learn from those other agencies such as East Bay MUD we heard from today. We are implementing a major program, the capitol improvement program, as well as other efforts that are going on.

CHAIRWOMAN MOORE: Is that the \$8 billion project?

MR. HORNE: Well, we're calling it \$6 billion, but it's very large.

CHAIRWOMAN MOORE: You see, we only get rumors.

MR. HORNE: It's incumbent upon us to proceed with an MBE/WBE contracting program, and we intend to carry that out successfully. I will be graded on that as I said.

We're prepared to talk to your topics: the affirmative action and MWBE programs.

CHAIRWOMAN MOORE: As I indicated, you have a reprieve, because we're running out of time. Obviously, I am going to have to do this hearing again. You will be at the top and not the bottom in terms of who we will hear from. Why don't I just ask you questions, and we will include your statement in its entirety in the record.

How do you plan to handle the \$6 billion capital outlay of your project? Is there a special MWBE program that has been adopted so you can monitor how you're doing?

MR. HORNE: Right now, what we have is a policy and a delegation of authority to a general manager to perform the plan and program to hire a manager. We're taking resumes on the manager position right now. We also have to extend this policy throughout the agency. We need a matrix of people who are accountable in the engineering, purchasing and other divisions who are accountable for carrying out our goals.

CHAIRWOMAN MOORE: So, you're telling me that you're late starting, but you're committed and you're going to develop a fullblown program over the next year.

MR. HORNE: That's correct. I think we find that as we look ahead and as we begin to visualize what the hurdles are, because we think there are some hurdles. Some of them were

brought out by East Bay MUD in their testimony as to certification, bonding capability and the definition of responsiveness. All of these things are going to have to be dealt with in that program.

CHIARWOMAN MOORE: We will look to those and see. We are going to be looking at that anyway, so we will get back to that. I'm going to jump to the affirmative action end of your testimony. Again, I apologize, because you've been here all day, and I don't mean to cut your short, but I'm not going to have much choice, because we have to be out of this room at a certain time.

Why don't you describe quickly your affirmative action program? What are the numbers?

MR. HORNE: Dorothy, you stand by on the details. Let me hit the high spots. We have over 2,000 employees at Metropolitan. Of those, 883 are women and minorities. That's eliminating all double counting between them. So, that's 44 percent of our total employees that are minorities and women. Out of the 2,000, if we look at approximately 25 percent who make up our top management, branch head and professionals, we have 38 we would call top managers. Ten of those, or 26 percent, are minority or women. This is graphic information that I'm talking about, following page 17, there's a series of graphs with some detailed tabulations accompanying it.

If we look at our branch head, you might say, of our middle management, 23 out of 68 or 34 percent, are minority or female. If we look at our total professional compliments, 199 out of 425 or 47 percent are minority or female. When we look at these numbers, we're encouraged by the fact that I see a wedge of minorities and females highly qualified people positioned and

moving up through the organization. So, you can see, for example, within the professional ranks, we have the higher percentage of minority and female than in the employee population as a whole.

CHAIRWOMAN MOORE: One of the areas that concerns me is your comparison of qualified applicants, black applicants in particular, to the number selected. That's on page 9. Why is the disparity so great?

MR. HORNE: I am going to call upon Dorothy in a minute to answer that. I have not yet made a study of the precise reasons for that. In general, I think the solution to that sort of disparity or to any other disparities that may arise, is holding managers accountable, among other things, for their affirmative active performance. That is part of our plan. We will be taking steps shortly to make sure that managers and supervisors are held accountable.

MS. DOROTHY DAVIS: I just like to add that because we have been working on this program over the last couple of years, we have started to gather that data. We have it from various public agencies, for example, the City of Pasadena. What we did is take a look at that whole area, because we did find that although we are getting in applicants or qualified applicants for professional areas -- specifically looking at the black population -- at reasonable levels, we found that in looking at the hiring and recruiting process, there was a disparity between those who were qualified versus those who were selected. So, we did zero-in on that specific situation to make sure we do correct it in the near future. So, that's why that chart is there. We've identified that as a problem. I can't tell you why it's

happened, but we have found in the process where the problem lies and we are taking action to make sure we correct it.

CHAIRWOMAN MOORE: Well, let me commend you for at least sharing the problem, so I don't have to go through and nick pick and find the problem areas. I think part of solving the problem is identifying it.

MR. HORNE: In addition to the accountability, we are actively recruiting. You may recall the black engineering program over at CSU Northridge. The fellow has since moved to Cal State L.A. We are in touch with that organization. Just by being proactive and accountability measures, we expect to close that. Henry, do you have anything you want to add?

MR. HENRY ALVA: Yes. My name is Henry Alva. I'm the EO [equal opportunity] Director of Personnel. I think part of that disparity that you're seeing right now is part of our own personnel program to actively seek out minorities in a concerted effort.

We've changed our whole recruitment effort in terms of bringing and hiring an advertising agency which specializes in minority recruitment, given us accountability in terms of where we can seek and attempt to hire qualified minorities. Now, our next hurdle is to get them past identifying them and bringing them into the District and getting them into the system.

One of our concerns in terms of all of our recruitment process is our own internal system. We've been fortunate in terms of our negotiations with our supervisors and bargaining units in that we have been able to open up the span of recruitment, breaking the seniority system which has previously blocked the Metropolitan

organization in terms of its promotional and recruitment process. In those particular categories we are attempting greatly to expand the recruit pool by going both inside and outside with our recruitment efforts. Unfortunately, in our lower ranks, our employee association categories, those classifications are pretty much governed by our contracts which has tied into it a seniority system, and we're trying to make inroads in that area in terms of our trying to open up our pool of applicants in the recruitment area.

CHAIRWOMAN MOORE: On your advertising, how do you deal with that with minority procurement and MWBE programs in terms of advertising in ethnic newspapers?

MS. KAYE MARCHAL: My name is Kaye Marchal and I'm the Manager of Purchasing for Metropolitan Water. Under my area of responsibility, I'm responsible for carrying out day-to-day needs and service-type contracts. We have not officially implemented a program for advertising in minority newspapers. However, that would be part of our new minority business enterprise program. Additionally, we have recently begun, for example, a Phase Zero Strategic plan. We're in the process of recruiting firms to supply software for some major areas at Metropolitan Water. So, we did advertise that recently in La Opinion and the L.A. Sentinel newspapers.

CHAIRWOMAN MOORE: What about just general kinds of advertising from conservation to other things kinds of activities? Do you advertise in ethnic newspapers to the same extent as you do in major newspapers?

MR. HORNE: This has to do with recruiting employees?

CHAIRWOMAN MOORE: All of the above. In terms of minority procurement, etc.

MR. HORNE: In general, we need a policy on advertising in minority papers. I noticed in my time with the District has been -
- haphazard is not the right word...

CHAIRWOMAN MOORE: Not something that's particularly done?

MR. HORNE: Particularly, division heads and circumstances tend to dictate rather than having a policy. We do need a policy in that regard. While we're having a program put together, though, I would like to indicate that we are reaching out right now. Even though we don't have a formal program on the ground, we are reaching out to the minority community through such things as a job symposium. I know Kaye right now has a computer databank of minority and women firms; firms that showed up at our symposium or we have otherwise identified. These people are comprised of as bidders who we regularly go to right now. That will be folded into the program once it gets formalized. But, we're building upon, at least a rudimentary base that we have right now.
[TECHNICAL DIFFICULTIES -- BREAK IN TAPE]...

CHAIRWOMAN MOORE: Thank you very much for your comments. Anyone else have anything they would like to say? If not, we're going to adjourn. Thank you very much for coming.

*** * * * * MEETING ADJOURNED * * * * ***