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Interim Hearing on the State Lottery

Assembly Committee on Governmental Organizations

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ASSEMBLY GOVERNMENTAL ORGANIZATION

TRANSCRIPT OF PROCEEDINGS

INTERIM HEARING ON THE STATE LOTTERY

200 N. Spring Street - Room 238
Los Angeles

November 14, 1985



COMMITTEE MEMBERS PRESENT

Richard Alatorre, Chairman
Nolan Frizzelle
Sally Tanner
Curtis Tucker

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SUMMARY OF TESTIMONY

During the first year of the 1985-86 legislative session more than 30 bills were introduced to modify the lottery initiative (Proposition 37) as it was passed by the voters in the November 1984 General Election. These bills reflected a broad array of concerns, ranging from the use of lottery revenues to technical flaws in the drafting of the initiative itself.

This committee, as the Assembly policy committee responsible for lottery oversight, has been concerned with these issues as well as many broad public policy questions raised in the wake of the initiative's enactment. The chairman of the committee, Assemblyman Richard Alatorre, has introduced legislation (AB 2) to clean-up various provisions of the initiative. He has also been active in efforts to assure that women and minorities receive a fair share of lottery contracts and subcontracts.

This hearing was called to review the start-up of the state lottery and, in particular, to assess the lottery commission's affirmative action program and the efforts of major contractors to subcontract portions of their work with women and minority-owned small businesses.

Mr. Howard Varner, chairman of the commission, and Mr. Chon Gutierrez, chief deputy director, presented an overview of the lottery's progress to date. They announced that California's lottery had set sales records in its first week of operation and that the lottery here would be the largest in the world. They said the lottery was directing its marketing effort at discretionary income so as not to appeal to lower income persons.

Assemblyman Curtis Tucker raised concerns about the commission's response to legislative and public inquiries. Assemblymen Tucker and Alatorre also questioned the balance of retailer outlets in their districts, claiming that small independent business men and women were not selected in the initial screening process. The commission admitted that it was having difficulty responding to all telephone calls and said it was attempting to acquire an automated answering system to respond to public inquiries. With regard to retailer contracts, the commission defended its selection process. Mr. Gutierrez and Mr. Lou Ritter, chief of security, said the commission would be fine tuning its retailer network, perhaps dropping retailers who falsified information on their application forms and transferring those contracts to underrepresented areas. They also said the commission had given them the authority to increase the retailer/population ratio of 1:1,250 for minority communities that demonstrate a need for additional outlets. There is no plan, however, to increase the number of lottery retailers above the current statewide total of 20,500.

Ms. Terri Fontenette, affirmative action and contract compliance officer, testified that the lottery's total workforce, including seasonal help, was 550, of which approximately 70 percent were women and minorities. She added that 45 percent of the commission's professional positions are women or minorities. Mr. Ritter added that his security force is composed of approximately 50 percent women and minorities. With regard to outside contracts, Mr. Gutierrez testified that of the \$67 million awarded, approximately \$5.1 million (7.8 percent) went to minority firms.

Mr. Gutierrez stated that the commission still has difficulties with the initiative's contractor disclosure requirements. He said the commission had been prevented from contracting with certain accounting and consulting firms which have large boards of directors. He added that the commission would support a clean up bill to deal with the disclosure issue as well as to correct technical flaws in the initiative. Reference was made to the commission's decision to award the telecommunications contract for the on-line game without requiring the officers and directors of the bidding firms to disclose personal income tax returns and financial information. Mr. Gutierrez said the telecommunications contract, unlike the on-line game contract, did not require the disclosure of personal information by bidders because it involved only the transmission of data between two points. The committee chair challenged the rationale for this decision.

Ms. Dolores Sanchez, chairperson of the California Hispanic Newspaper Publishers Association, was critical of the lottery's failure to advertise in weekly minority newspapers. She said the lottery's prime advertising and public relations contractor, Needham Harper Worldwide, Inc., had not attempted to contact Hispanic newspapers, except for the distribution of promotional material. She said that Needham Harper was apparently working with a new company to consult on Hispanic media lottery advertising, but that this company and its officers were unknown in the Los Angeles Hispanic community.

Mr. Loring Emile, president and chief executive officer of the Southern California National Business League, stressed the need for the lottery to provide minority business opportunities. His views were echoed by Mr. Louis King, president of K Systems and Technologies. Mr. King offered several specific recommendations for legislation that would mandate participation by minority subcontractors. Mr. Skip Cooper, president of the Black Business Association of Los Angeles, also expressed support for greater minority business opportunities. He gave a number of examples of areas where minorities could participate in the lottery business. He added that the lottery needs to establish clear policies on minority participation goals.

Major lottery contractors, those receiving contracts valued at more than \$100,000 annually, were asked by the committee to respond to a series of questions about their affirmative action activities and their efforts to subcontract with women and minority-owned firms.

Representatives of Needham Harper Worldwide, Mr. Chuck Rubner and Mr. Brad Fornaciari, said their firm recognized a responsibility to share the economic benefits of the lottery with minority constituencies. In response to the comments of Ms. Sanchez, they said Needham Harper had recently entered into a relationship with a company called Mavis Cordero & Associates to consult on advertising in the Hispanic media. Their decision was based on a recommendation of another firm, Aarons and Gutierrez of La Jolla, which had previously done business with Needham Harper. Assemblyman Alatorre was critical of the relationship, noting previous instances where prime contractors had formed sham firms for the purpose of appearing to comply with minority subcontracting requirements. He added that it was insensitive of Needham Harper not to contact established Hispanic advertising companies.

Messrs. Rubner and Fornaciari testified that in Game One a total of \$1.1 million was spent on media production, of which 10 percent went to minority subcontractors. A total of \$2.3 million was expended for media advertising, of which 9 percent went to minority media. Newspaper advertising totalled \$330,000, of which \$17,000 was spent on Black newspapers, \$4,000 on Hispanic newspapers, and nothing on Asian newspapers. Radio advertising totalled \$357,000, of which \$52,000 was spent on Hispanic radio stations, \$12,000 on Black radio stations, and nothing on Asian radio stations. The committee chair expressed serious concern with the relatively low level of expenditure on minority media advertising. Mr. Rubner pledged that his firm would work with the minority media, the commission, and legislators to make sure that minority businesses receive a fair share of the lottery advertising business.

Mr. Gray Bethea, vice president and general counsel of Scientific Games, said his firm has had a long tradition of hiring women, minorities, and other historically disadvantaged persons. He cited the firm's lottery ticket printing plant in Gilroy as indicative of its commitment to California. He noted that the Gilroy area has had a high level of unemployment and that 68 percent of the employees at the facility were Hispanic. Mr. Bethea added that his firm recognized a responsibility to address minority participation in its bid for the on-line lottery game, but that he was prevented by the commission from discussing the details of that bid.

Mr. Scott Strathearn, representing Purolator Courier, said his firm had been working with a minority subcontractor in Northern California to distribute lottery tickets, however the firm recently withdrew its participation. He said Purolator Courier was looking for a new minority firm.

Ms. Tamara Carbone and Mr. Hugh Plummer, representing the Automated Wagering Division of Control Data Corporation, said their firm's leadership in affirmative action and equal opportunity employment is well-known. They said Control Data had established voluntary goals and guidelines for subcontracting with minority and women-owned firms and has been doing so for the past 13 years. A separate statement of the firm's affirmative action policies is contained in the appendix of this transcript.

GTECH Corporation, represented by Mr. John "Spike" Speicher, said the firm was the first lottery supplier to include meaningful minority participation in the operation of an on-line lottery system. He cited the District of Columbia and Ohio lotteries as examples of GTECH's commitment to minority community involvement.

Mr. Don Beaver, representing the California Grocers Association, said that many of the early problems with lottery start-up have been resolved. He commented that a survey is being conducted to see what effect the lottery has had on sale of other grocery items and whether a decrease in grocery sales has been offset by the 5 percent lottery sales commission. He added that retailers must have player-activated terminals for the new on-line games.

ASSEMBLY GOVERNMENTAL ORGANIZATION COMMITTEE
INTERIM HEARING ON THE STATE LOTTERY

Assemblyman Richard Alatorre, Chairman

Los Angeles City Hall
200 N. Spring Street, Room 238
Los Angeles, California

November 14, 1985

ASSEMBLYMAN RICHARD ALATORRE: The Assembly Governmental Organization Committee will come to order. Let me first introduce to you Assemblyman Curtis Tucker from Inglewood.

First of all I want to congratulate Chairman Varner and other members of the Lottery Commission, as well as Mark Michalko and his staff, for the outstanding job they have done in starting up our State Lottery.

I'm told that the lottery's first game, "California Jackpot," was the most successful instant lottery game every offered in North America. Almost 400 million tickets were sold in only five weeks, providing California schools with about 135 million dollars in new revenues and making new millionaires of at least five Californians. Although I haven't won anything myself, I don't know about Mr. Tucker, I think I can speak for most members of the Legislature as well as most of our citizens when I express our thanks to the Lottery Commission and its staff for their worthy achievements.

While it would be hard to quarrel with the Lottery's financial success, there nevertheless remain in the minds of many citizens some important questions about the lottery initiative and some of the policies being pursued by the Lottery itself.

Most of these questions were raised in legislation introduced earlier this year by Senator Dills and myself. The issues range from the degree to which the Commission is subject to the normal administrative controls applicable to other

state agencies, whether the Commission is subject to the annual state budget process, concerns about contracting procedures and vendor disclosure, sales to minors, use of player-activated video lottery terminals, and whether the 5% sales commission is sufficient incentive for retailers to actively market lottery tickets.

As a representative of the Hispanic community, I have also been very concerned about the extent to which the lottery has sought to open up its contracting opportunities to minority- and women-owned businesses.

Today's hearing will give lottery officials, contractors, retailers, and the general public an opportunity to express their views on these issues. It will also give the Legislature some direction on whether to pursue further lottery clean-up legislation this January.

At this time I will call on the chairman of the Commission, Commissioner Howard Varner, Mr. Chon Gutierrez, representing the director, the Chief Deputy Director of the California State Lottery, Mr. Ritter, formerly Deputy Chief with the Los Angeles Police Department, in charge of enforcement for the Lottery, and Terri Fontenette.

MR. CHON GUTIERREZ: Thank you Mr. Chairman, members. It's indeed a pleasure to appear before you and share with you the accomplishments of the California Lottery in its first 42 days of operation.

Today marks an important day for us in the Lottery because Game One, which has just ended at midnight last night and Game Two is beginning officially today.

With the chairman's concurrence, what we would like to do this morning is to have our chairman, Howard Varner, speak to the basic policy as he views it as chairman of that Commission. I would like to give an overview presentation of the lottery operation itself and have Deputy Director, Lou Ritter, speak to the

security aspects of the lottery operations, and have Terri Fontenette make some general remarks about our affirmative action accomplishments.

If that's okay with the chairman, I'd like to get on with it in that fashion. Thank you.

MR. HOWARD VARNER: Good morning. My name is Howard Varner. I'm chairman of the California State Lottery. We as commissioners -- there are five commissioners as you know -- have five major concerns in starting up the lottery.

One of our first concerns was that involving the integrity of the game. We felt it was most important, rather than meeting an arbitrary deadline, to start the lottery in an orderly manner when everything was in line, where we could have a fair and honest game and one of integrity above reproach. This we feel we've accomplished.

As I'm sure you are aware, Proposition 37 passed by the voters in November of last year, provided for marketing of the lottery game by the Commission and staff. The Lottery Act requires the Commission to actively market the lottery games so as to maximize revenues in the state as well as to education. This is a requirement under the act.

We feel in organizing and setting up the lottery it is a big business and it should be run like a big business. It's different than anything else in government. I know of no other part of state government that requires the marketing function such as required under the lottery. I think we are indeed fortunate in starting the lottery in obtaining the help of employees from different departments of the state. We started the lottery with 15 loaned employees. I'd like to go on record and say I have never seen a more dedicated group. I think they have done an outstanding job in getting the lottery off to a great start in setting a record in the whole country.

I'm sure you're aware that the first day of the lottery we did \$21 million in sales. The first week we had \$80 million in sales. This set an all-time record throughout the whole world. The prior record for this week of lottery sales by the California State Lottery was in New York in August when they had their \$41 million jackpot. They hit \$57.8 million in sales in that week which was the record up until then. We surpassed that.

We are looking at a lottery here in California which is the largest in the world. It is the intent of the Commission to run it in an orderly manner and as efficient as possible so that we can maximize the revenues for education. I am sure you are aware that 50% of the proceeds of the revenues go to prizes. A minimum of 34% of the revenues goes to education. A maximum of 16% goes to administration which includes Commission to advertising and other costs. To the extent that we can operate as a Commission and as a staff, less than 16% of revenues, that additional amount that we had will go to education. As an example, if we can operate on 14% administrative cost, education would increase from 34% to 36%. So one of the things that we have been doing as a Commission is setting up the most efficient organization -- our accounting system -- so we know in a timely manner where are thoughts are and what they are and so forth. Efficiency of operation is paramount in our whole guidance. We have been guiding staff. The Commission meets with staff weekly, reviewers monitor what's been happening on an on-going basis.

We are also concerned about the players. We want the marketing effect to direct the marketing for the players of the lottery. We are not after the income which is used for the substance of life. We want this to be a fun game and apply to discretionary income only.

As Chon mentioned, today marks the 42 day of the lottery, the first six weeks. I think it's too early at this point in time to judge what will happen in the future...

ASSEMBLYMAN ALATORRE: May I just stop you right there. You talked about gearing your efforts at discretionary income of people and not gearing it toward people's necessities. How do you accomplish that?

MR. VARNER: Where the type of media that is placed. The type of ads and the selection of the advertising firm -- we had 18 proposals. One of the main concerns and things we looked for in the oral presentations by the client was how they intended to market this so they would not be appealing to the lower income people. I think if you look at the advertisements we have thus far, and the media, and the point of sale, I think you will have to agree that we are not gearing our advertising effort toward this market.

ASSEMBLYMAN ALATORRE: When the representatives of the organization received the contract, it obviously is a very sizeable contract you know you can make me feel good to spend the money on the lottery. But I really don't know how you can say that it's not being geared toward whoever is going to be playing the lottery. I don't know if you have, in the short period of time, been able to figure what people and how much each person is spending on the lottery. I just find it very difficult to really understand how you can make a statement like that even though the advertising might not be geared to it, but there's really no way of stopping the people.

MR. VARNER: I didn't say advertising would stop a person from playing the game. I'm saying efforts on the part of the Commission and staff and the advertising agency is not gearing the marketing to the lower income people. I think we are trying to make it a fun game where it's discretionary income rather than necessities. Only time will tell. As I indicated, six weeks is basically too early to really judge anything. We know from the history of other states. That's all we can go by at this point. We have contacted and worked with other states that historically the \$20,000 to \$35,000 income person is the largest player of the lottery. Whether that will prevail here -- only time will tell.

As you know we are charged by Prop 37 to do marketing studies and know who the players are.

The last primary concern...

ASSEMBLYMAN ALATORRE: Mr. Tucker, do you have a question?

ASSEMBLYMAN CURTIS TUCKER: Yes. First of all, there's no way you are going to be able to aim at a certain clientele. You have pathological gamblers who are on welfare. We know that. We have to deal with that. It's almost impossible to deal with that, I'll put it that way.

You indicated earlier that you had regular meetings to apprise your staff of how the lottery is progressing etc. What about a public information officer to answer questions from people who call in? I have been calling the office of the lottery commissioners for the last two or three months and I have not received a response. That attitude is something that I find intolerable and we're going to have to deal with that -- and extremely insulting.

I have a policy in my office of responding to every constituent's call within 24 hours. I know everybody doesn't operate that way. You all do not stand for election like I do, but I certainly enjoy being able to give those people that I represent some sort of information when they request it. I have not found a willing attitude on the part of your Commission. I have never had a telephone call returned since you have been in existence.

MR. VARNER: Well, as one of the commissioners, I personally am not aware of any call I have ever gotten that I haven't returned. I am located down here and as you know, the Commission is not a full time job. It's a part time job. That's no excuse.

ASSEMBLYMAN TUCKER: That's right.

MR. VARNER: I have gotten many calls up there that I have had forwarded and down here and I have returned them personally. I think having come from the

private sector, I operate the same way that you do. I didn't stand for reelection like you did, but I think to respond to a person that calls is vital and I have always done it as a personal policy. Maybe Mr. Gutierrez has any...

MR. GUTIERREZ: No I would like to, however, just respond generally to the Assemblyman's -- I don't mean to be flippant in the slightest -- I will be happy to leave my business card with you at the conclusion of this meeting and I will guarantee you that I will return any call you make. I don't mean it in a flippant fashion. But the reality is that...

ASSEMBLYMAN TUCKER: The reality is that it's something that isn't really going to happen. I want to tell you that I'll appreciate it. Because so far I have not been able to get anybody from the Commission to respond to any telephone call I have made.

MR. GUTIERREZ: I will do that. I will be happy to do that.

MR. VARNER: We will share with not only you Mr. Tucker, but also the other members of the committee. We should be responding. If we are not, there's something wrong.

MR. GUTIERREZ: Let me deal with that issue for a moment if I may. Along with the success that both the chairman of my Commission and the chairman of this committee that have already spoken to, comes operational problems.

We are getting probably 5,000 phone calls a day. We have attempted to acquire some telephonic answering machines that will help to give information to people that are asking about information that is general in nature. However, most phone calls that we get, quite frankly, ask very specific questions, make suggestions. As particular events come to light, certain interests are peeked by people that are aware of those and they call to express opinions about that.

The grand prize drawing when we had four winners one night -- the \$2 million -- we got a lot of phone calls about that issue. When we had the one winner

whose legal status was raised in the press, we got a number of phone calls expressing opinions about that. So we get many, many phone calls.

Unfortunately, we are not prepared at this point to be able to respond to each and every one of them. I apologize to you and I apologize to the people of the state of California in a sense that we can't do that. The other option would be to hire 20-30 telephone operators that would just sit there and answer the phones and get that information. We are trying to do that through an electronic means to keep the administrative costs to a minimum. That's not an excuse for not responding to telephone calls, particularly from elected officials who I think represent constituent groups.

I think for that reason, Mr. Chairman and members that I think, if nothing else, respond to you since you represent a constituent group of people and you could, to some extent help us sift that through by sharing those questions with appropriate responses. It's an operational problem.

I hope that the longer it goes beyond its 42nd and 43rd day and goes into six months of operation, it will stabilize. We have brochures with questions and answers that will be distributed to our retailers. We just are not answering the questions that the people have in a timely fashion through whatever efforts that we are using. We hope that as things stabilize, we will be in a better position to respond to those. I will be more than happy to either personally respond to you telephonically or stop by your office and go over any issue you have.

ASSEMBLYMAN TUCKER: I have a question now maybe you can answer.

MR. GUTIERREZ: Yes, sir.

ASSEMBLYMAN TUCKER: When do you intend to award other retail contracts?

MR. GUTIERREZ: Well, I will be happy to answer that question. We have, as you know, put out a request for applications for people to contract with the

California Lottery to sell lottery tickets. By July 15th which was the cutoff date for those applications for the Game One, we received 30,000 applications. Subsequent to that time, we probably received over 4,000.

We were fortunate and able to give out contracts to about 20,500 retailers. That was made on the judgment of national standards throughout the industry of population to outlets. The standard that is used throughout the nation is one outlet for each 1,250 per capita population. Using that standard, we came up with 20,000 retailers. But we also recognize that in districts such as yourself and the chairman, you have a high concentration of businesses that attract a lot of people into your area in the daytime hours. In the evenings they go to the suburban communities.

That creates a greater demand for outlets in the downtown urban area. Now for those purposes, we added almost 1,000 retailers in San Diego, Los Angeles, San Francisco, Sacramento, and central valley areas. We have created what we believe is an optimum retail network in terms of size. Composition, we're not very clear because we had to set this thing up in time to reflect the startup of the lottery. What we want to do is field evaluations and establish minimum sales standards for each of our outlets. There are some opportunities, clearly. They are going to be very successful. There is no doubt.

ASSEMBLYMAN TUCKER: And there are some that are extremely crummy.

MR. GUTIERREZ: They are.

ASSEMBLYMAN TUCKER: With minimum participation.

MR. GUTIERREZ: Yes, sir.

ASSEMBLYMAN TUCKER: And then we have privately owned shopping centers with four or five different retailers in there that couldn't get them. Yet the store across the street that's a 7-11, you blanketed those in. And the supermarket chains. How about those little individual shop owners who not only need this

who would do a very good job, would bring in business for them? I think it's fair that they should have it.

MR. GUTIERREZ: We agree with that. We would like to go and...

ASSEMBLYMAN TUCKER: Well, in my district it didn't happen. In my district all the big supermarkets, the 7-11's, some of the gas chains have it. But that little mom and pop-type grocery store, that little liquor store in the corner that's been there for 20 years, doing a hell of a good business, responsible business people -- these are the people in my district who did not receive permission to sell those tickets.

MR. GUTIERREZ: Let me respond...

ASSEMBLYMAN TUCKER: I think it's unfair.

MR. GUTIERREZ: Well, let me respond in a very general sense to that issue. Sixty percent of all of our retailers are the little mom and pops that you just described.

ASSEMBLYMAN TUCKER: But not in my district.

MR. GUTIERREZ: Forty percent of them are chain stores that you already described. Furthermore, one of the charges of the chairman of Commission has already shared with the committee is that it is our responsibility to maximize revenues to education. We know, for a fact from other states that 60 percent of all of the revenues that are collected come from those chain stores. Sixty percent. So we have to find a balance. I think we've done that by 40 percent chains and 60 percent mom and pop. We recognize the mom and pop stores as an intricate part of the retailer network, but we have to find the balance between those people who sell a lot of tickets and those people that want to use the lottery as a way to attract more business. I think we have done that.

ASSEMBLYMAN TUCKER: Most of them want that. Most of the mom and pops want that. It will attract business for them. But they'll also sell lottery tickets.

MR. GUTIERREZ: Absolutely. We agree. It's that balance that we're looking for and perhaps in your district we were not able to do that. I can assure you, however, that if you'd like to bring it to the attention of our district offices, I will put our district office manager in your area in contact with your administrative assistant or whomever you deem appropriate...

ASSEMBLYMAN ALATORRE: Let me ask you a different question on that...

ASSEMBLYMAN TUCKER: No, I want them to contact me. I can show you within 12 hours...

MR. VARNER: I think the record should show, though the 7-11 stores that you refer to Mr. Tucker that these are all franchise and individually owned stores. They are not company owned stores. None of them are. But we have licensed any and all mom and pop stores that operate under the franchise for 7-11...

ASSEMBLYMAN TUCKER: You don't tell me 7-11 is mom and pop.

MR. VARNER: They are all individually owned and franchised. Leased and operated by a franchisee.

ASSEMBLYMAN ALATORRE: Twenty thousand licenses were given to sell the lottery tickets. You say 60 percent of them were to small mom and pop-type of operations. Now do the mom and pop-type operations include the 7-11? Because they are not owned by 7-11 and because they are franchised or that maybe they fall under the category of small mom and pop because they are franchised, are they part of the 60 percent or they part of the 40 percent.

MR. GUTIERREZ: At this point I would have to guess at that. I would rather not do that unless the chair insisted I do that. I don't...

ASSEMBLYMAN ALATORRE: More than likely they are part of the 60 percent.

MR. GUTIERREZ: I would guess the opposite if you are asking...

ASSEMBLYMAN ALATORRE: Okay. Fine. Well then get that question answered and get it to the committee.

MR. GUTIERREZ: I might answer part of your question. It's not the answer you're looking for. Each 7-11 applied individually. They did not apply...

ASSEMBLYMAN ALATORRE: Well, they couldn't because they had somewhat of a minor problem legally speaking in some other state and I am sure that (inaudible) does not allow for a big company like that that has a little problem from being licensed in the state of California. How many more licensees do you see the state of California offering over the next year?

MR. GUTIERREZ: In addition to the...

ASSEMBLYMAN ALATORRE: In addition to the 20,000?

MR. GUTIERREZ: I don't anticipate substantial increase on that. I see some minor increases -- 1,000 perhaps. They would be fine tuning adjustments to reflect the fact that a given community does not have an outlet and there is interest in having one. Otherwise we are already at the standard for the nation. Unless California is substantially different -- and it could be -- we probably don't anticipate changes...

ASSEMBLYMAN ALATORRE: Well, it obviously was because we sold probably more tickets than any other state. In one day I think we probably sold what it takes weeks to sell in...

(inaudible)

MR. LOU RITTER: ...in looking at other states. We will have a number of retailers drop out -- either voluntarily or be selectively taken out. With those, there will be substitutes placed in there. We are hoping that we could keep within the 1,250.

ASSEMBLYMAN ALATORRE: How do you correct an imbalance in a given community like the one expressed by Assemblyman Tucker? How do you correct that imbalance in his district if you find out what he says is true that a greater percentage or the majority and over the majority did not fall into the category of 60

percent mom and pop. That you find out 75 percent as an example -- hypothetical figure -- 75 percent of the people that received licenses in a given area. How do correct that inequity? If it proves to be inequity without either taking away from somebody that has it, which I'm sure nobody is going to be willing to relinquish it, and trying to balance it out by the other side of it?

MR. GUTIERREZ: We obviously can't do that. We don't have any more retailers. But our plan is to do exactly what you suggested might not be an option, which is to reassign outlets from one given community to another. I think that is consistently the basic theme and charge of the law.

For example, the initial allocation was based on population. There are certain zip codes, for example, that have a very high density of population. There are residential neighborhoods that have relatively very few businesses. Just very few. As a consequence, businesses in those residential areas may not be as effective at sales as another business in another area where there is less population, but more businesses. What we would do is establish sales standards. If there are certain outlets that are not meeting the sales standards -- I don't know what they are -- but we would have to set them. If they don't meet them, they all have provisional contracts. They do not have the vested right to the contracts at this point.

ASSEMBLYMAN ALATORRE: Obviously, one of the most important ingredients -- you have no real access to the kind of information that I think that you would need to feel comfortable with the licensed people that you have at the present time.

MR. RITTER: That's true. Initially we had to rely basically upon what was provided to us by the retailer. As we now are beginning to get into backgrounds, we may find in some cases that the information that was provided was not accurate. If that's not, we'll reevaluate whether or not that person should hold a provisional license.

ASSEMBLYMAN ALATORRE: Do you have the authority to go to get access to criminal records of any of the applicants?

MR. RITTER: Yes. Based upon the action of the last Legislature, AB 484, we were granted peace officer status which gives us access to criminal history information. (inaudible).

ASSEMBLYMAN ALATORRE: Okay. Is there a way of breaking down the 20,000 retailers that received a provisional license in terms of participation of women-owned businesses and ethnic and racial minority businesses?

MR. GUTIERREZ: At this point the only way we can do that is by a site evaluation conducted by staff. When we first put together the application form for a retail outlet for the California Lottery, the chairman of the Commission who at the time was the director, myself, the Attorney General's office sat down and reviewed the very issue that the chairman just raised.

The chairman of the Commission and the director, Howard Varner, made it very clear to me way back in the beginning of March that we absolutely needed to have a proportionate representative of minority-owned businesses, women-owned businesses. We thought that as a matter of policy that was an absolute must.

What we attempted to do was to put in a voluntary survey at the bottom that would ask applicants to identify their ethnicity, their race, their sex. On the advice of the Attorney General's Office, it was adamant advice, we removed it. We removed it because it was fundamentally felt that there was a constitutional issue being raised there that if we were to somehow allocate business contracts that substantially affected the income of individuals based on any consideration other than some kind of stated business objective, we would be in violation of the Constitution and could invalidate the entire process. I don't want to speak too much for Howard, although I enjoy doing that...

ASSEMBLYMAN ALATORRE: He might enjoy your doing it too.

MR. VARNER: He does it well.

Laughter.

MR. GUTIERREZ: One of the things that we were concerned with is that whatever we did at the initial startup process and whatever we continue to do we did it within the constraints of the law to avoid temporary injunctions or things of that nature that would slow down the process.

ASSEMBLYMAN ALATORRE: Let me ask you a question.

MR. GUTIERREZ: Yes, sir.

ASSEMBLYMAN ALATORRE: You are going to have to come to grips with what you have done in relationship to the 20,000-odd licenses. What happens if you find out in the next three or four months -- or somebody finds out for you -- that there wasn't equity in the process that was provided for women-owned and ethnic minority/small businesses. What are you going to do about it?

MR. GUTIERREZ: As a matter of fact, we've already dealt with the issue. The Commission put into a clause in their policy guides the concept of an equity clause. What they said is Chon, build a retail network out there. But if you find that there are certain minority communities of the state -- for example in downtown Los Angeles -- where there are not any outlets, then you go ahead and exceed the 1,250 standard and you add them because what we want to make sure is that while we may not be able to specifically focus on the ownership of the business, we should at least give that community the opportunity to participate in the lottery if that's what they choose to do.

ASSEMBLYMAN ALATORRE: Well, that's all fine. While I appreciate the fact that you don't want to discriminate against communities that might be under-represented and their ability to play or to participate in the lottery, but what happens if you find out, lo and behold that of 20,000 of your licenses -- 80 percent of them are nonwomen-owned, nonethnic-owned businesses. What are you going to do about that?

MR. GUTIERREZ: I think I have already spoken to that issue. That is that on the advice of the Attorney General's Office, if we were to somehow issue contracts based on ethnicity, culture or sex, there would be a serious issue about the constitutionality of that process.

ASSEMBLYMAN ALATORRE: Well, then we are going to get into a real good time. We're going to have a real good time here.

MR. GUTIERREZ: I look forward to that.

ASSEMBLYMAN ALATORRE: Yes, I'm sure you do, Chon. I don't look forward to it because I told you from the very beginning of what my particular concerns were going to be.

Not only am I interested in people going into a particular community and taking out money from that community, I'm also interested in making sure that people of all ethnic persuasions are allowed an opportunity to not just go and buy the tickets, because that's a given. I think you are going to do your -- and hopefully whoever does your advertising is going to be testifying here today -- I'm sure they have done some studies as to who plays. Well, just as a disproportionate number of people that happen to be ethnic and racial minorities play in the game, I'm also interested in making sure that this Commission doesn't just wipe its hands because the Attorney General says -- why we can't be involved in that because we might be in violation of the constitution. I mean that's not good enough for me. That's not good enough for me.

I know you didn't like the standards that we set out. At least the Governor didn't like it. I believe the Commission didn't like it because of what some of us were concerned about. We're going to start getting to the real hard questions in a little bit as to what this Commission has done to at least guarantee that there is more participation -- not less participation -- on the part of people that happen to be small business entrepreneurs, and the experiences that we have seen in other states hopefully, isn't revisited.

Now everybody says, at least my understanding of what the Commission says is that they are interested in making sure that maximum participation take place on the part of small business. What I'm interested in finding out is whether what the Attorney General says that we can't do -- whether that's been an impediment in making sure that small businesses and women-owned businesses and minority businesses -- are participants in that process.

MR. GUTIERREZ: First of all, let me respond to the operational issues and Howard may want to respond to policy issues.

Small business -- there is nothing at all that precludes small business participation. We think we have been very successful in attracting small businesses. I don't think there's any...

ASSEMBLYMAN ALATORRE: Then I don't know who is going to discuss that and maybe that person in charge of affirmative...

MR. GUTIERREZ: Let's move to the next question. How many of these small businesses that are part of the retail network -- and we're very proud of the fact that we have a substantial number of small businesses -- How many of them are owned by women, how many of them are owned by minorities is really the threshold question that you're raising.

ASSEMBLYMAN ALATORRE: That's one question. All right, then we are going to get to the other question of businesses themselves of whether the state is doing anything...

MR. GUTIERREZ: On the contracting side.

ASSEMBLYMAN ALATORRE: Yes, on the contracting side.

MR. GUTIERREZ: But, let me at least respond to the retailer issue. Then I will turn it over to Howard.

The Commission has been very clear in their guidance. There's a failure in terms of accomplishing goals and rests with us as an obligation. The Commission

has told us build a retail network using the standard 1,250 per population. Then they said if you need more outlets, go ahead and add more and do a special recruitment effort if necessary to get more minority firms into the system. We understand that as a charge, but we accept it willingly. The problem that we're having is a procedural problem at this point, Mr. Chairman, is to work within the bounds of the existing statutes to allow us to achieve that goal set for us.

One of the first things that we have to do is we have to go out and canvass the existing businesses that we have to establish where we are. I would hazard to guess that we've got a pretty good representation of women-owned and minority-owned businesses. But, if we don't...

ASSEMBLYMAN ALATORRE: But you don't know for sure.

MR. GUTIERREZ: But we don't know for sure. And if we don't, the commission has been very clear -- go get them. So it's our responsibility to figure out the best way to do that and to avoid litigation on that point.

MR. VARNER: Chon, may I add on that point. First of all, Mr. Chairman, we know we will have a fall out of existing retailers holding licenses. This happens throughout the country where the sales aren't up to the expectations of the retailers, they lose interest, and didn't want to invest their money. But, right now as the chairman mentioned, in the beginning, in the selection of these retailers we used computer runoffs by zip codes.

As an example, my own city, Palisades, 28 retailers could have been there. We have only 11 licenses because there wasn't interest. Now we have our district sales people that are going to be making on-site inspections of each retailer they are responsible for. In doing that, we will then have a better feel of how many of these are small business, how many are women, what their background is and that's what we're on now. They in turn will be charged with the responsibility of going out and seeking other outlets in the areas that they

cover so that we can truly have a representation in all 58 counties in the state -- on ethnic balance and also population balance. This is their charge -- this is the direction the Commission has given them.

Considering our starting up a billion dollar company in not too much time, I think our main objective was to get the thing started in the best way we could. If we had gone and made on-site inspections of each place before we started the lottery, it would have taken as much as two and three months, which would have hurt the return to education. This was a decision the Commission made...

(many people talking at the same time)

ASSEMBLYMAN ALATORRE: I understand that. But, don't tell me how expeditiously you organized the lottery. You guys deliberated on the lottery for a long period of time. Granted the lottery has been successful, but we passed a lottery the same time as Oregon started their lottery and they started a lot sooner than we did.

MR. VARNER: Well, 70 percent of their population is in one city too, sir.

ASSEMBLYMAN ALATORRE: I don't care where it's at.

MR. VARNER: It makes a big difference. We've got 159,000 square miles and a population of almost 26 million. I think more importantly, why don't we compare the startup of our lottery with that of other states? Ohio took 14 months...

ASSEMBLYMAN ALATORRE: I'm not questioning...Look you've done a good job once it was started...

MR. VARNER: I think the record should speak for itself and I think...

ASSEMBLYMAN ALATORRE: I think that once it was started, you did a good job. I have no quarrel with that.

MR. VARNER: ...it was started in a timely manner considering all the problems.

MR. GUTIERREZ: Mr. Chairman, I think that concluded the remarks by my commission chairman. I would like to share with you a little statistical figures very quickly. I would like Lou Ritter then to share with you the lottery operation from the security point of view. Then have Terri Fontenette, our affirmative action officer, share with you our accomplishments in the affirmative action in the areas both in terms of hiring and contracts.

As I said earlier, relative to the instant game, we have just finished Game One yesterday. It was a six week game. We have begun Game Two today. We are not speculating as to how long Game Two will go, but Game One did go six weeks. We put out 393,000,000 tickets into that retail network of 20,500. By standards in the industry in other states, a 90 percent sale of tickets is considered a sell out. If that were to happen in California, we would expect approximately 350,000,000 tickets will have been sold as of yesterday. We will have an actual count in about two weeks. At this time, it is probably safe to say it's hovering somewhere around 350,000,000 ticket sales.

As you know, we have received five responses to our request for proposals for on-line lottery game that we hope will begin in very late spring or early summer. We are in the process of evaluating those RFPs at this time. We hope to be able to make a recommendation to the Commission in the latter part of December, at the latest, hopefully sometime before Christmas.

ASSEMBLYMAN ALATORRE: Let me stop you there. Are you letting out before you let out the on-line...

MR. GUTIERREZ: Outlets?

ASSEMBLYMAN ALATORRE: Yes, outlets -- before you let out the contract. Are you letting out any contracts before that?

MR. GUTIERREZ: Relative to...

ASSEMBLYMAN ALATORRE: Any aspect of the lottery. Whether it is computers, whether it is telephones, whether it's anything.

MR. GUTIERREZ: We have taken the on-line procurement process and separated it into two major components.

First is the on-line telecommunications aspect and the second is the computers and the terminals...

ASSEMBLYMAN ALATORRE: What is the on-line telecommunications aspect?

MR. GUTIERREZ: Telephone lines between the retail outlets and our computer centers.

ASSEMBLYMAN ALATORRE: Now, are the same standards that you are asking of the five that have submitted bids the same requirements being asked of -- I would imagine you're talking about telephone companies, right -- are the same guidelines, whatever extent of disclosure whether it is any of the other variables, are you asking the same thing of the five companies that have decided to bid for the on-line part of it? Are you asking the same type of disclosure for the telecommunications?

MR. GUTIERREZ: The substantive difference between the two procurement processes is that in the case of the telephone lines, for lack of a better term, we are not requiring personal financial disclosure.

ASSEMBLYMAN ALATORRE: Why?

MR. GUTIERREZ: The issue was: Is it required under the initiative? There was a doubt in our mind. It was not clear as to whether it was required or not.

For example, we feel very confident that when we buy pencils and paper that we don't have to require the producers...

ASSEMBLYMAN ALATORRE: No. Wait, Chon. I think there's a little difference between pencils and paper.

MR. GUTIERREZ: No. Let me walk you through the logic. Stick with me. The basic concept that we were trying to establish is pencils and papers do not affect the manner in which the lottery game is played. They are tools. They are extensions of the lottery to allow it to run its operation.

Similarly, we concluded, and pardon me for being overly simplistic, that telephone lines were not unlike pencils and paper. They were hard lines -- there was a wire strung from Point A to Point B that was transmitting electronic impulses that were being sent by a terminal that were received by a computer and were not necessarily involved in the playing of the lottery just like a pencil is conveying a message...

ASSEMBLYMAN ALATORRE: Well, if I follow your logic, then I don't know what you expect the five other people for more...

MR. GUTIERREZ: Let me share with you why we did. Let me first conclude how we came to that position.

The issue was surfaced, based upon our internal legal analysis of it. We did not feel that disclosure was necessary to the same extent as when you purchased a lottery product, i.e. ticket/terminal system. Understanding that the statute was not clear, we referred the matter to the Attorney General's Office for further advice.

ASSEMBLYMAN ALATORRE: If I follow logic, there is a difference between purchasing a computer and something that almost does the same thing as a computer, but because it's hooked from Point A to Point B and I happen to have instruments to play with it, it's different than a computer.

MR. GUTIERREZ: We think it is, yes.

ASSEMBLYMAN ALATORRE: Pretty interesting.

MR. VARNER: Just as the computer ties into the terminals where the player places a bet...

MR. GUTIERREZ: Let me expand upon that a second or so. In a case of a telephone company, in addition to what I have just described to you, they are regulated by the Public Utilities Commission. Their role in our environment is carefully monitored by a public agency in a public forum.

ASSEMBLYMAN ALATORRE: Aren't businesses also monitored?

MR. GUTIERREZ: Not in the same fashion, no.

ASSEMBLYMAN ALATORRE: Well, not in the same fashion because one is monitored by the Public Utilities Commission, but businesses are also monitored by governmental agencies, aren't they?

MR. GUTIERREZ: In a much different aspect, with different disclosure and different (inaudible). As you know, the telephone company cannot set a rate without having to go to the PUC and explain why they came to that rate -- what the costs are -- things of this nature.

I am not aware of any other instance where a business would be subjected to the same kind of scrutiny as their operations...

ASSEMBLYMAN ALATORRE: No, that only has to do with the price. It doesn't have to do with...

MR. GUTIERREZ: It has to do with their operation.

ASSEMBLYMAN ALATORRE: Well, but doesn't have to do with whoever happens to be stockholders and everything else.

MR. GUTIERREZ: Agreed. I'm simply sharing with you the logic that the Attorney General's Office used in coming to the conclusion that the disclosure standards could be applied differently in the case of providers of telephone lines. And now let's shift to the on-line games itself. What is it that we are procuring there?

ASSEMBLYMAN ALATORRE: In other words, the Attorney General makes the decisions for you. You don't have outside counsel, independent counsel outside?

MR. GUTIERREZ: We have house counsel.

ASSEMBLYMAN ALATORRE: Fine. I know you have lawyers.

MR. GUTIERREZ: One lawyer.

ASSEMBLYMAN ALATORRE: One lawyer? You guys are cheap.

MR. GUTIERREZ: Yes, sir. We've got to keep our costs down.

(laughter)

ASSEMBLYMAN ALATORRE: Please, spare me the pain. You do not have independent counsel outside of the Attorney General?

MR. GUTIERREZ: We do not except where -- let me share with you what those rare instances are.

We recently negotiated a contract for a television program. There are relatively few...

ASSEMBLYMAN ALATORRE: You mean that spin program?

MR. GUTIERREZ: Yes, sir. I hope you watch it. (laughter) Good, I'm glad to hear that. We do not have experts in that aspect of contracts.

ASSEMBLYMAN ALATORRE: Entertainment, yes.

MR. GUTIERREZ: Yes. So we contracted with an entertainment lawyer to provide consultant services in that area. With limited exceptions of that nature, we do not retain counsel outside of the traditional Attorney General's Office.

ASSEMBLYMAN ALATORRE: But you have the right to hire outside counsel to represent the Commission under any set of circumstances. You don't have to just rely on the Attorney General?

MR. GUTIERREZ: No. We have to rely on the Attorney General's Office. If the Attorney General's Office believes they do not have the technical impassability to provide the legal advice that we need, they will allow us to go externally.

ASSEMBLYMAN ALATORRE: No. I understand. You mean to tell me that you have to ask them before you seek outside counsel?

MR. GUTIERREZ: Yes.

ASSEMBLYMAN ALATORRE: Where in the initiative is that...

MR. GUTIERREZ: I think that has more to do with the constitution -- the role of the Attorney General vis-a-vis other state agencies.

ASSEMBLYMAN ALATORRE: No. We just acknowledged that you are not a state agency per se.

MR. GUTIERREZ: In many regards we are not.

ASSEMBLYMAN ALATORRE: So in other words, in regards to having to ask the Attorney General, you're a state agency, but in regards to maybe how much accountability you should have with the State Legislature, you're not.

MR. GUTIERREZ: That is correct. That's the way the initiative was written.

ASSEMBLYMAN ALATORRE: That's interesting.

MR. GUTIERREZ: I might add -- I'm sure the chair is aware of this. We also have to go to the State Personnel Board to get civil service positions. As you know, the employees are civil service. The salary levels are set by DPA. We are subject to many of the constraints that government is subjected to, but we are also exempt from any of them in such a way that it allows us to respond much more quickly than would otherwise be to changing environments that we have to face on a day-to-day basis.

We are indeed unique. But we are a part of government. We have a foot in both buckets.

ASSEMBLYMAN ALATORRE: Okay. What's next?

MR. GUTIERREZ: Relative to our organizational structure, we have 12 district offices located throughout the state. Two of those district offices also serve as warehouse distribution centers. One of them is in Whittier and

the other is in Sacramento. Sacramento is the headquarters of the California Lottery.

Organizationally we are set up into four basic divisions and the director's office.

The first division I'd like to speak for a moment about is Field Operations which involves primarily sales and distribution and marketing of the product. We have almost 200 district sales representatives located throughout the state and they work as representatives of our retail network -- one representative to each 100 retailers.

ASSEMBLYMAN ALATORRE: Are they state employees?

MR. GUTIERREZ: They are all civil servants. Yes, they are paid state employees. Secondly, our ordering processors do something that we call Tel-Sell? It's a telephonic telephone ordering service. We have employees that pick up the phone, call our retailers, take the orders. Through a computer process, the invoices are printed in the warehouse. They are packaged, turned over to a contractor, Purolator, who in turn delivers those tickets within 36 hours to our retailers. Running those two warehouses, we have approximately 20 employees.

In the area of marketing, it's an area that's not fully operational yet in a sense that we are utilizing Needham Harper, which is our public relations and advertising company who advises us in the areas of marketing. We are using Scientific Games who is our contractor in the area of lottery startup with the instant game who give us marketing advice.

We hope in the very near future to develop a very strong marketing unit, albeit small to give us the independence that is necessary to be able to make these decisions ourselves.

Security operations -- As I said Lou Ritter is the deputy director and he will speak to that in a moment.

EDP -- We have a data processing center and that deputy director in charge of that is not typical of governmental agencies. Again, we think we're unique in this area in a sense that the bulk of the lottery operation, once we go to on-line, is going to be computer operational. It is going to be the receiving and recording of numbers that is involved here and we have a deputy director there and that operation will grow substantially once we get to the on-line stage. Right now their an intrical part of our operation, but it will become more important in the future.

On the aspect of accounting, the final one, the typical organization that you find in government for administration, accept that this one has prize validation payments. We have a process where we receive the tickets in Sacramento. They are validated to make sure that they are legitimate tickets -- that they are legal. The people who are submitting these winning tickets for payment meet the standards of the law to the extent that we can verify it. We process those to the Controller's Office. Then the Controller's Office issues the check about seven days after we receive them. We have set up a rather sophisticated accounting system that collects the sales from our retailers through an electronic fund transfer process. We've tried as much as we can to automate this entire operation. We handle the traditional functions that a business organization has -- accounting, business services, fleet management. In fleet management alone, we have over 250 vehicles at the California Lottery right now.

In the director's office, we have four individuals that report directly to the director. There's the legal/legislative unit. There's the affirmative action officer. There's a public affairs officer and the internal audits officer. Each of them reports directly to the director.

With that, Mr. Chairman, I'd like to turn the microphone over to Lou Ritter, our deputy director for security to share with us the activities of the security division of the lottery.

MR. RITTER: I came on board July 1st. Assemblyman Tucker, I can tell you that as far as I'm concerned, every message that I have received, I answered within 24 hours.

In reading the law, the Lottery Act itself, I read it many, many times as I came aboard. There were words that kept sticking out and repeated many, many times -- honesty, fairness, and integrity.

Although I have a fair amount of background in vice and related activity -- forgery, bunco, counterfeiting -- those types of crimes that I thought I would be faced with in the lottery. I knew that in order to carry out the charge, I would have to involve law enforcement in the State Lottery. And I would have to obtain the best talent that I could find in the state. I was very, very fortunate in that several hundred -- I'm sure we received well over a thousand resumes -- were received by me and in fact the agents that we did hire had that type of background. I have 50 percent minority on my total staff and my goal for the next increase will be at least that level and they are all highly qualified people. They average 17 years of law enforcement experience each and combined years of law enforcement experience on my staff. The types of people that I have are -- assistant chair in Orange County...

ASSEMBLYMAN TUCKER: Fifty percent minority could be all women.

ASSEMBLYWOMAN SALLY TANNER: How nice.

(laughter)

MR. RITTER: Women are certainly included in that figure -- Blacks are, Browns are -- all races. My Number One chief assistant is Hispanic. I have a female supervisor in charge of the San Jose office. So I have not only meshed within the agency itself, but within supervisor staff as well, at all levels.

ASSEMBLYMAN TUCKER: You can play with those any way you want to though. Like I have 100 percent, double minority in my office because they are all Black and they all are female. So you can play with that one 50 percent minority.

MR. RITTER: I understand. I know you can compare myself with other law enforcement agencies throughout this country, literally and can't come close to matching me with the type of ethnic mix that I have.

ASSEMBLYMAN TUCKER: Ethnic mix. That's what I want.

MR. RITTER: Those agents underwent some stringent things so they can learn what a lottery is all about, including an on-site visit to the printing plant. The went through a computer facility. I have experts from all aspects, not only from this lottery, but from other state's lotteries that came in and provided instruction on what we might expect. All the forms had to be developed. The budget had to be developed and we're on board and we're operating now.

We did a very thorough background of our primary contractor, Scientific Games, when we ascertained them. We are in the process now of doing backgrounds on all of the existing employees of the State Lottery and will continue to do that to all the employees coming on board.

Addition to that, we will be doing background of all retailers statewide and we have made a number of recommendations already for suspensions, irrevocations, and terminations and I can say 100 percent the director of this lottery has supported me in all my efforts to make sure that we do have an honest, fair lottery. I would be happy to answer any questions you have.

ASSEMBLYMAN ALATORRE: Okay, any questions? All right, next?

MS. TERRI FONTENETTE: I'm Terri Fontenette and I'm the affirmative action officer and contract compliance officer and to address Assemblyman Tucker, I have talked to you on the phone...

ASSEMBLYMAN TUCKER: ...I'd like to know how long have you been the affirmative action officer?

MS. FONTENETTE: I've been the affirmative action officer since June of this year.

ASSEMBLYMAN ALATORRE: What's your background?

MS. FONTENETTE: I have approximately seven years with affirmative action-type activities with the various state departments, ten years with the Department of Finance.

ASSEMBLYMAN ALATORRE: It's interesting how most people come from Finance.

MR. GUTIERREZ: Well, I started out working for the Chicano Caucus of the Assembly...

ASSEMBLYMAN ALATORRE: Working for me. (laughter) Look at where you've gone.

MR. GUTIERREZ: (laughter) I'm sorry I disappointed you.

(laughter)

ASSEMBLYMAN ALATORRE: No, no, no. Are you kidding? But it's interesting how so many of them have come -- actually I think it's good -- financial background is extremely important. Go ahead.

MS. FONTENETTE: I'd like to share just a few statistical data on the California State Lottery's workforce.

When I came on board in June, there was a shell staff and by the end of August, we had approximately 300 people on board. As of the end of October, we now have approximately 450. If you count our seasonal help that we're getting right now, it's approximately 550.

Of our workforce, we have approximately 70 percent in a protected group. That includes women and minorities.

MS. FONTENETTE: Both professional and clerical. In the professional positions, approximately 19 percent are Black, 16 percent Hispanic, 7 percent Asian, .6 percent American Indian, .9 percent Filipino, .6 percent other, and about 35 percent women.

ASSEMBLYMAN ALATORRE: I'm interested in the top to the bottom. Tell me the number of Black -- how many do you have?

MS. FONTENETTE: We have approximately 60.

ASSEMBLYMAN ALATORRE: You have approximately 60 of the 450, right?

MS. FONTENETTE: 308. That would be the professional. We're talking about just the professional categories .

ASSEMBLYMAN ALATORRE: All right, so you have 60 of the 308. You have how many Hispanic?

MS. FONTENETTE: 48.

ASSEMBLYMAN ALATORRE: 48 Hispanics of the 308.

MS. FONTENETTE: 22 Asians.

ASSEMBLYMAN ALATORRE: 22 Asians.

MS. FONTENETTE: 2 American Indians.

ASSEMBLYMAN ALATORRE: In other words, less than 50 percent of them...if you add them all up you have...

MS. FONTENETTE: About 45 percent of our professional staff is women and minority.

ASSEMBLYMAN ALATORRE: (inaudible) ... what percent are minority?

MS. FONTENETTE: 45 percent. Women are 34
(inaudible)

MS. FONTENETTE: 19.5, 16.0, 7.1.

MR. GUTIERREZ: No, the raw numbers.

MS. FONTENETTE: 60, 48, 22, 2, 3, 2.

MR. GUTIERREZ: And what's the universe?

MS. FONTENETTE: 308.

ASSEMBLYMAN ALATORRE: That's a long way away from 50 percent.

MS. FONTENETTE: 24 percent. As a whole on our staff, 45 percent are made up of minorities as compared to state average of 53.3. So we feel that in the short timeframe that we have, that we are progressing satisfactorily in the hiring of minorities and women.

ASSEMBLYMAN ALATORRE: What's the highest ranking Hispanic besides Chon?

MS. FONTENETTE: The highest ranking Hispanic is a deputy director.

ASSEMBLYMAN ALATORRE: Which is Chon.

MS. FONTENETTE: No. He's chief deputy. She's director of game operations.

ASSEMBLYWOMAN TANNER: How about women?

MS. FONTENETTE: Women in our top management...

MR. GUTIERREZ: Hispanic female is deputy director of field operations...

MS. FONTENETTE: Then we have several women managers right underneath.

ASSEMBLYMAN ALATORRE: How about Blacks?

MS. FONTENETTE: Blacks at the current time -- we don't have any exempt Blacks, but I am part of the executive staff.

MR. GUTIERREZ: The highest ranking Black employee in the lottery at this time would be a district supervisor of the sales operation, Mr. Braxton, out of the Anaheim office.

ASSEMBLYMAN ALATORRE: Okay. Now let's talk about the economics of the minority community. Tell me what you are doing for minorities as far as where the money is in contracting or subcontracting.

MS. FONTENETTE: We're taking a look at our contracts which has been in a short timeframe. We are pretty satisfied that we are progressing satisfactorily. Of the contracts over \$100,000, we have paid to date

approximately \$12 million to the prime contractors. Of that \$12 million, approximately 4 percent has been contracted or subcontracted out to minority firms. Most of the accounting and the bills have not come in as yet. But we feel we can juggle that figure by the time of our first year.

MR. GUTIERREZ: If you'll allow me to elaborate on that point, Mr. Chairman, we have taken a quick survey in identifying six major contracts that we have let in excess of \$100,000 with the exception of the lease arrangement that we entered into for the acquisition of the buildings. Of that amount of money -- approximately \$67 million of those contracts -- approximately \$5.1 million of that is going to minority firms in California -- \$5.1 million. That is 7.8 percent.

ASSEMBLYMAN ALATORRE: Let's just go down. Accounting you have a Hispanic because I have seen them on TV.

MR. GUTIERREZ: Quezada Navarro.

ASSEMBLYMAN ALATORRE: Security is non-minority, right?

MS. FONTENETTE: Security 50 percent minority subcontracted
(inaudible)

MR. GUTIERREZ: We characterized the security firm as a joint venture involving two firms that have merged together. One of them is minority owned and the other is not.

ASSEMBLYMAN ALATORRE: What are you doing for Asians?

MS. FONTENETTE: Asians? As part of the advertising contract, there have been contracts let to Asians for their...

ASSEMBLYMAN TUCKER: What's the highest one in your administration? What's the highest Asian?

MR. GUTIERREZ: Highest ranking Asian would be a division chief in the financing and accounting area.

MS. FONTENETTE: An accounting administrator. (inaudible)

ASSEMBLYMAN ALATORRE: Now do you think what you have up to now is adequate?

MS. FONTENETTE: Well, we feel there is always room for improvement in...

ASSEMBLYMAN ALATORRE: Well, look...

MR. GUTIERREZ: Yes, we feel we do...

ASSEMBLYMAN ALATORRE: If you were to tell me that you are doing an adequate job, I will tell you that you are a long way off. But go ahead.

MR. GUTIERREZ: We are satisfied with our performance to date. We feel we have accomplished a great deal in a relatively short time period since we've had Terri on board. Terri has been with us since June. Terri was hired at the request of the Commission -- Be sure to get a competent able individual that would adequately represent the minority communities and make sure that individual has a small role in the contracting process.

Terri has gotten guidance from other control agencies, i.e. General Services, Small Business Administration Division. Their advice is keep pushing. At the beginning of the process you will be at about 50 percent of where you want to be. And by a year from now, you should be able to start some averages and exceed those averages in other departments.

We feel that in the area of hiring, we have already become the number two agency in the entire state government, if not number two in all categories -- two or three as far as affirmative action hiring is concerned.

As far as subcontracting is concerned, we have some improvement to make, but we still are nonetheless very pleased with our accomplishments to date.

ASSEMBLYMAN ALATORRE: We will be listening to other people. I guess there will be other people that are probably going to say the contrary. That's why I think it's important if you could stay here -- in case we have to bring you back to answer any of the concerns.

Because let me tell you something. I am not very happy with what you have done up to now. And I obviously, think there are a few members of the Legislature that are extremely concerned about what you have or have not done as it relates to small business men and women in the process of the lottery.

Not only do I believe that we are going to be good ticket buyers, I believe that we should share in the economics of the lottery. The largest contract, obviously being the advertising contract of \$22 million. Next to that is the \$5 million contract and the printing. I am sure none of it went to any ethnic or racial minorities.

MR. GUTIERREZ: The representative from our advertising agency is here...

ASSEMBLYMAN ALATORRE: Oh, I know that. I asked them specifically to be here.

MR. VARNER: In the case of the printing of the tickets by Scientific Games, all ticket deliveries have been made by a women-owned trucking firm. I don't know to what other extent, but I know that for a fact.

ASSEMBLYMAN ALATORRE: Do they even print them? Do any minority companies print the tickets?

MR. VARNER: No.

ASSEMBLYMAN ALATORRE: Right. That's a \$40 million contract.

MR. VARNER: The delivery of the tickets is all accomplished by a women-owned trucking company.

ASSEMBLYMAN ALATORRE: Great. I real happy about that. Anything else?

MS. FONTENETTE: Unless you want us to...

ASSEMBLYMAN ALATORRE: Well, I'm sure that we might have some other questions. But thank you. Chief, it's always good seeing you.

ASSEMBLYMAN TUCKER: When you go through the initiative process, there is a little arrogance and there is a little tendency to be flippant. You were not.

MR. GUTIERREZ: Thank you.

ASSEMBLYMAN ALATORRE: But I want to tell you that there's always a possibility if we find something wrong that we will start another initiative to correct it. I just want to tell you these things. We are going to be looking at your operation. I am going to look at it because I intend to remain on this committee and I have been here for quite some time. I don't see any possibility of leaving it. I am going to be watching those people that you have allowed to sell in my district and those people you have not allowed to sell tickets in my district. I don't think that has been fair at selection time of the retailers. I will be calling and giving you folks my opinion on these things. You know this is a two-way street. We want to work with you and we certainly want you to work with us.

MR. GUTIERREZ: We certainly plan to work with you and will be happy to work you in any way we have control.

ASSEMBLYMAN ALATORRE: One last question before Ms. Tanner. I have a question. Is there anything in the initiative presently as it is now the law of the state -- part of the constitution -- that you feel if you had an opportunity you would you change, modify, or strike out in total?

MR. GUTIERREZ: From an operational point of view, there are two areas that we are concerned with and they have varying degrees of importance, obviously. The first is we will be working to develop some kind of omnibus cleanup bill that is primarily technical to make sure that the extent of the initiative is clear. That's not a very substantive issue. If we get that done in the next legislative session, that's fine. If we can't we're prepared to live with the statute that exists.

But the most important aspect of the initiative is the entire matter of disclosure. A great deal of the attention involved bear on that subject in the

legislative arena. You offered a bill, Mr. Chairman, that addressed that issue. There was another bill that addressed the issued, unfortunately was flawed and did not become law.

What we are finding, however, is that you did have five proposals for the on-line program from five excellent companies -- reputable firms. They were able to meet the disclosure requirements and we are very pleased about that.

We have, unfortunately, been very unsuccessful at acquiring another type of service. That is from CPA firms or firms involving large board of directors or large partnerships. CPA firms have 800 partners and they find it impossible to disclose and therefore, were not able to take advantage of the professionalism that exists in that industry and allow us the experience.

Secondly, we, as you know, attempted to enter into a contract with Stanford Research Institute, a nationally known organization -- experts in the area of lottery startups. Unfortunately, because the board of directors includes many retired individuals, emeritus, people of that nature, that are required under the initiative to disclose. They simply were not able to in the time constraints that we were operating under.

Lastly, there's the Potell Institute out of the Midwest -- another equally known research center not unlike SRI -- they were very interested in doing business with us. But they, too, are managed by a board of directors, (inaudible) association, an endowment, trust of some kind and they act as trustees. The law required them to disclose. They too would have like to disclose, but time was such that they just couldn't do it.

So disclosure continues to be a problem. It was a problem. It was a problem and since we only got one bid for the instant ticket printing RFP that we put out, it does not affect the same as the on-line area, but it continues to affect it on a daily basis in terms of getting highest specialized consultant services from companies.

ASSEMBLYMAN ALATORRE: Would you support the legislation if it's reintroduced, cleaned up that one flaw in it, would you once again support the legislation attempted to provide some basic cleanup to the lottery initiative that we had before the Legislature last time around?

MR. VARNER: Insofar as the first two disclosures that you speak of?

ASSEMBLYMAN ALATORRE: As it pertains to many other things that the commission was interested in getting besides the disclosure.

MR. GUTIERREZ: If I recall, Mr. Chairman, there were a variety of different issues that were contained in that bill, including such issues as requiring the Commission go through the Administrative Procedures Act which change the manner in which public hearings could be held. It did a substantial amount of operational things that the lottery, which I believe that is a matter of policy the Commission did not feel necessary or important...

ASSEMBLYMAN ALATORRE: Wait. SB 35, with a minor exception which was an error, you were involved in the drafting of it along with my consultant and myself.

MR. GUTIERREZ: Let me respond specifically to your question. I think the Commission and the lottery itself would support legislation that would modify disclosure requirements. Categorically we support it.

ASSEMBLYMAN ALATORRE: Next. Excuse me. Ms. Tanner. Let me introduce to you Assemblywoman from El Monte, Ms. Sally Tanner and also Mr. Nolan Frizzelle.

ASSEMBLYWOMAN SALLY TANNER: Yes. Mr. Chairman, it's just a statement about those businesses who had tried and were turned down.

In El Monte there is a Food Stamp store downtown and they are selling lottery tickets. And when I heard that they were selling the lottery tickets, I was rather amazed. The day after the first day of the sales, there was a big sign on the window saying, "Sold out." I was appalled by that.

I have heard from others who have applied and were turned down. It doesn't seem very reasonable. How do you chose?

MR. GUTIERREZ: If I may, I'd like to have Howard share with you what he asked me to do at the last commission meeting and then I'd like to respond to both you and Howard.

MR. VARNER: As a member of the commission, I was concerned and directed staff at our last meeting to explore what they would use to prevent a store that was selling these stamps also to sell lottery tickets. We have some very tough legal problems to overcome.

In the interim, we asked our district sales people to go and talk to them and tell them it is not the desire of the Commission to sell any purchases of Food Stamp lottery tickets. We couldn't enforce it legally. We could not -- we were told in setting the guidelines for selecting retailers -- that we could not discriminate against the types of places and specifically saying that anyone who sold Food Stamps could not be an outlet for the lottery.

This was advised by counsel through the Attorney General's Office. I don't like it. We're going to see what we can do, but I can't promise what we will do.

ASSEMBLYWOMAN TANNER: And you don't discriminate against any business?

MR. VARNER: No. See there are several things we used in the development of the criteria. One was the hours of operation, days of the week, how many days they are open, number of transactions, foot traffic, parking, security, those are all elements that we had to rate on all retailers. We had to rate them on an individuals basis.

ASSEMBLYWOMAN TANNER: What about the number of pawn brokers who were turned down? Is there a reason for that?

MR. GUTIERREZ: Foot traffic I would guess. For example, convenience grocery stores have a lot of people going through them tended to be the ones that got the outlet. My guess is pawn brokers tend to be in the downtown area. They don't tend to exist in the suburban area and therefore, would be competing with downtown convenience grocery stores with high walk-in traffic. I would guess their walk-in traffic...

ASSEMBLYWOMAN TANNER: Well one of the local pawn brokers was very close to a Food Stamp store...

MR. GUTIERREZ: I bet a lot more people walk in to a Food Stamp store than the pawn broker and what the chairman is basically saying is -- based on the computer, the computer did not distinguish as to the type of business but simply the number of people that visited that business.

MR. VARNER: Ms. Tanner, we indicated earlier that our district sales people now are in the process of actually going and inspecting each location and filling out reports to see if they are meeting the criteria that we have set as a Commission. We are in that process now. The original was done by computer; now we're doing on-site inspections.

MR. GUTIERREZ: The chairman of the Commission asked us a long time ago to develop an issue paper on incompatibility of businesses because there are concerns being expressed in different parts of the state about Food Stamps, in some cases, adult bookstores, for example. There are other instances where there are retail outlets that are located very near a high school where you might get some confusion about the age of the individual buying tickets.

So the chair and the commission asked the lottery to begin to develop some kind of a process where we could guarantee equal protection to all retailers, but then begin to recognize the differences in businesses and trying to find those that are appropriate and those that are not in effect by the (inaudible) number.

MR. VARNER: Mr. Chairman, before leaving, on page 1 of the Briefing Paper, I noticed the indicated sales of \$3 billion by November I believe in '86. I think that should be corrected because our estimates of sales for fiscal year starting July 1st of '86 to June 30th of '87 is in the area of \$2 billion.

I wouldn't want someone standing around \$3 billion and being judged against that number...

ASSEMBLYMAN ALATORRE: We are going to judge you on that number.

(laughter). All right. Ms. Dolores Sanchez

MS. DOLORES SANCHEZ: I think it's still good morning. Honorable committee I want to thank you for the opportunity to address you this morning, even though I find myself at a slight disadvantage. I'll explain why later.

I am the chairperson of the California Hispanic Newspaper Publishers Association which reaches approximately a million readers a week throughout California. In addition, I have picked up someone else to voice concerns for and that is the Asian Newspaper Alliance which probably reaches close to a million readers a week in California. So as you see, that's a substantial number of Californians who read these weekly community newspapers. I will stress the fact that they are community newspapers. Therefore, they reach areas which are rarely, if ever, reached by the large metropolitan dailies and they may or may not view any particular television networks whether in Spanish or English. They are quite diverse except in one area and that is the people they reach have heavy concentrations of either Hispanic or Asian readers.

As I said, I feel at a disadvantage because there has been something ongoing since the Lottery was first started in California. And that is that there is a breakdown in communication. There is a lack of access of information by these communities to opportunities for contracting. Even opportunities to become retailers. There were several ads put in by the Commission when they were

computing, but it seems to me that if a major effort is going to be done to acquire disadvantaged small businesses to contract with the Commission, this will have to be done through publications such as ours.

Now I can't believe that when the voters of California decided that they wanted a lottery that they in any way intended to put government into private business to start a lottery aside from the government to keep it under control. I just don't see that rationale ever entered into the California voters decision to really establish a lottery.

Now we have been good soldiers. We understand that \$22 million contract has been awarded, Needham Harper Worldwide. We have tried in many ways to contact Needham Harper, and by the way, Needham Harper contacted us. I'll tell you how they contacted us. They sent us all promotional packets on the lottery and have asked us to do something such as bringing information into our community free when they haven't done that with the large metropolitan dailies. So we just feel that it is unfair to ask us to do something for free when others are being paid to do it -- especially since, as I said, we are all small business people and have a low profit margin.

Again, I just don't see how you can worry so much about outlets in a given community -- about the opportunity to take that public's money and yet feel no responsibility at all as far as giving them access to information about the lottery -- about some of the good things that the lottery will provide to California -- not only for education, but for business. I just don't see why small business should be excluded from that opportunity.

It just doesn't really make sense provided the fact that small business -- if you look at a recent survey conducted by Crocker Bank -- small business provides the hope of employment here in California. It doesn't really make good economic sense and I was glad when Assemblyman, probably Councilman, Alatorre

decided to stress the economics because they are extremely important to us as they are to anyone else.

ASSEMBLYMAN ALATORRE: I don't know how much of an understanding you have of the way that the advertising of the Lottery is functioning, but has either your newspaper or have any of your members of your association had any relationship up to today with Needham Harper Worldwide company? Have you had any communication whatsoever? Have they done any business with any of your affiliates that are part of your association?

MS. SANCHEZ: No, sir they have not. Our dealings with Needham Harper are to this extent -- that as I say most of us probably sent our promotional material to them, they did send us their PR packet to run information on the lottery. In fact I hear things like the lottery will soon stabilize. Well, we don't want it to stabilize without us. We feel that we've been slow in really reaching a point where we were really determined to do something about it.

One of the things that the association did was to send off a letter to the Lottery Commission because we felt that the Lottery Commission is the one that will formulate policy. And that Needham Harper Worldwide, while getting the contract, must follow the directives of the Commission when there was policy.

ASSEMBLYMAN ALATORRE: What response did you receive from the Commission to your concerns?

MS. SANCHEZ: I received a call from Ms. Terri Fontenette who set an appointment for tomorrow which has been cancelled. We hope to meet today. But in addition to that, I received a call from someone on State Senator Art Torres' staff, asking what assistance there could be. And I asked him first, I understand that there is a subcontract which will be awarded a minority agency or small agency to do outreach into the areas of our concern. Then, the gentlemen proceeded to try to reach Needham Harper Worldwide. He was told that

an agency had been contracted. We in turn decided to try and reach this agency. I have found out since that this agency is really nonexistent. It is in the process of being formed for the expressed purpose of subcontracting and we were given a number that is an answering service, so we have gotten no further on that.

I got confused about that since there are quite a few minority agencies which are now in existence who have a track record and I couldn't understand why they had not been contracted with. So that's as far as our dealings with both the Lottery Commission and Needham Harper have gone. It is an amazing thing for small businesses to get themselves together and to try to really break the veil of noninformation that is emanating from the Commission as they have said. They receive many calls and they are not easy to reach. Neither is Needham Harper to the extent that they would sit down and talk with us. Perhaps we can come to some arrangement.

You can't tell me, looking at the winners -- by the way that show on television bombed -- it didn't get over 22 percent of the viewing audience. So even that wasn't that great. But, you can't tell me that there isn't a need to provide information to areas such as the ones that we represent. If you look at the winners and the people who have gone on to try to win the \$2 million, they are usually not in the \$29,000 to \$30,000 a year category.

If the affluent don't need the lottery, it's the people who are non-affluent who are going to try to make it rich quick. Of course in our community, the Hispanic community, the Asian community, you must understand that there is a familiarity with the process of the lottery -- most of our people come from communities who have experience -- we call it "la loteria." So there is that recognition of how a lottery should work.

ASSEMBLYMAN ALATORRE: In other words neither you nor anybody that is affiliated with your organization to your knowledge as either received or done business with the advertising firm that is in charge of the lottery. Is that correct?

MS. SANCHEZ: No, sir.

ASSEMBLYMAN ALATORRE: Do you know of any Hispanic, Black, or Asian -- whether they be newspapers or any other media outlet -- to your knowledge if they have done any business with any of those outlets?

MS. SANCHEZ: Yes. They contacted La Opinion because it's a daily newspaper here in Los Angeles and has done business with Needham Harper and has received advertising from them. But you must understand that, for instance in our area, only 15,000, if that many copies, and we have a population of 225,000. Because of the nature of my business, I cover my community pretty well and I have stopped by many of the outlets and have heard actual arguments of people who wanted to start playing the new game and they just couldn't figure out when, why, or where. That tells me that there is a large information gap. Many of the people didn't know how to play the first game. There wasn't information out there. And it will continue as long as the outreach that is being stressed now continues.

ASSEMBLYWOMAN TANNER: I'm very curious about the fact that there is a nonexistent small business that is just beginning to gear up. I really resent that. I wonder how we can find out about that.

ASSEMBLYMAN ALATORRE: Well, we're going to have the representative of Needham Harper here...

ASSEMBLYWOMAN TANNER: It sounds like such a setup to me...

ASSEMBLYMAN ALATORRE: Is Brad Fornaciari here?

ASSEMBLYWOMAN TANNER: I'd like to know about that...

MS. SANCHEZ: I'd like to know too because we would like to know who it is we reach. Who it is we talk to about doing some advertising? I just don't think that's out of line.

ASSEMBLYWOMAN TANNER: I don't think it's out of line at all -- insisting businesses that our retailers in communities certainly should get the contract. If there is a contract to let. It startles...

MS. SANCHEZ: I don't want to put them in a position of saying that this person is starting this agency is incompetent because I don't know. I think that is the infuriating part of it...

ASSEMBLYWOMAN TANNER: There are existing agencies and there's no reason in the world to -- it sounds strange to me. I do want to find out more about it.

ASSEMBLYMAN ALATORRE: Are there any other questions? Is there anything else Ms. Sanchez?

MS. SANCHEZ: No.

ASSEMBLYMAN ALATORRE: Very good. Thank you very much. Maybe you could just stay around because Mr. Fornaciari will be up very shortly. All right, Loring Emile, President of the Southern California National Business League. Is that correct?

MR. LORING EMILE: Good morning honorable elected officials. I think that I came in late and didn't hear previous testimony. But the story that I have to tell...

ASSEMBLYMAN TUCKER: We are taping. I'd like for you to give your name and who you represent for our tape.

MR. EMILE: My name is Loring Emile. I'm president and CEO of the Southern California National Business League. We are located in Los Angeles County in the City of Inglewood.

Again, I came in late and missed some of the previous testimony and information that was presented to this committee, but our position has been fairly clear. We have from a degree looked at the lottery with the expectation that this was a new industry in California. It's a multi-million dollar industry that is being developed in California. It is a private industry with a state commission that acts as a board to sanction the activities and to monitor the activities of that private industry. Then that private industry ought not to be any different than any other new industry that comes into the state of California.

But we have a unique opportunity here. That is the opportunity for those minorities who are interested and have the technical skills and the ability -- whether they are professional skills or technical skills, whether they are providing greater services that are in a wide range of activities -- they ought to have an opportunity to get into this new industry on the ground floor level.

This is not an exclusive game that belongs to anyone who wants to come in except Blacks, Chicanos, Asians, and other ethnic groups. It's a new industry. It's sort of like a game being at the beginning of the drought in California when they decided that they were going to have certain kinds of industries here. People got in on the ground floor. It's the gold rush of the 1980's, if you will.

What we have here is an opportunity for those people who are not able to get into the aerospace industry building airplanes and being major vendors and contractors, an opportunity to get into the process. And if the lottery Commission, and if those folks who are carrying out the business of the lottery -- the owners of the corporations that are producing the lottery in the state of California -- begin to understand that their role is no different than McDonald's, no different than Coca Cola, no different than Burger King. No

different than any other major corporation that plans to do business in the state of California. There is a fundamental concept that's involved. One is called participation and the other concept is called fair share.

I expect that the Lottery Commission and that the elected officials who are responsible for protecting our interests in seeing to it that the lottery board protects our interests and will see to it that these people operating the lottery understand that we are very serious about our concept of how this program ought to be implemented and to discontinue, if you will, the exclusionary practices that currently exist.

That is basically what I have to say in connection with this meeting.

ASSEMBLYMAN TUCKER: Any questions from the members? Thank you, Mr. Emile.
Mr. Louis King, President, K Systems and Technologies, Inc.

MR. LOUIS KING: How are you there?

ASSEMBLYMAN TUCKER: Fine, thank you.

MR. KING: My name is Louis King. I am the president of K Systems and Technologies, former director of the board for the Black Business Association of Los Angeles. I want to thank you for the opportunity to testify.

As you will recall, on the 25th of March, I was invited up to Sacramento by Assembly Person Alatorre to testify before this very committee. At that time, I testified upon the 30 percent minority participation and at that time that committee did vote that it be placed into Senator Dills' bill. At no fault of this committee or or the other participants, and no fault to the over one thousand letters that were written by the various minority associations in the state of California, we lost the vote. But the rationale used for this 30 percent minority participation is the same. I feel strong that there should be some minority percentage placed upon the minority participation.

The question was asked what particular information can we bring that would be legislative and may be placed as a legislative bill.

Upon award of the contract to the prime contractor -- to any one of those five -- or any for the advertisements -- there is a law that has been passed by the federal government 95-507 where it is a law that states that the major aerospace firms upon getting their aerospace contracts, must identify minority participation. That particular law has not worked very successfully mainly because there has been no one monitoring that law after awarding that contract.

My bit of legislation that I would like to recommend is that upon the prime contractors being awarded a contract, that they must initially and at a certain time period, semi-annually, update this minority participation plan. That is the duration of their contract. This plan should identify the number of minority subcontractors that they are using. They should describe the tasks being performed by each of these subcontractors. The dollar amount being allocated to each of these subcontractors. Also the plan should identify any training or upgrading or qualification of the subcontractor personnel. Authorization should be given to the lottery compliance officer, Ms. Fontenette, to monitor the progress of these contracts after they are awarded. So often after contracts are awarded, they find reasons to take them away from the non-minority contractor -- legitimately so or not legitimately so. I'm saying that that plan should be constantly updated to assure that after the award of the contract that minority participant is still part of that contract or another one is made part of the contracts.

That contractor should be notified of his deficiency and given a proper time to improve his deficiency. After that time, if he does not improve its deficiencies, in minority participation, you should be penalized monetarily or not be considered for the following effort. I think this is very, very, important.

Last, those successes of our California Lottery minority participation should be made public. The reason for making this public are first to let your fellow legislators know that minority participation programs do work and that information should be passed on to others so that the next time it comes up there will be cooperative results.

More important, I think that by making this information public, it would encourage minority contractors to bid on California procurements. This state has a very poor record on obtaining minority participation in any contract. True they have a 5 percent set aside, but that has limitations. The limitation on dollar value. And really does look discouraging. The federal government has a very good transaction and a very good program such as the ABA program for minority participation and I think that by letting that be known, I think you will get a better caliber of minority contractors who will bid on California jobs.

I think it should be made public if it is successful and let more minority contractors know that the state of California does care about the minority contractors.

ASSEMBLYMAN ALATORRE: Do you feel that the level of minority participation up to now has been good, bad...

MR. KING: If you recall, you were not here -- you invited me up to participate in your hearing and at that time we discussed the 30 percent participation which I said at the time 30 percent may be a little high. The state of Ohio had 15 percent, Washington, D.C had more than that if you can get it. They voted upon numbers. The state of Washington has a minority bill. I felt that we could negotiate the 30, but the bill went. It wasn't even possible to negotiate it. I spoke to Ms. Waters that we'd be satisfied with 10 if we could have gotten 10.

ASSEMBLYMAN ALATORRE: Well there was one fundamental problem. We we were trying to get votes and a clear statement on the whole question of minority participation and we couldn't get the other side of the aisle...(inaudible)

MR. KING: Thank you.

ASSEMBLYMAN ALATORRE: Thank you very much. All right, Mr. Skip Cooper.

MR. SKIP COOPER: Thank you. Good morning. Personally I would not have been satisfied with 10 percent even though 10 percent is higher than...

ASSEMBLYMAN ALATORRE: If you could give us your name for the record.

MR. COOPER: I'm sorry. My name is Earl Skip Cooper, II, President of the Black Business Association of Los Angeles. I would like to thank this body for allowing me to speak to you this morning.

As I stated as I walked up, I personally would not have been satisfied with 10 percent even though 10 percent is a higher number than has been achieved thus far. We feel that in the state of California with the numbers of minority citizens and minority business, that 30 percent is, was, and can be obtained, if those opportunities are given.

We have a number of concerns in terms of identifying those minority firms who claim to have received contracts as a result of the Lottery. They have been very difficult for us to tie down to insure that they indeed have been a minority prior to doing business with the Lottery. As you heard earlier, a firm that is in the process of being developed is being included in minority goals and we have problems with that.

In the briefing paper, on page 5, it states that the number of minority preference points varies from contract to contract. It also stated earlier that 5 percent is in the point system for minority participation. We would like to have included -- "the number of minority preference points varies from contract to contract but should never fall under 5 percent." Because the way reads, it

might be able to slide in 1 percent, 2 percent. We feel that again that's an injustice to minority business firms in California.

We also are concerned and would like to get some understanding if affirmative action guidelines will be applying to the upcoming communication contracts because that's the largest contract that the lottery will let and it's very important that affirmative action guidelines and minority business participation be included in that large contract.

ASSEMBLYMAN ALATORRE: When you speak of communications there are two phases of this.

MR. COOPER: Both. I'm looking at both.

ASSEMBLYMAN ALATORRE: That's a good question. Mr. Gutierrez, could you just sit up here and maybe you could answer that because I neglected and I apologize for it. In the two contracts -- I guess there are two phases -- one is communications the other one is the computer. Are there any minority or affirmative action guidelines that are set on first, the communications contract and I guess it's the phone contract? Is there anything in that that deals with affirmative action and then on the second also?

MR. GUTIERREZ: Clearly in the case of the telecommunications contract we do require that they comply with all applicable federal and state standards as they apply to hiring...

ASSEMBLYMAN ALATORRE: How about in terms of subcontracting?

MR. GUTIERREZ: I don't think there is a specific provision in there for that purpose because as I said we're buying telephone lines from Point A to Point B.

ASSEMBLYMAN ALATORRE: Yes. But you're also buying equipment. You're also laying that equipment. It's just not the purchase of the equipment -- it's who you purchase it from, who lays it, who does the construction work for it, who

provides the instruments for it -- all of these questions. ..and who maintains it.

MR. GUTIERREZ: But in this case, we're talking about Pac Bell and...

ASSEMBLYMAN ALATORRE: Oh, it's a sole source contract?

MR. GUTIERREZ: We ended up with three contracts -- Pac Bell, MCI, GTE.

ASSEMBLYMAN ALATORRE: So in other words, what you're saying is that there were no guidelines that were required that Pac Bell or any of the other phone companies had to live up to.

MR. GUTIERREZ: In this particular contract?

ASSEMBLYMAN ALATORRE: In this particular contract.

MR. GUTIERREZ: Because of the nature of the contract.

ASSEMBLYMAN ALATORRE: I don't care what the nature of the contract is. The fact of the matter is it's not just a simple piece of cable from one point to another. You are talking about people that lay the cable, you are talking about people that provide the cable, you are talking about instruments that are necessary. All that I'm saying is that somewhere down the line, there must be somebody because I know there's a lot of companies that lay cable, that happen to be women-owned or minority-owned business. So it's not that simple.

MR. GUTIERREZ: As a matter of policy, we do not dispute what the chair is basically saying...

ASSEMBLYMAN ALATORRE: But as a matter of policy you didn't do anything...

MR. GUTIERREZ: In this particular contract. We did take exactly that analogy and we go to the advertising contract and we emphasized that at that point -- I think it was 20 percent, Howard.

ASSEMBLYMAN ALATORRE: Wait. They're next so we are going to get to them...

MR. GUTIERREZ: No. Just in the selection there are steps in the selection -- 20 percent of the evaluation process was based on the firm's commitment to

affirmative action goals, both in terms of hiring, but more importantly subbing out, because we felt clearly that there are lots of Spanish-written newspapers, television stations, radio stations, Black community. There's plenty of publications, and we certainly thought that this was clearly an area where the opportunity existed to do exactly what Skip was talking about -- to grant the opportunity to the people that come in and then participate.

ASSEMBLYMAN ALATORRE: Well, I guess the answer to that question is no. All right, continue on.

MR. COOPER: In regards to minority participation, there are a great number of areas where minorities can participate such as courier services, lease rental, bill service, printing, office furniture lease, data center management, electronic supplies, office supplies, computer supplies in terms of the ribbon.

I think we have testified before the commission in the state of Ohio which has a 15 percent minority participation guidelines. A minority firm had the contract for computer ribbon. In one year, they did between \$5 and \$6 million. We feel that if a minority in the state of Ohio can do between \$5 and \$6 million in computer ribbon, they can do fairly well in Southern California alone. We're talking about business opportunities. We're talking about long-life business opportunity because the lottery will be here for a while.

Janitorial supplies, micro computers, insurance, legal services, travel agencies, on and on and on. The business opportunities are there and if this body, the State Lottery Commission and the State Legislature, do not make it possible, then we will be excluded.

I would also urge this body to reintroduce SB 35 . The Governor vetoed it because a "T" wasn't crossed and the "I" wasn't dotted -- something like that. We need your support. We need it to be law and need the Lottery Commission to make it policy. Good intent isn't about anything. We need to have it as policy

because if any of you have ever just bet on a good intent basis, that has been one of the detriments of minority business being able to participate in this economic system on good intent. It will not happen, it has not happened on good intent.

By the way, I bought a copy of the Los Angeles Sentinel and I did not see anything in regards the lottery. Thank you.

ASSEMBLYMAN ALATORRE: All right sir. Thank you very much. Mr. Frizzelle did you have a question. I'm sorry.

ASSEMBLYMAN FRIZZELLE: I guess it's more to you than anyone. It seems that the testimony we have had so far doesn't address the business of discrimination aboard the areas that we're talking about. We have employment within the Commission. In one instance we have contracting or subcontracting, we have the participants as far as selling the tickets are concerned -- retail outlets. In many circumstances it seems like the Commission has actually exceeded the 30 percent level your bill sought to put in place.

ASSEMBLYMAN ALATORRE: But they can't qualify that. They can't qualify as it relates to...

ASSEMBLYMAN FRIZZELLE: Well, that's what I'm pointing out -- the business of what it relates to -- I think we almost have to identify where the loose ends are...

ASSEMBLYMAN ALATORRE: But then they can't answer that.

ASSEMBLYMAN FRIZZELLE: Well, that's true. In order to address....as far as the contracts that are let and all that kind of thing, I suggest you need to identify the specific areas where there has been either no effort or moderate type of effort or a successful effort to address the issue of the problem.

ASSEMBLYMAN ALATORRE: Well, that's what we're trying to identify.

ASSEMBLYMAN FRIZZELLE: But I'd like to have broken into what area of nonparticipation exists. In the business of selling tickets, that's probably true. We had explained to us the fact that foot traffic or the number of customers, the number of potential for the sales, is the primary criteria rather than the nature of the background of the individual doing the selling.

ASSEMBLYMAN ALATORRE: Let me just say that nobody is going to tell me that -- and I don't think the Commission would even say -- yes, while that was a requirement, at no time did the Commission go on a business by business basis to determine who had more traffic than somebody else did.

ASSEMBLYMAN FRIZZELLE: I think they did state that that was done. And it was done by computer. Now they are doing it by individual businesses.

ASSEMBLYMAN ALATORRE: They're doing now to enforce.

MR. GUTIERREZ: Perhaps I wasn't clear. When we first selected the retailers, the application forms contained three pieces of information that we asked them to provide us. We call it the Three T's.

Traffic -- how many people physically come into the facility. The time that the business was open and lastly the number of transactions.

Because we felt that based upon standards of other states, that those three ingredients were the single most important ingredients in getting successful retail outlets. We programmed that into the computer and then we established certain standards -- for lack of a better word. Twenty-four hours is the optimum amount of time that a business should be open. So we assigned the value of 100 to somebody that was open 24 hours a day. We decided based on a survey that very few grocery stores -- and we were working from relatively large businesses from the foot traffic point of view -- very few grocery stores or convenience markets or pawn brokers or anybody else had more than 17,000 people go through in a weekly period of time. Very few, if any, had 17,000

transactions in that same period of time. So we established a value of 100 to each of those two variables.

That was the standard -- open 24 hours a day, 17,000 foot traffic, 17,000 transactions. Each individual application was then compared against those standards and a score was assigned to them. If they were open 12 hours a day a score of 50 was assigned. If they had foot traffic of 8,500, 50 was assigned. If they had transactions of 8,500 a third 50 was assigned. The total score was summed and then divided by three to give you an average. This particular business got 150. They were stratified -- zip code by zip code throughout the entire state. Then we took the population of the zip code and divided it by 1,250 to determine the number of outlets that a given community was going to have. Then we told the computer to run down that list until you get the number of outlets. When you hit them, stop. That's how we selected our retailers.

Unfortunately, as Assemblyman Tucker points out -- and we see it all the time -- my chairman is on my back all the time. He says Chon, "You got three retailers, side by side. Why don't you sprinkle them around a little?" The problem I have is which one of those three people gets to keep their contract and which two lose the contract? Loses it so that I can move it to another part of town.

Anyway, that was the process that we used to establish our retailers. We tried to be as fair as we could.

ASSEMBLYMAN ALATORRE: Oh, I'm sure that you tried to be as fair...

MR. GUTIERREZ: No. I'm not suggesting that you...

ASSEMBLYMAN ALATORRE: But I can take you to four places that you gave a license to that if they get 25 people, they are doing well. (inaudible). Are you through?

ASSEMBLYMAN FRIZZELLE: I'm only suggesting. I'm not making a judgment one way or the other on anything. I'm simply making an observation that if you could identify those areas that seem to be particularly lacking in participation.

ASSEMBLYMAN ALATORRE: That's what we're trying to do.

ASSEMBLYMAN FRIZZELLE: Participation, not just Commission.

ASSEMBLYMAN ALATORRE: I don't think it's totally the Commission. We're going to bring up a person right now that I think is part of the problem. All right. Mr. Fornaciari.

MR. BRAD FORNACIARI: My name is Brad Fornaciari, Vice President of Needham Harper and with me is Chuck Rubner, Executive Vice President. Chuck will address the philosophy of Needham Harper and I will address any specific issues as to where we've been and where we're going.

ASSEMBLYMAN ALATORRE: The philosophy of Needham Harper?

MR. FORNACIARI: Regarding these issues.

ASSEMBLYMAN ALATORRE: Oh.

MR. FORNACIARI: If you'd like a general statement...

ASSEMBLYMAN ALATORRE: Very good. Because I'm not really interested in your philosophy. I want to know what you're doing. Go ahead.

MR. CHUCK RUBNER: Thank you Mr. Chairman. As Brad said my name is Chuck Rubner, I'm Executive Vice President of Needham Harper Worldwide.

Needham Harper has been in operation in the state of California for 20 consecutive years. Through that experience we recognize the state is comprised of a wide range of constituency. We similarly recognize our responsibility to those constituencies as well as -- in the case of the lottery -- our responsibility to the Legislature and our responsibility to the California State Lottery to see to it that all those constituencies benefit in a fair and

equitable way from the economics brought into the state as a result of Proposition 37.

We have acknowledged that responsibility...(laughter) We have recognized that responsibility and acknowledged that in the written Request for Proposal, the basis of which was partially the reason we why were awarded the contract, as the advertisers of the California State Lottery.

The position of Needham Harper is that it wasn't a matter in the RFP of saying to the California State Lottery that if we win the contract we're going to start using minority and small businesses as subcontractors. We have been doing that in the state for 20 years. It was not a matter of starting a policy, it was a matter of continuing a policy of operation when we conduct business.

This whole statement is the way we'll continue to do business in the future. We will continue to work, in this case, with the office of affirmative action of the California State Lottery. We will continue to work with any group or party or individual that's interested in talking about benefitting from the economic value of the contract that we've been awarded.

Such a group, the West Coast Black Publishers Association, weeks before Day One of the lottery contest, picked up the phone and called me. Had no trouble getting through. I returned the phone call. Representatives came in. We have a good working relationship with the membership of the West Coast Black Publishers Association. I would encourage Ms. Sanchez to simply pick up the phone and call me.

ASSEMBLYMAN ALATORRE: Let me stop you. I called you twice. Now if I don't get a phone call returned, how is Ms. Sanchez going to get her phone call returned?

MR. RUBNER: With all due respect, Mr. Chairman, merely with your name -- if your name appeared on my desk on a telephone message, you would be the first person I'd call.

ASSEMBLYMAN ALATORRE: Well, let me tell you something. It appeared and you didn't return it. Please go ahead.

MR. RUBNER: That may be the case. If that's the case, then I truly do apologize. With all due respect, if somebody gets a call from Mr. Alatorre, you're going to return it.

I think that the overall position that is clearly stated -- the lottery is 42 days old -- we are pleased with the amount of subcontracting that has taken place in that short period of time. The agency is willing to engage in discussions and exchanges such as this. If there's more opportunity that perhaps we're not aware of or may not have been presented to us, then we're willing to talk and that's the premise. A meeting like this can be a constructive meeting, if both sides of the desk talk openly and understand what one another's objectives are. If there's a communications problem, let's just talk.

ASSEMBLYMAN ALATORRE: Well, why don't we just start off -- being that we're going to try to make this productive. Why don't we start off with the allegation that was made that a company was being formed for the express purpose of working in conjunction with Needham. To do what, I really don't know. That's number one. Number two, to me it's very admirable as to what your philosophy may be as it relates to advertising in general. I'm interested in knowing what you have done. Because it's interesting -- maybe you don't think there is a problem as it relates to the way the that you are communicating to a disproportionate number of people that happen to be playing the lottery. And I'm interested in the opportunity that you are providing those individuals. Whether they be newspapers, whether they be television, whether they be radio -- any of the avenues that you traditionally use to communicate a message.

Secondly in knowing what a good job or lack of a good job that you have done in that arena. That's maybe a beginning.

MR. RUBNER: We are prepared to discuss those specifics at this meeting. Your two questions -- one related to a situation involving a Hispanic consultant to Needham Harper Worldwide.

By way of background, many of our clients from time to time require specific communications in specialized mediums such as the Hispanic newspaper or press or broadcast. Several years ago we had a client situation where we went out and hired on a subcontracting basis a Hispanic consulting agency to help us analyze the marketplace and make recommendations. The name of the company at that time was Aarons and Gutierrez, a company that's based in La Jolla. When it came time to preparing our RFP for the State Lottery, because of the two-and-a-half year relationship with this La Jolla company, we turned to them for help in consulting to prepare that portion of the RFP that addressed the minority constituency in the state. They were a logical choice -- we had an on-going relationship with this company.

ASSEMBLYMAN ALATORRE: That's all fine. Now, I think it's very obvious. Because I understand that people like to do business with people that they have done business with in the past. Now La Jolla which I know very well, because I have vacationed there periodically, isn't really quite the hub of Hispanics...

MR. RUBNER: We understand that -- which is why, Mr. Chairman we asked that company to make a recommendation to us of another company that might be closer to the community based in Los Angeles that could serve us. That's the reason for the new relationship we have with a company called Mavis Cordero and Associates. It was through that recommendation that we're dealing with Ms. Cordero.

Now the relationship between ourselves and Ms. Cordero is a recent relationship, but I think it's much more reflective of the community and the constituency that you are referring to. I think the situation that Ms. Sanchez is referring to is that now Ms. Cordero is in the process of filing papers with the State Department of Corporations to do business as a corporate entity as opposed to simply an individual sole proprietorship.

ASSEMBLYMAN ALATORRE: Isn't it interesting because -- I'm familiar with a very similar situation that took place only having to do with a Black, where the company, who will be nameless, was basically created so that they could meet their commitment to provide minority business opportunities. She would have her company, but it would be controlled by the company that sought her services. She would be a minority partner in that company.

Let me tell you the difficulty I have. There are companies around and maybe you don't know where they are at. Maybe you ought to just ask because there are people around who know existing companies that have a track record and don't have to be formed. They don't have to go to the Department of Corporations and form a company that truly has been in the business. I guess the problem that I have and I think that many people would have is a certain insensitivity on the part of your company. Really I don't want to look at it as being an insult to those companies that are already in existence, that are professionals in the business, that know what to do. These companies were not asked. But because you feel comfortable doing business with whomever you do business with and this is the way business happened in the past. This is why minorities have always complained about the way worldwide companies like yours do their business.

It is perceived whether it is intended to or not. Let us say that it is not intended. But the perception many times is what creates the problem. And the perception is: here they go again. They basically do business with whomever

they've always done business with and yes, they put them in business so they can go to the Commission and say look at what I am doing as it relates to providing opportunities for business.

Let me tell you. In the business arena we are not interested in charity. We are only interested in participating at the level that we participate in the buying of those tickets. Now we are a very large population when you combine Hispanics and Blacks and when you combine Asians. We disproportionately play the lottery more than other groups play the lottery. And it just seems to me that the way that you are going about your business is somewhat of an insult to me and I believe it's somewhat of an insult to a few of the people that happen to be here that are legitimate business men and women are not interested in charity. They are interested in opportunity. When it comes down to it, the opportunity seems never to be there. That I guess is the problem I have.

Now it is fine and I commend you for doing business with La Opinion. Ignacio Lozano and I have been friends for a long time. He's a constituent of Mr. Frizzelle. It's all fine. But there are other people that you should be doing business with. Not only just Hispanics, but I am talking about others -- I'm talking about women, I'm talking about Blacks, I'm talking about Asians. We are a large population. And the way that you do business, it cannot be business as usual.

Now you have been very fortunate up to now because it's a natural that people this year wanted to play the lottery. But I think that you better start looking at where you are going to start doing your marketing and I'm questioning the way that you are doing the marketing and the lack of opportunities for companies that are interested in providing the service.

MR. RUBNER: The second issue that you raised which is who is benefitting and are we doing business in other communities -- Brad Fornaciari will address.

I would like to make a final statement on the issue of doing business the way we have always done business.

Needham Harper means no insult to the chair or any of the committee members or to anybody in the audience. It is true the advertising produced for the Hispanic consumer market -- either in print or in broadcast -- we think it is quality work. We are providing a quality product to the California State Lottery. If as the result of this meeting, additional resources are brought to our attention, I'll be personally, as we have met with other companies in the state providing services to the Hispanic community, I'll be glad to meet with them...

ASSEMBLYMAN ALATORRE: I'm not only talking about Hispanics.

MR. RUBNER: And Blacks. We've met with small business and now Brad will get into some of the details in terms of the Black consumer market, Hispanic, Asian, small business and female. We have a very complete list that we are prepared to go through with you and I think...

ASSEMBLYMAN ALATORRE: How much are you advertising on television?

MR. BRAD FORNACIARI: Approximately 60 percent of the budget is allocated.

ASSEMBLYMAN ALATORRE: Fine. How much money have you advertised between the time that the lottery started to begin until today? How much have you spent?

MR. FORNACIARI: Can I take you through it? I have all that information for you. If I could, I'd like to take you through one game at a time, because as the lottery...

ASSEMBLYMAN ALATORRE: No, you answer my question, then we'll start with...

MR. FORNACIARI: No, that is. That's how I'm going to answer your question. Our budget is determined one game at a time and I have two separate documents which do several things.

Through Game One -- the first game which ended at midnight last night. Total advertising, broadcasting, and print production which is the production of television commercials, radio commercials, printing of posters, production of newspaper ads, printing of mailers, how to play brochures, etc. came to \$1,157,000. The total media expenditure...

ASSEMBLYMAN ALATORRE: That's to produce the materials, right? That's before it goes on television.

MR. FORNACIARI: That is not buying time. This next figure is buying time...

ASSEMBLYMAN ALATORRE: No, I understand. Now let's stop right there. Of the \$1.1 million...

MR. FORNACIARI: Ten percent.

ASSEMBLYMAN ALATORRE: Ten percent what?

MR. FORNACIARI: Went to minority subcontractors.

ASSEMBLYMAN ALATORRE: What did they do?

MR. FORNACIARI: It depends on the project. Printing, producing radio spots, photography. There were 37-40 different projects for the first game ranging from how to play flyers, newspaper ads, television commercials...

ASSEMBLYMAN ALATORRE: All right so of the \$1.1, 10 percent went to "members of minorities," right.

MR. FORNACIARI: Right.

ASSEMBLYMAN ALATORRE: All right now let's go to what you put on television and what you put on radio.

MR. FORNACIARI: The total media buy through Game One came to \$2.3 million. Of that, 9 percent went toward...

ASSEMBLYMAN ALATORRE: How much went to Channel 34?

MR. FORNACIARI: I don't have that specific figure. I can...

ASSEMBLYMAN ALATORRE: How do you figure that you spent whatever amount of money of the media buy with minorities? If you know that then..

MR. FORNACIARI: I have overall figures. Yes, indeed I do. I do not have station by station figures. I do know that in the Hispanic television network, the SIN network, approximately \$125,000 was spent over that network. Every Hispanic television station in the state was purchased.

ASSEMBLYMAN ALATORRE: What you did is that you purchased with SIN and that covers all of the Spanish media, Spanish television market.

MR. RUBNER: You can't buy more than 100 percent of television...

ASSEMBLYMAN ALATORRE: No, I'm going to give you another channel, maybe you haven't figured it out yet. But go ahead.

MR. FORNACIARI: Then the public relations projection came to \$1.1 million through Game One, which 18 percent was done through minority subcontractors.

ASSEMBLYMAN ALATORRE: All right. Now what does that mean?

MR. FORNACIARI: I'm sorry.

ASSEMBLYMAN ALATORRE: What part does that mean?

MR. FORNACIARI: Again posters. If you remember the kickoff that the lottery had -- if you remember some folks put up the balloons and yellow on the steps -- an example of what might have been done...

ASSEMBLYMAN ALATORRE: How much on newspapers? A lady from my district, Ms. Sanchez, she happens to have a chain of newspapers. How much did you advertise in her paper?

MR. FORNACIARI: I'm sorry I do not have the list of her newspapers. So I can't answer that question.

ASSEMBLYMAN TUCKER: How about the Sentinel and the Wave?

MR. FORNACIARI: The Sentinel and the Wave, yes have been included in the Game One media...

ASSEMBLYMAN TUCKER: What percentage of your total budget of that type of media went to those newspapers -- the Sentinel and the Wave?

MR. FORNACIARI: The percent? I can only give you the total media and then to minority media. I don't believe I have...give me a second here...

MR. RUBNER: Assemblyman, in terms of the percentage may be a bit misleading because of the fee structure of the particular paper. The paper has got the same schedule as other papers, but I think the percentage would be unduly misleading because the cost of papers aren't that significant and the cost relative to television may be one one-hundredth of a percent. It's not that that is one one-hundredth ...

(inaudible. several people talking at the same time)

MR. FORNACIARI: If I may take you to the list of Black oriented media or newspapers...

ASSEMBLYMAN ALATORRE: Good. Then after you get through with the Black, I want you to get to the Hispanic.

MR. FORNACIARI: I have that also. The Gazette Group which is two newspapers, the Herald Dispatch, the Sentinel, the San Bernardino Precinct Report, the 13 Wave Publications, the New Bayview News, three of the Observer groups in San Francisco, the Post Group of San Francisco, the Voice News and Viewpoint in San Diego, the California Advocate in Fresno, Seaside Post News and Sentinel in Salinas/Monterey, the New Observer in Bakersfield and Riverside Black Voice here in Los Angeles -- were purchased at the same schedule as all other newspapers were purchased.

ASSEMBLYMAN ALATORRE: How much did you spend with those newspapers?

MR. FORNACIARI: Approximately \$17,000.

ASSEMBLYMAN TUCKER: You spent \$17,000 with all of them.

MR. FORNACIARI: By the same schedule we bought at the general market.

ASSEMBLYMAN TUCKER: After you spend all of them -- that \$17,000 -- what other newspapers?

MR. RUBNER: Well, I'll take you to the Hispanic newspapers, if I may. Part of our responsibility is also to give this audience the same opportunity to learn about the California State Lottery as other constituencies in the state...

ASSEMBLYMAN TUCKER: You admitted just a minute ago that you didn't have any of those figures together and he said he did have them, so let's...

MR. RUBNER: That would be Brad's role in this meeting which is to provide the...

MR. FORNACIARI: What was the next question, I'm sorry.

ASSEMBLYMAN ALATORRE: Hispanic.

MR. FORNACIARI: Okay, for Game One. La Opinion was purchased out of Los Angeles, El Mundo out of San Francisco, and El Mexicalo out of Bakersfield were the three newspapers that were purchased.

ASSEMBLYMAN TUCKER: How much money are we talking?

MR. FORNACIARI: Four thousand dollars.

(laughter)

ASSEMBLYMAN TUCKER: Now let's go to the others.

MR. FORNACIARI: I don't have others.

(many people talking at the same time)

ASSEMBLYMAN TUCKER: What did you do in the Asian community?

ASSEMBLYMAN ALATORRE: So far we've got \$21,000.

MR. RUBNER: In all fairness -- if I can repeat the point.

ASSEMBLYMAN ALATORRE: You've repeated your point. Let's just finish then you can go.

ASSEMBLYMAN TUCKER: Tell me what happened to the Asian community?

MR. FORNACIARI: In the first game?

ASSEMBLYMAN TUCKER: Right.

MR. FORNACIARI: Nothing.

ASSEMBLYMAN TUCKER: How much did you spend all together? What was the total spent?

ASSEMBLYMAN ALATORRE: For the newspapers.

MR. FORNACIARI: If you'll hold on for a moment, I will find that figure. \$330,000...

ASSEMBLYMAN TUCKER: S ____.

MR. FORNACIARI: For Game One on newspaper advertising.

ASSEMBLYMAN TUCKER: That's fair? That's fair? You going to say that's fair?

MR. RUBNER: Ten percent of that was spent on...

ASSEMBLYMAN TUCKER: You say that's fair?

MR. RUBNER: I'm saying, Mr. Assemblyman, that in the case of the Black papers, I think we brought a substantial and representative group to...

ASSEMBLYMAN TUCKER: You do realize that initiatives can be changed.

ASSEMBLYMAN ALATORRE: We can change it in the Legislature and your contract is only for a year. But go ahead. What else did you spend your money on because so far I'm not too impressed...

ASSEMBLYMAN TUCKER: I'm not impressed at all.

MR. FORNACIARI: Well, that has taken you through the first game.

ASSEMBLYMAN ALATORRE: Okay, now let's go to the second game.

MR. FORNACIARI: Can I add one more point to the first game?

ASSEMBLYMAN ALATORRE: Sure.

MR. FORNACIARI: For group by group of the total media available versus the number of media purchased -- I'm going to take you to that for a moment. I'll start with nonethnic or general market.

There are 69 television stations -- general market television stations -- out of which 68 percent were purchased. That is the general market.

In radio there are approximately 312 statewide out of which approximately 150 were purchased or 48 percent.

Newspapers -- approximately 400 newspapers statewide out of which 107 or 27 percent for a total in the "general market" of 39 percent.

If I may start with the Hispanic -- of the 6 television stations, 6 were purchased which 100 percent. Of the 50...

ASSEMBLYMAN ALATORRE: In dollar value, what does that mean? Because actually you purchased it from one. But there's another television network besides SIN. I know that's a shock to you.

MR. FORNACIARI: No it's not. I'm not sure if we're not talking about the same station.

ASSEMBLYMAN ALATORRE: No, it's not.

MR. FORNACIARI: There are more than 6 Spanish television stations in California?

ASSEMBLYMAN ALATORRE: Right. And the 6 are owned by one. All right. That syndicated international network owns all 6 of them. Now there's another one that has nothing to do with SIN -- that's now in competition with SIN or really not in competition, I'm sure there's (inaudible) but...

MR. RUBNER: If that's the case, we'd like to talk to them.

ASSEMBLYMAN ALATORRE: I know.

MR. RUBNER: That's all.

(laughter)

ASSEMBLYMAN ALATORRE: You've done a lot of talking so far. Do you understand...

ASSEMBLYWOMAN TANNER: I'd like to ask a question. Of the newspapers, for instance, how many weekly newspapers do you hold space?

MR. FORNACIARI: In which market are we speaking?

ASSEMBLYWOMAN TANNER: Newspapers.

MR. FORNACIARI: Overall?

ASSEMBLYWOMAN TANNER: Overall.

MR. FORNACIARI: I don't did not bring the overall...

ASSEMBLYWOMAN TANNER: Do you buy space from weeklies?

MR. FORNACIARI: In some. Out of the 400 total newspapers in the general market, approximately 170 were purchased -- out of of which a percentage are weekly newspapers and a percentage are dailies. The goal when buying a newspaper buy is to get a certain county penetration...

ASSEMBLYWOMAN TANNER: Ms. Sanchez pointed out that you sent her a PR package and you'd expected free publicity in publications that she represented. You didn't offer to buy any space which is really an unfair way to treat smaller businesses. I'm very curious about that. Can you respond to that?

MR. FORNACIARI: Well I can respond to that in that the ethics of public relations are such that a media buy itself is not given consideration for whom they try to get free publicity from. I'm sure there are...

ASSEMBLYWOMAN TANNER: I know that. But I think you have a responsibility as well. You expect publicity. You expect news stories. But I think you have a responsibility as well to purchase space in those publications. It's just fine to -- and we expect that dailies can receive a certain amount of advertising, but those small weeklies or those small interest groups or ethnic newspapers certainly should have an opportunity to have some advertising.

MR. FORNACIARI: Well Mavis Cordero, our consultant that has been with us since before we even got the contract...

ASSEMBLYMAN ALATORRE: Can I just tell you something. I have been in the business for 13 years. I think I know a lot of people. I don't even know who you're talking about. I think I know most of the people involved in and around media. Evidently your Gutierrez guy -- I think he's in Mexico now. So now you're dealing with Cordero by himself, right?

MR. FORNACIARI: With Cordero Productions, yes?

ASSEMBLYMAN ALATORRE: Yes. But Gutierrez is no longer here in the United States. He's back in Mexico. That's my understanding. So now you're dealing with just Cordero.

MR. FORNACIARI: Yes, at this point.

ASSEMBLYMAN ALATORRE: Let me tell you what my frustration is. You see I wish that we didn't have to live in a society where we even had to discuss where we do our business. You know what, Hispanics happen to be an extremely large consuming public. We spend a lot of money. I'm sure you found out that we do that. This is irrespective of the Lottery. We consume a lot. It just seems to me that this is not a handout. This is not government giving something for free because when you spend money in an area, you spend it for one reason: you want to get a return for the investment you put in to it.

Now if I was a member of the Commission, as an example, and I gave you a \$22 million contract, and granted that fortunately for you, you have done very well. But then the lottery is going to start peaking and then it's going to take real salesmanship, more so than what you have done. I guess your idea was feel good about spending a dollar and I guess that was the point of the commercials -- feeling good about spending a dollar because it was going for children. That's fine.

I like what you were saying, but I'm also saying that there are a lot of other groups that you are going to have to begin to address and address them in

a business fashion, not in a give away fashion, not just because somebody happens to have a throw away paper once a week. You're going to insult them by just sending them your press packet and hope that they print it because they should be kind to the State Lottery.

The reason why I did what I did from the very beginning is because I knew what I am hearing today from you -- and you're only one example -- was going to happen -- that you were going to do your business as usual. I'm sure that whatever you're selling and whatever contracts you have, I'm sure that they're selling out there in the market.

But there is a real difference in this -- the Commission wants to be friends with the Legislature. We want to be friends with the Commission. You happen to be a contractor of the Commission. They had a great deal of confidence in your ability to do a job. But when you come to us and you show the kind of insensitivity and lack of response to the entire market that is out there, at least I know I don't have a very good feeling about the type of business that you are doing. At least not for all of the people of California, and specifically not for the people that I happen to represent. Not just in my district, but I happen to also be a voice for the state of California.

We are not talking about giveaway -- we are talking about business opportunity -- nothing less and nothing more. I think that whether we be Black business men and women, whether we be Hispanic or Asian, we want to be treated with a certain amount of dignity. And we want an opportunity to participate in the process. I want you to make money. But I also want other people to have an opportunity to make money.

And, in the process of doing business with them, maybe it's going to be easier for you to get a renewal of your contract. Because if I had anything to do with the contract -- if I look at what you have done up to now, I'm not going to be

too impressed. I'm not too impressed with what you have done up to now as it relates to the totality of the state of California.

We are more than just a monolithic state. We are a pluralistic state made up of a lot of people. I know that I represent a community that likes to play the lottery. We are conditioned for the lottery. It starts in Mexico and we haven't had an opportunity so we are going to play. So do Asians. Asians enjoy playing and venturing in the lottery or something else. Blacks like it too. There's a lot of people that like to play the lottery. Well, I think that just as we believe that a lot of people play the lottery, then do I believe that all of the groups should be given an economic opportunity to participate in the lottery. And from what I have heard from you up to now, I'm not impressed.

Contrary to what you have said, I called you twice and I never got a return. And if I call, and I happen to be a state legislator, and I think that you're a fairly smart man to know that I chair the committee that your livelihood is dependent on, but I'm concerned about others. I have heard nothing but complaints about your lack of response from people that are legitimate small business men and women that want an opportunity to be able to participate in this lottery and the type of response that they have gotten up to now has been less than what I would have believed they should have gotten from you. Because it is somewhat quasi-governmental and quasi-private.

You've talked about the first part of it and now you can tell me the second part and I hope you can enlighten me. Maybe it's gotten better. Does it get better the second phase?

MR. FORNACIARI: If I may take you to the second game...

MR. RUBNER: Complete the percentages about radio -- Hispanic radio stations...

MR. FORNACIARI: Out of the 50 total Hispanic radio stations in the state, 36 were purchased which represent 72 percent of that.

ASSEMBLYMAN ALATORRE: How much money was spent?

MR. RUBNER: The money is always going to difficult because...

ASSEMBLYMAN ALATORRE: Never mind. Look it. I'm a politician so I know that when I go to one station, I know that I'm going to pay a little bit less. So to me, money is money. Yes, I know it's going to be less than advertising on Channel 2...(inaudible) How about telling me -- there were how many stations? 32?

MR. FORNACIARI: Yes sir.

ASSEMBLYMAN ALATORRE: All right. How much did you spend for the 32?

MR. FORNACIARI: \$52,000.

ASSEMBLYMAN ALATORRE: \$52,000.

MR. RUBNER: You raised a good point. Yes, these stations cost less than the CBS affiliate. But that doesn't mean that in order to spend money for the sake of spending money, you spend at a rate different than the same schedule you put on CBS.

ASSEMBLYMAN ALATORRE: No, I understand it. But let me tell you something. I'm sure you know this. Between the hours of 2 o'clock and 5 p.m., what station in Los Angeles is the most viewed station?

MR. RUBNER: I'm not a media expert. I don't have that information.

ASSEMBLYMAN ALATORRE: All right you want me to tell you something? Channel 34.

MR. FORNACIARI: Excuse me, what are the call letters of Channel 34?

ASSEMBLYMAN ALATORRE: KMEX.

MR. RUBNER: We're buying KMEX.

ASSEMBLYMAN ALATORRE: I know you're buying KMEX. You already told me how much you're buying. That wasn't impressive.

All right, \$52,000 with the radio. In relationship, what was the radio budget for the state? Then we're going to Black and then I'm not sure, I think there is at least an Asian -- Korean -- radio station. Of the \$52,000 tell me how much you spent on radio.

MR. FORNACIARI: Total for Game One - \$357,000.

ASSEMBLYMAN ALATORRE: How much did you spend in Black radio?

MR. FORNACIARI: \$12,000.

ASSEMBLYMAN ALATORRE: All right. How much did you spend in Chinese or the Korean radio stations?

MR. FORNACIARI: Nothing.

ASSEMBLYMAN ALATORRE: All right. So you spent a total of \$64,000 of the \$300 some thousand spent. All right. Maybe Game Two is going to be better so why don't you take me to Game Two.

MR. FORNACIARI: Game Two which began this morning -- we do not have the immediate figures yet because...

ASSEMBLYMAN ALATORRE: What are you projecting to spend on television?

MR. FORNACIARI: I don't have those figures at my disposal at this time.

ASSEMBLYMAN ALATORRE: Do you have the figures on anything you are projecting?

MR. FORNACIARI: Production. I have the production figures.

ASSEMBLYMAN ALATORRE: That's to produce the radio spots? Produce the television spots? The posters and everything else?

MR. FORNACIARI: Yes sir.

ASSEMBLYMAN ALATORRE: How much of the production cost was done bilingually? How much did you spend on that?

MR. FORNACIARI: If I can take you though this I think we'll get to all the issues. The total production dollars spent for Game Two -- \$670,000. Minority/ethnic production dollars \$161,895 or 24 percent of all production dollars spent on Game Two were spent through minority...

ASSEMBLYMAN ALATORRE: Which represents -- can you break down the \$161,000?

MR. FORNACIARI: Yes, indeed I can.

ASSEMBLYMAN ALATORRE: All right go ahead. Tell how you broke it down.

MR. FORNACIARI: Women, Black, Asian, and Hispanic. Would like those in percentages?

ASSEMBLYMAN ALATORRE: Yes, but just tell me -- I know much you spent between women, Black, Asian, and Hispanic -- that's \$161,000. But what I'm saying is where was the greatest dollars spent for doing what?

MR. FORNACIARI: The single greatest amount was spent producing the Game Two television commercial which was produced by a 50 percent-owned Asian company, 50 percent-owned Hispanic company.

ASSEMBLYMAN ALATORRE: What was the name of the company? Both companies..

MR. FORNACIARI: It's the same company -- Colossal Pictures in San Francisco. The principals are June Takahashi and Gary Gutierrez.

ASSEMBLYMAN ALATORRE: So in other words that's where everything was spent. Right?

MR. FORNACIARI: Yes sir.

ASSEMBLYMAN ALATORRE: Did they produce all of the advertising?

MR. FORNACIARI: They produced the television spot. They are...

ASSEMBLYMAN ALATORRE: Which is in English, right?

MR. FORNACIARI: And Spanish.

ASSEMBLYMAN ALATORRE: And Spanish.

MR. FORNACIARI: Yes sir.

ASSEMBLYMAN ALATORRE: And Chinese?

MR. FORNACIARI: No sir. As we broke down these percentages, of that \$161,000 -- 56 percent was spent through Hispanics, 30 percent through Asians, 10 percent through Black, and 4 percent through women.

ASSEMBLYMAN ALATORRE: Okay. Now have you developed your budget -- of the \$670,000 that you are projecting to spend on...

MR. FORNACIARI: That has been spent. Everything that was produced for Game Two is produced. Posters are in the stores, spots are running. These are actual figures. This is not a projection.

ASSEMBLYMAN ALATORRE: Now the \$670,000. That's going to be for advertising, right?

MR. FORNACIARI: Yes sir. It's all the things you see. Not the time or space purchased, but all that you see -- television spots, radio spots.

ASSEMBLYMAN ALATORRE: So in other words, the time and everything -- the \$670,000 -- \$161,000 of the \$670,000 was produced in one way or another by women, Blacks, Hispanics, and Asians.

MR. FORNACIARI: Yes sir.

ASSEMBLYMAN ALATORRE: So that's like...

MR. FORNACIARI: 25 percent.

ASSEMBLYMAN ALATORRE: So what are you going to do different in Game Two than what you did in Game One?

MR. RUBNER: For one thing, we're going to talk to Ms. Sanchez.

ASSEMBLYMAN ALATORRE: I think that's a good start. I think there are few Blacks out there that want to do a little business. An Asian over here.

MR. RUBNER: Yes. And I think a forum such as this gives us that opportunity and I invite that. You saw just now evidence that Game Two is better than Game One. Game Three, Game Four, Game Five will continue to strengthen.

We share with the committee your goals in terms of sharing the economic benefit of this contract. It's good for the state. It's good for Needham Harper Worldwide. It's good for the California State Lottery.

The lottery is 42 days old. I think we have made progress in 42 days. In 142 days we'll make that much more progress. In 342 days, we'll make that much more progress. I would like the opportunity to succeed. Simply that. A forum such as this give us that opportunity. Please permit us to pursue them -- with people who have stepped forward...

ASSEMBLYMAN ALATORRE: Okay. That's fine. Let me tell you something. If you do a job, I want you to succeed too. You know what, I would like you to get the next contract. But let me tell you something -- if you don't succeed, I'm going to make sure you don't get the next contract. I'm going to work to make sure you don't get it. So are other people that are concerned with a interest that may be provincial. But I look at it very simply as an opportunity for people that have been excluded time and time again from doing what they were trained to do -- in whatever capacity that may be.

This is what it's all about. Do you think I spent months batting my head against the wall setting up a figure for minority participation because I wanted to? No. I wish that we didn't even have to have figures. I just wish that people were smart enough. Business, at least I thought, was a lot smarter than government because government has a lot to learn. We many times are the greatest discriminators of the laws that we pass. But you figure that in business it's money and how can I make sure that I can make more money. Now the way that I am successful as an advertising firm is to do the creative things that makes the person that I have a contract with think that I'm a whiz kid. That I'm the only person that can do it. Well the way you do it is by knowing who your market is if you know who your market is and how to penetrate that

market, well then you become the whiz kid. And you know what, none of these firms then compete with you.

But most of the advertising firms are all the same. On the one hand they love us -- until it comes to giving us opportunity. We don't want anything. We don't want anything for free. All of the groups that happen to be the consumers -- they just want the opportunity to show their wares. And you know what -- I know that maybe there's going to be a day when there's going to be a conglomerate made up of the members of minority groups that are going to be the big advertising geniuses. But until then, it's organizations like yours. It just baffles me how many times, as smart and as technically sound as many of you are, how you missed the bet.

It's not just you. It is some of the large vendors that are going to be out there that are interested in the second phase of the lottery. They are the same. They do the same thing. I hope they are smarter. I hope they learn because whether I am here as a member of the Legislature or whether I'm somewhere else, let me tell you, there are going to be other people up here.

You know -- I'm nice. I'm really a nice person in relationship to some of the others. I'm very reasonable. But I can be very unreasonable with people that do not like to be reasonable.

MR. RUBNER: I think you've demonstrated that reasonableness today. As hard as you work, and as hard you work in the future, and as hard as you have worked in past to succeed in making sure that fair share is given to businesses, Needham Harper and myself, personally, will work at least 50 percent harder so you don't succeed in making sure that you have to force anything.

ASSEMBLYMAN ALATORRE: Yes. Because I don't think that we should. I'm sorry that Ms. Waters -- the very soft-spoken person that she is -- wasn't here because I'm just a pigeon in comparison to her. But it's important. Our

interests are the same. We just want small business to be given an opportunity to participate and that's all. Nothing more and nothing less.

Let me just make an observation -- I'm not impressed with what you've done up to now. I guess the real challenge is in Game Two. You have Ms. Sanchez there, you have some Asian people here. You have some Blacks that might be in this position and can help out. Yes. They're here to make a little money and I'm sure that you don't exist unless you're able to deliver the bacon. Okay. Anything else? Very good. Thank you very much.

MR. RUBNER and MR. FORNACIARI: Thank you for your time, sir.

ASSEMBLYMAN ALATORRE: All right. Is it Mr. Bethea, Vice President and General Counsel for Scientific Games?

MR. GRAY BETHEA: Right.

ASSEMBLYMAN ALATORRE: Very good. We have this room for about another 45 minutes. I would like to get through the agenda as fast as I can.

MR. BETHEA: I think you know the gentleman I'm with, Mr. Konovoloff.

I'll introduce myself as Gray Bethea, Vice President General Counsel of Scientific Games.

By way of a little background, Scientific Games was founded in 1973. Since that date we have provided lottery services to 22 of the 23 states which have lotteries, including the District of Columbia.

Our services include instant games, startup consultation, on-line services, anything reaching the gamut for lottery services in general.

We have entered the on-line market and we have won 3 of the last 4 on-line contracts awarded in the United States. At present, as you are aware, the on-line market is fragmented and is dominated by three companies with market shares ranging from approximately 20 percent to 40 percent each. Scientific Games is and always has been, we feel, prevalent in this field and we hope that we can continue to do so, particularly here in California.

We have a long tradition of hiring women, minorities, and other persons that are historically disadvantaged socially or economically. In addition to our hiring policies, we've also taken into consideration affirmative action. We have an affirmative action program in place and we require quarterly affirmative action reports in-house.

In addition to that commitment to equal opportunity, we have a long record of working closely with minority contractors and suppliers. We have used or are currently using minority and women enterprises to provide the following goods and services in the lottery industry: financing and banking, consulting, transportation and trucking, lobbying, graphic arts, material supply, retailer training, computer operators, computer terminal installation, technicians, programming and software development.

Minorities and women are and always have been able to achieve management responsibility. By way of example, Theresa Blankenship is in charge of our ticket production. Over 10 percent of the employees of our company report directly to Ms. Blankenship. For the last two years, she has been responsible for the printing and production of over 2 billion tickets.

Mr. Koza...

ASSEMBLYMAN ALATORRE: Let's try and separate the issue. One is employment with your company and the other may be the creation of other spin-off companies to provide certain things. We'll stipulate that you have a good record as far as employees are concerned. You'd be foolish if you didn't.

Let's talk about business opportunities.

MR. BETHEA: If I may, I'd like to speak to the Gilroy plant which we built for the production of tickets. I believe the committee is aware of the problems we've had associated with it. Our company spent over \$6 million getting...

ASSEMBLYMAN ALATORRE: Yes. One day it wasn't there. The next day it was there.

MR. BETHEA: That's right. We had a minority...

ASSEMBLYMAN ALATORRE: A lot of people were shocked that it was there.

MR. BETHEA: Well, we're glad it's there and hope it can get back on-line producing tickets for the purpose for which it was intended.

ASSEMBLYMAN ALATORRE: Where are your tickets produced right now?

MR. BETHEA: They are produced in Georgia.

ASSEMBLYMAN ALATORRE: When do you plan to open your plant in Gilroy?

MR. BETHEA: We would do it today if the court would let us. You're probably aware that we were sued and were required to close that plant down because of a disgruntled contractor on the east coast.

ASSEMBLYMAN ALATORRE: That's right. Claims that he has the sole contract to produce the tickets for your company. Is that correct?

MR. BETHEA: That's correct. We wish it were not the case. We have spent more money in California than we made to date. Particularly the \$6 million into the project.

I think that over 68 percent of the employees were minorities -- predominantly Hispanic. That is a community as you are well aware that needs a higher level of employment.

ASSEMBLYMAN ALATORRE: Right.

MR. BETHEA: And I would point to that as our single largest achievement, (inaudible) here in California. I hope that in the future with the support that the Legislature could possibly give us we would be able to overcome the problem and build our workforce back up.

ASSEMBLYMAN ALATORRE: So now that's not functioning. Now let's talk about what you have done with the contract that you received from the state of

California in terms of opening up opportunities for small businesses in California.

MR. BETHEA: Well, you should also be aware that nationwide our company only has 200 employees. By far the largest proportion of our contract here in California is for the supply of tickets. Tickets that I have just discussed. The problem associated with our personnel is that relatively few are here in California. As you're also aware the advertiser is contracted out. You discussed that this morning. Security is contracted out. We are basically consultants for startup purposes here. We have a relatively small staff here. We do have women. We have minorities of various types. I'm sure that your lottery people could testify to that. I think there's also been some testimony this morning as to a female-owned trucking company that carries the tickets back.

ASSEMBLYMAN ALATORRE: Did you submit a bid for the on-line portion of the lottery?

MR. BETHEA: Yes we did. There are five bids.

ASSEMBLYMAN ALATORRE: And you happen to be one of them.

MR. BETHEA: Yes we are.

ASSEMBLYMAN ALATORRE: Okay. And I'm not interested in finding out about what -- I know that are some prohibitions. So I'm not interested in knowing what is part and parcel of the bid. But I'm just interested in your general philosophy if you were to be granted that bid, what you see as your responsibility now that you are and if this is within the realm of what you can discuss -- what you see as a responsibility to...

MR. BETHEA: We recognize that responsibility and we have addressed it in our proposal which as you correctly observed, we cannot discuss except in the most general terms.

ASSEMBLYMAN ALATORRE: Nor do I want you to because I don't want to jeopardize your position.

MR. BETHEA: I appreciate that. I assure you though it's been addressed. We have been in discussion with some gentlemen with whom you are familiar and there are quite ample minority and women business opportunities available at a very significant dollar and percentage level. I think I'm permitted to say that. I probably should say no more.

ASSEMBLYMAN ALATORRE: Very good. Okay. Anything else?

MR. BETHEA: We appreciate very much your asking us to attend and glad we could voice our position.

ASSEMBLYMAN ALATORRE: For the rest of you, I know that as I go down the list, most of the people that are here are part of companies that are seeking the second phase of the lottery. Now if you feel that you have something to add, obviously we're interested in listening to your testimony. So thank you very much.

The next person is Scott Strathearn. Are you the only person here. How about Vince Romans?

MR. SCOTT STRATHEARN: Vince Romans was here. He had to catch an airplane.

First of all I'd like to thank the committee for giving us an opportunity to tell you what Purolator Courier is doing in relation to the Lottery Commission contract.

We are currently working with one minority subcontractor in northern California with the delivery and distribution of lottery tickets. That minority subcontractor is working in the counties delivering in Mendocino, Lake, Marin, Sonoma, Monterey, San Benito, Parts of San Mateo County.

The name of the firm is Astro and we have been working with this firm through the full extent of Game One.

As of November 8, that particular subcontractor had decided to withdraw participation of the contract. We are currently in the process of looking for new subcontractors to work with Purolator in the distribution of tickets.

As far as the programs that we have developed internally to communicate with eligible minority/women-owned subcontractor courier companies and delivery firms, most of our activity is being communicated through the state.

The Lottery Commission has received information or requests of interests and some of those companies have been passed along to Purolator Couriers. We also, upon the initial award of the contract back in June, were contacted by numerous minority subcontractor firms. We are now in the process of following up with those firms to replace the current subcontractor we've got.

Whether we replace with one firm or whether we go to two or three firms we haven't decided, but we're in the process right now of putting together our data to allow minority and women subcontractors to bid and work with Purolator in the distribution.

ASSEMBLYMAN ALATORRE: Okay. Is that it?

MR. STRATHEARN: That's it.

ASSEMBLYMAN ALATORRE: Thank you very much. All right, Tamara Carbone? Then after that Mr. Speicher and then the last person will be Mr. Beaver.

MS. TAMARA CARBONE: How do you do. My name is Tamara Carbone and I represent the Automated Wagering Division of Control Data Corporation. I am the Regional Marketing Manager of California. I would like to introduce Mr. Hugh Plummer who is our counsel.

As you are aware the request that we had was to address specific issues related our position in general and I have addressed those and presented a statement which covers the answers to the questions that you initially asked. (See Appendix A.)

Our leadership in establishing employment opportunities and affirmative action policies are well-known. In the handout that I have given you, I have cited the figures that we have plus a commendation that we received from the U.S. Department of Labor awarding Control Data the Office of Federal Contract Compliance Exemplary Voluntary Efforts Award in 1983.

Unlike many companies, we voluntarily set goals and guidelines regarding our affirmative action and equal opportunity employment and this also translates to our voluntary guidelines for purposes of subcontracting with women and minority owned firms throughout our corporation. We have been doing this for 13 years. We are a multi-national corporation and we do business in all of the states in the United States and in California. So we do have figures which would represent the amount of funds that we spend purchasing services and goods and subcontracting as a corporation.

As far as the lottery is concerned, the Automated Wagering Division does follow this same policy and your questions asked what these policies were. In many states, except for the state of Washington, which we contract the requirement is not regulated by percentage. We voluntarily subcontract according to our goals and we have a list of suppliers that we can provide you if you request -- not at this time, but we have that list.

In the state of Washington, we are required to meet a certain minimum. We have reports that we think present that not only do we meet that we exceed those minimums and...

ASSEMBLYMAN ALATORRE: Excuse me. Do you find that cumbersome or difficult to meet those guidelines whether they be a fixed percentage or...

MS. CARBONE: We have not found it difficult to meet the guidelines. We have had very good working relationships with the subcontractors that we've worked with. They work as part of our team. We bring them in and we require

them to be responsible for the same demands that the Lottery presents to us. It's a challenging contract because the lottery has challenged us. So we do make them part of that team. We have not found that to be a difficult problem.

We are not new to California. For 20 years we have been operating here. Your second question regarded the outreach efforts that we have made. We have 7,000 employees in California and 117 offices. So our contribution to the California bottom line is about \$150 million -- payroll and taxes and so forth and so on.

In California we're already established in terms of our purchasing of goods and services to small businesses, to minority and women owned businesses in many divisions. This is going to give us a head start in identifying and qualifying the types of contractors and subcontractors which we will be using if we are chosen as the lottery's on-line contractor. So we can assure you that we will, as a corporation that has its own policies that have already been established, follow the guidelines of our own policies. We are committed to following the guidelines that the California Legislature has recommended and established and we will be prepared to provide to anyone to demonstrate that we have done that.

ASSEMBLYMAN ALATORRE: Good. And we have copies of that? Very good. If you can give them to the secretary. Thank you very much. All right, Mr. Speicher.

MR. JOHN SPEICHER: Mr. Chairman, I am John Speicher. I go by Spike. I'm the Western Regional Manager for GTECH Corporations. As was said before, I'm under some constraints as to what I can say today.

ASSEMBLYMAN ALATORRE: All I'm interested in is a few of the points.

MR. SPEICHER: Okay. I would like to say that GTECH's commitment to providing real opportunity for minority- and women-owned businesses has been demonstrated to the lottery industry in the District of Columbia Lottery and the Ohio Lottery.

GTECH was the first lottery supplier to include meaningful minority participation in the operation of an on-line lottery system.

The Washington, D.C. Lottery is operated by Lottery Technology Enterprises, LTE, a joint venture between minority businesses who own 60 percent and GTECH who owns 40 percent, which is subcontracted with many minority businesses to provide the services necessary to a successful lottery operation.

These subcontracts include: administrative services, advertising, promotion, terminal maintenance, field services, supplies, and training. GTECH has also provided the working capital and financial guarantees required to establish a successful on-line system for Washington, D.C.

The minority subcontractors and suppliers have been paid in excess of \$4.3 million in the first 18 months of the Washington, D.C. contract or over 80 percent of the revenues received from the contracts with the Washington, D.C. Lottery. I may add that we and LTE have just received a two year extension of that contract.

Of equal importance is the community involvement commitment that we have made. Training programs for local high school students offered and funded by LTE have received recognition from local school boards and the District of Columbia City Council.

GTECH made, kept, and is continuing to keep its commitments to meaningful minority participation to the Washington, D.C. Lottery.

GTECH has continued its commitments to meaningful minority participation in the lottery industry with the Ohio Lottery. GTECH established subcontractors in Ohio to provide similar services as in Washington, D.C., but has expanded its commitment to include printing of selection slips and ticket stock for the state of Ohio. An estimated \$6 to \$10 million will be subcontracted to minorities for services and supplies for the Ohio Lottery contract. We begin operation in Ohio next week.

ASSEMBLYMAN ALATORRE: Okay. The question I would ask you, you couldn't answer anyway. Thank you very much I appreciate it. All right, Mr. Beaver.

MR. DON BEAVER: Thank you Mr. Chairman. I'd like to give you a little briefing on the reaction of the retailers so far to the lottery and a few of the problems that they have encountered.

While we had several recent meetings with the Commission and its staff, we have resolved a lot of problems that were created during the startup. There was a tremendous mess out there.

In the distribution of tickets -- late deliveries, long lines to purchase tickets at the warehouses, the inaccessibility to reach people by telephone, what holidays the warehouses and distribution centers were open, what the starting and ending of the games were -- created a lot of problems. A lot of them now have been worked out and we feel that the lottery staff has been very cooperative. We have had some problems in the billing system. As they swept the accounts, some of them were not accurate and finally and I know again that those will be straightened out as soon as possible.

As far as the retailers are concerned, it's too early to see what kind of a shift has gone on in the purchase of groceries. We have mixed reactions right now from retailers all over the state. Some have indicated they thought their sales are about what they have anticipated as far as totals per sales. What they have seen, though is a decrease in grocery sales and, of course, that has been offset by the purchase of lottery tickets. So there are some indications that people are opting and not buying certain grocery products and are buying lottery tickets, particularly as coming from the snack food areas.

Some of the smaller stores have indicated some increases in sales. We just don't know where those are -- it's too early yet.

We are going to be doing a survey that will be available in January that will give a picture of what sales are, what is decreasing...

ASSEMBLYMAN ALATORRE: If any.

MR. BEAVER: If any. Right. We just don't know yet. There has been a shift in the gross profits because of the sales shift. Retailers are real concerned about that portion of it and feel that if it continues, the commission that is now available of 5 percent is probably not going to be adequate in the long run, particularly as sales start down in instant lottery tickets.

Now as far as the future is concerned, there is one thing that we've got to be very adamant about -- that is that when we get to the on-line games, we must have player-activated terminals. Labor costs are just too high in the markets to sustain a clerk to actually sell and record those sales and to take the money and give the tickets out on the on-line. They must be player-activated.

The Lottery Commission has agreed to set up a committee of retailers in the state that will be able to give them some advice. I think on future regulations and rules that they are going to impose. Before it was done mostly by the Commission. Some have not been workable. They have made some changes particularly in the distribution where the larger retailers asked to have tickets sold and delivered at one point and allow the retailers to distribute those tickets to their own stores and have a central billing. The Lottery has done that and that's been a tremendous help to the industry.

There are other things that are out there that we want to, of course, try to work on with the Lottery itself to try to resolve and again I think they have been very cooperative in listening and that is particularly what we need to have done.

ASSEMBLYMAN ALATORRE: So in other words, the study that you are going to conduct in January is only going to take into consideration any changes that have taken place as the result of the implementation of the lottery?

MR. BEAVER: No, we're going beyond that.

ASSEMBLYMAN ALATORRE: Shopping patterns and...

MR. BEAVER: Yes. We're going beyond that. In fact we've asked the Lottery itself if they would like to ask several questions in this survey about demographics and so on. They are to submit those questions to us by the 18th. We're asking for sales figures by retailers of all sizes -- not just chain stores, but the smallest business and everything in between to see if we can get a picture of really what is happening out there and we would be willing to share that with your committee as well as with the Lottery.

ASSEMBLYMAN ALATORRE: That would be very helpful. All right, Mr. Beaver. Thank you very much.

To all the consultants from the respective committees representing the different vendors I'm sure that you found this to be very educational. I didn't put any of you on the spot.

Actually to Chairman Varner, I want to thank you very much for the cooperation that your Commission gave us and we look forward to continuing to work with you to improve the way the way that the Lottery is functioned here in the state of California.

Thank you very much. The meeting is adjourned.

STATEMENT TO THE
CALIFORNIA LEGISLATURE ASSEMBLY COMMITTEE
ON
GOVERNMENTAL ORGANIZATION

CONTROL DATA CORPORATION

November 14, 1985

POLICY ON AFFIRMATIVE ACTION AND PURCHASING

Control Data's leadership in establishing Equal Employment Opportunity and Affirmative Action policy are well known. WE set an enviable example among Fortune 100 companies in our employment and promotion of minorities and women. We support the development of minority and women owned businesses through subcontracting agreements and purchasing of goods and services and through training programs and financial support of emerging small businesses.

Unlike many other companies, we have gone ahead on our own to establish and implement goals--as a conscious, deliberate, good faith decision--versus having some external agency say this is what we think you should be doing. Our efforts have been recognized by the U. S. Department of Labor in awarding Control Data the Office of Federal Contract Compliance Program's Exemplary Voluntary Efforts Award in 1983. "The purpose of the award is to publicly salute...Control Data Corporation...for its pioneering efforts in instituting several imaginative programs that have enabled minorities and women to develop management skills and to be successfully placed in a wide range of management positions."

Control Data has had a similar voluntary purchasing and subcontracting policy with women owned and minority owned firms for the past 13 years. The goal of this program is to grow 10 per cent each year and it has been met consistently each year. As of third quarter, 1985 figures reveal \$18.4 million of all purchases to minority owned businesses and \$5.5 million purchases to women owned businesses. Control Data currently does business

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with approximately 500 unique minority suppliers around the country and approves over 6,000 independent awards for goods and services to these firms. Purchases from small businesses represent 54.3 per cent of all Control Data's purchases.

Following this tradition, The Automated Wagering Division has voluntarily subcontracted or purchased goods and services from minority and women owned businesses in all six lottery states it operates exceeding the percentages of most other companies and those recommended by the states. Washington State is the only lottery which requires a minimum percentage of revenue subcontracted to minorities and women owned firms. Control Data has exceeded its percentage requirements each year and has been acknowledged and commended by officials for setting an outstanding example of compliance with State policy.

If Control Data is awarded the California on-line lottery contract, we will subcontract with minorities and women owned businesses in keeping with own policy and with the goals recommended by many of the California legislators.

OUTREACH EFFORTS

Control Data is not a newcomer to California. For 20 years we have provided computers and services in diversified companies from TICKETRON to the Control Data Institutes. We know California and currently employ 7,000 employees in 117 plants or offices throughout the state. We already subcontract with or purchase from minority or women owned firms and know leaders in government, industry and business in California's major cities.

Control Data's cooperative ventures with minority and women owned firms have been established in its City and Urban Venture projects which undertake the revitalization of depressed economic areas and the

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California FAIRBREAK programs which retrain unemployed and disadvantaged adults and youth for high technology jobs.

Local personnel in the Control Data business divisions are the first line resource for referral of qualified minority and women operated firms through their existing purchasing and membership in a wide range of business and professional organizations. Control Data's membership and support for national and local minority and women organizations through financial contributions, board representation and convention participation also provides outreach for qualified suppliers from contacts with members of the NAACP, National Urban League, SER, Jobs for Progress and the National Organization of Women. Finally, Control Data's hiring and purchasing policies encourage solicitation from potential subcontractors and suppliers.

Control Data's Automated Wagering Division expects to make a conscious effort to use in state vendors, financial institutions, common carriers, contractors and professional firms as a lottery contractor. Our existing network gives us a head start in identifying and qualifying minority and women owned businesses as subcontractors to the California on-line lottery.



13th District
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(213) 485-3353

Councilman Michael Woo

City of Los Angeles

Statement on the Allocation of Funds For Advertising for California Lottery

It has come to my attention that the State Lottery Commission has only hired one advertising agency in promoting the sale of lottery tickets.

At issue is not whether other advertising agencies should have a fair share of the pie. We are talking about a significant population throughout the state, who support the system yet are not part of it. We are talking about immigrants who have little knowledge about the rules of the game. We are talking about small businesses owned by immigrants who cannot sell lottery tickets because they do not know how the procedures work.

Some may argue that because the lottery requires players only to scratch the lottery tickets with a coin, there is no need to explain the rules and procedures in languages other than English. I would question how much money out of the \$22 million advertising funds is allocated for illustrating the ways to play the game, to claim the prize, to join the "big spin" to the consumers.

Lottery Ads

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As the first Asian elected to the Los Angeles Council, I am urging the State Lottery Commission to be sensitive to the needs of ethnic communities and award contracts to those advertising agencies which will provide more direct service to the minority communities.