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EDUCATION BASED INCARCERATION HOPE FOR TOMORROW



Committee Members

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EDUCATION BASED INCARCERATION

HOPE FOR TOMORROW

SUMMARY

Education Based Incarceration (EBI) is a comprehensive educational program focused on deterring and mitigating crime by providing inmates education and rehabilitation during incarceration. The EBI program is provided by the Los Angeles County Sheriff's Department (LASD). Some County inmates take advantage of this opportunity to improve their lives. Holding lawbreakers accountable for their actions and providing a safe, stable community for citizens is the responsibility of the incarceration system. A core goal of EBI is to reduce recidivism and improve success rates for inmates upon release into society. This ultimately has the potential to reduce costs to taxpayers who bear the financial burden of the Los Angeles County inmate population.

PURPOSE

This Report summarizes the components and value of the EBI program and addresses the following:

1. Challenges of increasing the number of inmates participating in and completing the EBI program
2. Recidivism and ongoing success statistics for inmates who complete coursework versus the general population who do not participate
3. Employment shortages and improvement of job opportunities for EBI graduates

BACKGROUND

There are currently five (5) LASD operated jail facilities offering educational programs to inmates. Different courses are offered based on inmate security levels. Learning while in jail is part of an innovative program where inmates can have access to education while incarcerated to prepare for life upon release. EBI offers vocational job training skills, as well as in depth curriculum dealing with life in society as law abiding citizens.

Academic and job training offered through EBI includes, in part:

- Basic reading, writing, math, science, social studies and fine arts within the State of California's framework and content standards
- Preparation for General Education Development (GED) State equivalency test
- English as a Second Language (ESL)
- Automotive body service and repair
- Bicycle repair

- Construction, painting, welding, masonry, woodworking, carpet and flooring installation
- Custodial building maintenance
- Culinary arts and hospitality
- Pet grooming and animal caretaking
- Commercial sewing and embroidery
- Office occupations, computer operations, telecommunications
- Landscaping and grounds keeping
- Graphic arts and sign fabrication
- Printing and plastic bag manufacturing

Life Skills and Behavior Modification Programs are designed to correct and improve social skill deficits, as well as increase ability to problem solve and make sound decisions. Offerings include:

- Domestic violence prevention/anger management
- Parenting
- Drug education and recovery
- Moral recognition
- Personal interactions
- Job fairs
- Teaching and Loving Kids (TALK) – teaches parents how to talk with and strengthen bonds with their children in a relaxed, child centered environment
- Returning Hearts – helps men understand their roles as fathers, husbands and family leaders
- Women in Transition Support (WITS) – a sixteen (16) week life skills and empowerment program for incarcerated women
- Veterans programs

Community based organizations are available to assist inmates in an effort to improve their chances for success upon release. These organizations, some of which are listed below, can play an integral role in assisting Merit graduates IF they make the choice to take advantage of these services and IF funding is available to these organizations:

- Hollywood Impact Studios – offers training and employment in the entertainment industry to graduates, funded almost entirely by individual founders working in the industry
- Homeboy Industries – offers case management, legal assistance, counseling and recovery meetings to at-risk and former gang involved youth
- United States Veterans Initiative
- Volunteers of America
- One Stop Career Centers
- Friends Outside – serves as a bridge between families, inmates and community to break the cycle of crime
- Covenant House – largest privately funded crisis care agency in America
- Bridges – provides transitional and long-term residential care programs
- Dream Center – non-profit agency dedicated to providing tangible and spiritual needs to inner city residents
- Other addiction recovery, mental health and homeless assistance organizations

METHODS AND PROCEDURES

The 2010-2011 Civil Grand Jury (CGJ) toured and observed classes conducted at the North County Correctional Facility (NCCF) at Pitchess Detention Center (Pitchess) for men in Castaic and the Century Regional Detention Facility (CRDF) for women in Lynwood. The program observed at Pitchess is known as Maximizing Education Reaching Individual Transformation (MERIT). The program observed at CRDF is called Women Investing in Success through Education (WISE).

These tours included viewing inmates housed in units not participating in classes as well as the units where all members were actively involved in a broad offering of educational and life skill classes.

One of the LASD's publicly stated goals is a strong focus on moral rehabilitation of incarcerated inmates. A presentation to the entire CGJ included rationale for development of EBI components and continuing efforts being made to enhance program offerings.

CGJ members also met with and interviewed the following:

- Senior LASD officials
- Correctional division advisory personnel
- MERIT program coordinator and instructors
- Alumni support group of program graduates

- External community agencies and program partner corporations

FINDINGS

As a result of the CGJ inquiry, the following was found:

1. According to the LASD, inmates released from jail are rearrested at a rate of 42.2% within the first six (6) months. After six (6) months of release, the recidivism rate for rearrest increases to 57.4%. Two (2) of the strongest, most consistent predictors contributing to recidivism among County jail inmates are lack of employment and substance abuse. Data indicates there is a high likelihood inmates will return to jail if not provided with guidance and direction within eight (8) hours of release.
2. At Pitchess, the CGJ observed a marked difference in the environment, interactions and activities in housing units where classes were and were not being held. Inmates not involved in classes were in crowded dormitory facilities, playing cards, watching TV, pacing or engaged in minimal constructive activities. In contrast, inmates enrolled in the MERIT program who are housed separately were in classrooms filled to capacity or engaged in listening to dynamic motivational speakers' presentations. Several CGJ observers were moved to tears by the sincerity and focus demonstrated by these inmates.
3. According to the Los Angeles District Attorney's website, the County of Los Angeles has approximately fourteen hundred (1,400) known street gangs. External community support organizations note that gang leaders are recruiting new members at a younger age with some new members being fourth generation gang members. It is estimated that of the 85,000 gang members in Los Angeles County, approximately:
 4. 90% will be arrested by the age of 18
 5. 75% will be arrested twice by the age of 18
 6. 95% will not finish high school
 7. 60% will be in prison or dead by the age of 20
8. Research shows that before you can prepare parolees for a job by teaching job skills, it is imperative that you prepare their minds for a new and different way of thinking when they reenter society upon release. According to a 2010 publication by the LASD on EBI, the LASD recognizes that inmates who are better prepared mentally, psychologically and educationally for transition and reentry into the community have a much higher success rate. The principles of EBI are designed specifically to assist inmates in their transition from custody to civilian life.
9. LASD previously had a long-term contract with a school district for instructors to provide EBI training to inmates. Negotiations are underway for a new contract that is expected to be finalized by mid-2011. At that time, instructors will teach EBI courses through the contracted organization. Ultimately, the goal over the next two (2) years is to develop an educational program to administer EBI course work to inmates in conjunction with a Federal workforce investment program.

10. Custody Assistants (CAs) are LASD employees working in the jail system to manage inmates. Some CAs have been provided limited training to instruct inmates in various programs such as parenting and anger management. The amount of time spent in training varies from ten (10) hours to thirty-two (32) hours with additional workbook and video instruction. This limited training appears to be inadequate in contrast to four (4) year bachelor degrees and teaching credentials required by school district teachers. The effectiveness of the CA instructors is measured and may need to be assessed for effectiveness. This issue did not appear to be a concern with females at CRDF as much as the male population at other jails.
11. Concerns were expressed during this investigation from various organizations about limited access of inmates to civilian, non-sworn personnel if CAs are being charged with teaching and acting as case managers. As case managers, they seek to ensure participants have tools needed to reintegrate into the community. The concern was whether inmates will relate to and confide in LASD employee instructors with the same level of trust as they would to a civilian teacher. While the CGJ understands the security and safety issues related to uncontrolled access of inmates to civilians, questions were raised about the LASD attempting to limit external involvement with inmates. Of particular concern was whether an inmate's needs to connect with family, make contact with their attorneys and receive meaningful assistance was adequately met.
12. The Inmate Welfare Fund (IWF) is a fund derived from revenue sharing contracts such as inmate phone calls, vending machines and commissaries where inmates can purchase food and personal items with money put into an account by their families. The fund generates approximately \$47 million a year and is "to be expended for the benefit, education and welfare of inmates." The IWF allocates 51% for inmate programming and services (which includes EBI courses) and 49% for jail maintenance. The Inmate Welfare Commission is an advisory body which makes recommendations about the use of these monies. However, the final authority for expenditures rests with the LASD. Questions were raised about whether this allocation is being adhered to and the extent to which the EBI program actually benefits from this fund.
13. In addition, the CGJ found that the EBI program faces four (4) major obstacles:
14. Inability to effectively translate course material for the Spanish speaking population
15. Lack of adequate exposure to program benefits by the Board of Supervisors and other influential sectors of County government
16. Effectively marketing the program internally to local government leaders and externally to potential corporate partners
17. Apprehension of participation by male inmates due to internal jail house politics and gang peer pressure

RECOMMENDATIONS

1. LASD Community Transition Unit to increase network with community service groups and local businesses to gain employment opportunities for inmates who have

completed the EBI program. This can be achieved by attendance at community service clubs such as Rotary, Kiwanis and Chamber of Commerce meetings. LASD representatives are encouraged to be proactive and attend these meetings fully prepared with names and experiences of EBI graduates.

2. Assign LASD community outreach staff to actively and consistently network with corporations to acquire corporate support. In addition to financial contributions, seek to acquire access to corporate inventory of excess computers, training equipment and classroom furnishings for use in EBI classrooms. Seek expertise of potential guest speakers and enlist assistance for much needed computer training.
3. Procure inventory of translation equipment to effectively communicate course content to the Spanish speaking population and increase the number of Spanish speaking instructors. Seek funding approval from the Board of Supervisors for translation equipment and/or utilize funds from the IWF.
4. Evaluate effectiveness of the current level of communication with the Board of Supervisors and all local city councils to increase awareness and support of EBI programs. A strong "circle of influence" in local government is imperative for the ongoing success of the EBI program. Consistent exposure is advised through attendance and agenda input at the Board of Supervisors and countywide city council meetings by high level LASD officials. Ensure funding is sought for specific needs such as computers, translation aids and other classroom equipment.
5. Identify and address obstacles that exist in jails that deter inmates from participating in educational programs due to gang peer pressure. While it is recognized there is no quick or easy fix, the fact remains that this is a major obstacle to increase participation in this valuable program. LASD should actively enlist support from organizations like Home Boy Industries, Communities in Schools and other gang experts; i.e., ex-gang members to assist in identifying solutions to this major challenge.
6. Review the usage of the IWF expenditures to determine what portion is being used for EBI versus other jail expenses such as capital expenditures. Is there a clearly defined budget allocated for educating inmates and providing recovery programs? Is it being adhered to? Is an appropriate level of funding being allocated to external agencies which can aid in bridging communication gaps that may exist between inmates and uniformed personnel? Ensure adherence to California Penal Code §4025¹ as it relates to expenditures of the approximate \$47 million in the Inmate Welfare Fund.

¹ Following is the pertinent portion of Penal Code Section 4025(e) that sets forth the guidelines for administering these funds:

The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include the salary and benefits of personnel used in the programs to benefit the inmates, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff.

REQUEST FOR RESPONSE

California Penal Code Sections² §933(c) and §933.05 requires a written response to all Recommendations contained in this Report which shall be made no later than ninety (90) days after the Civil Grand Jury publishes its Report (filed with the Clerk of the Court).

Respond to:

Presiding Judge
Los Angeles County Superior Court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street,
Eleventh Floor, Room 11-506
Los Angeles, CA 90012

All responses for the 2010 - 2011 CGJ Report's Recommendations must be submitted to the above address on or before the end of business **September 30, 2011**.

Responses are required from:

<u>Recommendation Number(s)</u>	<u>Responding Agency</u>
1	Los Angeles County (Sheriff's Department)
2	Los Angeles County (Sheriff's Department)
3	Los Angeles County (Sheriff's Department)
4	Los Angeles County (Sheriff's Department)
5	Los Angeles County (Sheriff's Department)
6	Los Angeles County (Sheriff's Department)

² Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 Civil Grand Jury Report

Acronyms

CA	Custody Assistant
CGJ	Civil Grand Jury
CRDF	Century Regional Detention Facility
EBI	Education Based Incarceration
ESL	English as Second Language
GED	General Education Development
IWF	Inmate Welfare Fund
LASD	Los Angeles Sheriff Department
MERIT	Maximizing Education Reaching Individual Transformation
NCCF	North County Correctional Facility
TALK	Teaching and Loving Kids
WISE	Women Investing in Success through Education
WITS	Women in Transition Support

**UNCOLLECTED MEDICAL BILLS IN
THE COUNTY'S THREE MAJOR
MEDICAL FACILITIES
FREE COUNTY HEALTHCARE –
EASIER THAN YOU THINK!**



Committee Members

Chairperson: Leah Markus
Co-Chairperson: Solomon Hailpern
Brian J. Twomey
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UNCOLLECTED MEDICAL BILLS IN THE COUNTY'S THREE MAJOR MEDICAL FACILITIES

FREE COUNTY HEALTHCARE - EASIER THAN YOU THINK!

SUMMARY

Federal law prohibits hospitals from denying or delaying treatment to a patient in the emergency room (ER). Providing health care to the uninsured who rely on the ER for general care is an expensive endeavor for Los Angeles County (LAC). The level of uncompensated health care continues to rise. The County hospitals must also operate within the confines of a consent decree, which constrains the County's ability to ensure the reimbursement of its medical costs for service to the uninsured. This 2010-2011 Civil Grand Jury (CGJ) investigation focused on assessing the Los Angeles County Department of Health Services' (DHS) ability to cover the costs of health care provided to the uninsured and low-income populations, with particular emphasis on the Self-Pay collection system.

Within this context, the investigation found that the County's hospital/health care system is vulnerable to public abuse. However, it is not possible to quantify the level of public misuse. A 2001 County internal audit of the Self-Pay collections process found low collection rates on these unpaid Self-Pay accounts. However, the CGJ found that while collection efforts on most accounts will not result in patient payment, the DHS focuses on obtaining local, State and Federal reimbursements of the County's actual costs for providing health care services to these unpaid accounts. The CGJ made several recommendations to decrease non-critical medical visits in the emergency room, increase medical care reimbursement levels to the County and standardize policies and procedures across the hospital facilities.

PURPOSE

This CGJ investigation focused on assessing the DHS' ability to cover the costs of health care provision to the uninsured and low income populations, with particular emphasis on the Self-Pay collection system. The scope of this study encompassed three (3) County public hospitals: Los Angeles County USC Medical Center (LAC+USC) in Los Angeles, Harbor-UCLA Medical Center (Harbor-UCLA) in Torrance and Olive View Medical Center (Olive View) in Sylmar. The investigation's objectives were to:

- Determine the policies and processes for collecting monies due from Self-Pay accounts
- Determine the scope of collected and uncollected funds from Self-Pay accounts
- Document the patient intake/admission, medical triage and financial screening processes at County emergency rooms
- Document and assess the County's accounting policies and procedures for uncollected Self-Pay accounts and the County's efforts in securing reimbursement for health care provision to the uninsured

- Document the laws governing Self-Pay collections and the provision of health care to the uninsured in ERs

BACKGROUND

Los Angeles County is a large jurisdiction; in fact, the County is larger both in square miles and population than many U.S. states. It is home to more residents without health insurance than any other county in the State of California. Compared to the State, Los Angeles County has a higher proportion of uninsured residents (17% compared to 14.5% in the State), small businesses (which are unlikely to provide health insurance to their employees), and low income families, young adults and Latinos (all of whom are more likely to be uninsured).¹ Furthermore, since the beginning of the economic recession in 2007, Los Angeles County's population and unemployment level have grown. The County's population grew by 2.2% (compared to a 3.1% increase in the entire State) between July 2007 and July 2010, while the County's annual unemployment rate increased from 5.1% in 2007 to 13.1% in 2010 (compared to 5.3% and 12.4%, respectively, in the State).²

These demographic characteristics and economic realities have had a significant impact on the County's public health care delivery system, the "safety net" of health care for those who are uninsured. Patients who do not have third-party resources; e.g., Medi-Cal, Medicare, private insurance, etc., are responsible for the cost of the medical care provided at DHS facilities. These patients (and their related charges) are referred to as "Self-Pay" and comprise approximately one-fifth of DHS inpatients. However, many of these Self-Pay accounts are left uncollected. Exacerbating this health care system's capacity is the financial crisis faced by the County. Los Angeles County's fiscal year (FY) 2010-2011 budget represented the third consecutive year of budget curtailments for the County. For FY 2010-2011, all County departments, with the exception of DHS, were required to submit 9.0% spending reduction proposals. DHS was faced with its own budget shortfall of nearly \$400 million and was tasked with finding solutions to mitigate this deficit.³

Emergency Medical Treatment and Active Labor Act (EMTALA)

The Social Security Act's Section 1867(a), also known as the Emergency Medical Treatment and Active Labor Act, restricts hospitals' inquiries into a patient's ability to pay if the patient has an "emergency medical condition." EMTALA essentially stipulates that a medical screening exam may not be delayed for inquiries about payment, even if the patient enters the hospital's emergency room. EMTALA was established to prevent "patient dumping," which could mean refusing to treat people because of their inability to pay or insufficient insurance coverage, or transferring or discharging emergency patients on the basis of anticipated diagnosis and high treatment costs. While EMTALA has improved health care access to the uninsured, there has been a significant cost impact of the Act. According to the Centers for Medicare and Medicaid Services, 55% of U.S. emergency care now goes uncompensated.

¹ Data from: 2009 California Health Interview Survey; County Snapshot, Los Angeles 2001, California Employment Development Department; California Finance Department; and U.S. Census Bureau.

² California Employment Development Department and California Finance Department.

³ Los Angeles County Comprehensive Annual Financial Report, Fiscal Year Ended June 30, 2010, Auditor-Controller Department.

Etter Consent Decree

In 1985, the Legal Aid Foundation filed a class action lawsuit against the LAC, known as Etter vs. Board of Supervisors, which, along with restitution for the plaintiffs, alleged that there was inadequate notice to patients regarding the reduced cost health care options and requested improved access to these options. In 1987, the California Superior Court approved a Consent Decree finding in favor of the plaintiffs. As part of this Consent Decree, LAC was ordered to implement several low-cost/no-cost policies and programs: Ability-to-Pay (ATP) Plan, Outpatient Reduced-Cost Simplified Application (ORSA), and Pre-Payment Plan. These changes meant increased access to medical care for those who had no medical benefits and lacked the financial ability to pay for service and increased simplification of the patient application/financial screening process. In combination with EMTALA, the Etter Consent Decree makes it more difficult for LAC to screen the patient's financial status and secure reimbursement dollars for medical care.

Low-Cost/No-Cost Programs

To apply for low-cost/no-cost programs, patients must demonstrate financial need. For ORSA, the net family income must be below 133% of the Federal Poverty Level (FPL). The Decree requires that verification of income is declaratory only. Dependent on the declared information, a patient may incur a liability, but only a small fraction of ORSA patients end up being held responsible for any of their health care costs. Proof of income is not required at the time of application, but may be subject to verification at a later date if a patient is randomly included in the 10% audit sample. If the patient appears to be Medi-Cal eligible, but does not complete the application for Medi-Cal, the patient will not be able to apply to ORSA but may still use the Pre-Payment Plan.

ATP informational materials recommend that the patient bring documentation that shows identity, residential address, and income. However, if the patient does not provide some or all of the requested documents as required by the Decree, the ATP worker can accept an affidavit as statement of proof. Like ORSA, if the patient appears to be Medi-Cal eligible, but does not complete the application, the patient will not be able to apply to ATP, but may still use the Pre-Payment Plan.

The Pre-Payment Plan is used for outpatient services only. The Pre-Payment Plan allows patients to submit a payment amount based on their received outpatient services. If the patient chooses this payment plan, the patient would be responsible solely for the designated amount the program outlines. Table 1 below lists some of the services and costs associated.

Table 1. Per Visit Pre-Payment Plan Costs

Service	Amount
Emergency Room	\$120
Outpatient Surgery	\$400
Outpatient Clinic	\$80

The patient is not responsible for any additional payments, regardless of the amount of charges incurred and the frequency of service usage. Patients are not obligated to prove income or family size. This plan is only eligible for LAC residents. If patients do not comply with the Medi-Cal application, they are still able to use this program for their outpatient services. Note that the estimated average outpatient account charge is approximately \$1,000 per visit. After the Pre-Payment Plan payment from the patient for the specific service, the remaining portion of the

hospital bill is no longer the patient's responsibility. The hospital administration then claims the residual charges as uncollectible. This issue is discussed later in this Report.

Patient Flow and Financial Screening

The financial screening process for the Emergency Room (ER) is dependent on the severity of the patient's medical condition. If the patient is critical and needs immediate attention, they bypass the waiting room to be treated by doctors. For a lower-risk patient, the Initial Contact Nurse (ICN) collects preliminary identification, including name, date of birth; and if the patient is a returning patient, their medical record number (MRUN). The patient waits to be seen in the triage area. Nurses record the patient's vitals, refer the patient to the Triage Nurse, and ultimately to the Nurse Practitioner. If the patient is not in critical condition but needs prompt attention, this process is hastened. The hospitals must provide these medical assessments before a patient is financially screened.

After the preliminary medical evaluation, patients wait for the doctor's assessment while the Registration Patient Resource Worker (PRW) conducts the financial application. This information aids the PRW in establishing possible eligibility for Medi-Cal. Otherwise, patients receive pamphlets regarding low-cost/no-cost programs – including Pre-Payment and ORSA.

The obstacle with financial screening is that patients are under no obligation to provide the necessary information: birthplace, parents' names, mother's maiden name, spouse, social security number, and residential status.

The questions multiply. Will the patients follow through with any of the payment options? Will they return to complete the lengthy ORSA application? Will they send in their payment in the Pre-Payment billing envelope? Will they pay at the ER Cashier's Office?

Using Public-Private Partnership as an Alternative to Using ER for Non-Emergency Care

The Public-Private Partnership (PPP) Program is a collaborative effort between DHS and private, community-based providers (Partners) to provide medical and dental services to the indigent. This program is part of a Medicaid Demonstration Project designed to provide DHS with Federal relief to preserve vital community clinic capacity. PPPs provide medical, dental and specialty care coverage at over one hundred (100) privately operated primary care sites in LAC.

Extended Payment Plan

Although DHS has a standard policy regarding Extended Payment Plans (EPPs) to patients with a delinquent bill, the hospitals do not publicly encourage patients to utilize this policy/program. Instead, they wait until the patient requests further information. It is the patient who must request that the hospital initiate the EPP. The PRW then discusses the requirements and procedures with the patient. Once agreed upon, the PRW establishes a monthly minimum payment, due dates, default ramifications and a payment period not to exceed eighteen (18) months.

Collection Process

The process to collect payment or reimbursement for unpaid charges begins at patient discharge and is consistent within the three (3) facilities. For inpatient services, the facility sends the first bill to the patient fifteen (15) days after discharge. If the patient has not

responded, the facility sends a second bill thirty (30) days after the initial attempt. If by seventy-five (75) days after discharge, the patient does not respond, the account is sent to a private outside vendor for collection. Table 2 summarizes the inpatient timeline:

Table 2. Timeline for In-Patient Accounts Collections

Account Location	Timeline (Day Range)	Number of Days in Possession
Individual Facility	Day 1-75	75 days
First Collection Agency	Day 75-226	151 days
Second Collection Agency	Day 226-435	209 days
Account Write-Off	Day 436	

The United States Credit Bureau Inc., (USCB) retains the account for one hundred fifty (150) days. The account is then transferred to the LAC Treasurer and Tax Collector (TTC) if USCB fails to collect the debt. TTC then contracts with outside agencies to collect these accounts for approximately two hundred nine (209) days. If the amount is still uncollected, TTC initiates approval from the County Board of Supervisors to declare the account as uncollectible. The amount is then reflected in monthly reports provided to DHS which initiates efforts to obtain funds from various State and Federal reimbursement pools to restore each facility's lost revenue. The approximate number of days from patient discharge to TTC final attempt to collect is four hundred thirty-six (436) days.

Outpatient debt collection is similar to the inpatient process, but with a longer timeline. At patient discharge, the facility sends the first service bill approximately fifteen (15) days after patient discharge. The facility repeats this process thirty (30) days after the first service bill. If the patient does not respond to the hospital's service bill by day seventy-five (75), the facility attempts soft collection, which involves the facility's usage of outside collection vendors' written correspondence. The account still remains in the facility, but the bill letterhead mirrors more of a collection agency rather than that of the hospital facility. If the amounts are collected, the outside agencies charge a nominal fee for issuing these soft collection letters. The soft collection letter is sent at day 75, 105 and 135 after patient discharge. They are sent in thirty (30) day cycles. If the debt collection fails after one hundred sixty-five (165) days of facility collection attempts, the facility transfers the account to USCB. Table 3 summarizes the outpatient timeline:

Table 3. Timeline for Out-Patient Accounts Collections

Account Location	Timeline (Day Range)	Number of Days in Possession
Individual Facility	Day 1-75	75 days
Facility Soft Collection	Day 75-165	90 days
First Collection Agency	Day 165-346	180 days
Second Collection Agency	Day 346-525	179 days
Account Write-Off	Day 526	

After one hundred eighty (180) days at USCB, TTC initiates their collection efforts of the unpaid accounts. When the account is declared uncollectible, the process parallels that above and TTC reports written off accounts to DHS. The total number of days from patient discharge to TTC account termination is approximately five hundred twenty-six (526) days.

METHODS AND PROCEDURES

To complete this program assessment, the investigation involved the following analytical methods and procedures:

- Interviewed staff and management from LAC+USC, Harbor-UCLA, Olive View, and DHS
- Conducted site visits and shadowing of emergency room personnel and patient resource/financial staff
- Reviewed comparative information regarding Self-Pay collection processes and policies, and researched hospital Self-Pay and service reimbursement
- Collected and reviewed data and information, including: collection policies and procedures for tracking and monitoring Self-Pay collection; financial data regarding Self-Pay accounts receivables/collections and health care reimbursement at the County hospitals; past reviews and audits of the DHS collection process; applicable laws and regulations

FINDINGS

1. County Comprehensive Health Clinics (CHC) are limited in patient capacity and hours of operation. This results in overburdened ERs.

A substantial number of patients enter the ERs of LAC public hospitals with non-critical medical issues. These patients resort to the ER in part due to the limited capacity of the CHC clinics.

During site visit interviews, several nurses, staff and patients mentioned that CHC clinics often do not have an available appointment for months, or do not have adequate receptionist staff support to regularly answer telephone calls from patients. Consequently, non-critical patients overcrowd the ER. One hospital staff member mentioned that, at times, non-critical patients who have been waiting in the ER for a long period of time (because of the lower criticality of their medical condition) would intentionally leave the facility and call 911 to have an ambulance bring them into the ER to bypass the patient priority wait list to receive immediate attention.

Furthermore, each facility in this investigation has a policy that allows patients entering the ER to be seen in the Urgent Care division. A limited number of appointments are available for Urgent Care during business hours. If appointments are no longer available or if Urgent Care is closed, the non-critical patients are seen in the ER. Table 4 provides the number and percentage of those patients seen in Urgent Care:

Table 4. Number of Urgent Care Outpatient Visits Entering through ER, FY 2009-2010

Facility	Total ER Patients	ER Patients Referred to Urgent Care	Percent Referred to Urgent Care
LAC-USC	196,250	14,788	7.50%
Olive View	77,216	22,696	29.40%
Harbor-UCLA	102,016	22,034	21.60%
Total	375,482	59,518	15.90%

These numbers also represent the number of patients who could have potentially accessed the CHC clinics. LAC+USC offers a limited number of Urgent Care appointments, which are often filled by midday. This results in the low percentage of patients who could have been treated in Urgent Care but end up being treated in the ER instead. As Table 4 shows, 15.9% of patients who entered the ER in FY 2009-2010 could have potentially visited CHC for non-critical medical needs. For these hospitals, patients' ER bills can range widely, but the average outpatient account is \$1,000 per visit. The 15.9% of total referred Urgent Care patients, who could have been potentially treated in the CHC, produces approximately \$60 million in service charges.

2. Patients are often unaware of primary care Comprehensive Health Clinics and Public-Private Partnerships (PPPs).

The patients may not be aware of these primary care community health facilities that provide a better alternative to using the ER. Extending the hours of the community clinics and expanding the PPP to include more community partners could alleviate the ER backlog. The CGJ recognizes that funding and capacity of CHCs/PPPs may be limiting factors. By increasing awareness and participation in alternative facilities, the number of non-critical ER visits may decline over time. There could also be significant cost savings by having more non-critical patients visit the CHCs and community-based partners rather than the ERs and Urgent Care divisions. As the average cost of a clinic visit is less than half that of an ER or Urgent Care visit, the goal of the ICN would be to inform patients of available medical resources and services outside the ER, which may be more efficient in fulfilling their non-emergency needs. The PPPs and CHCs are not being fully utilized.

3. Etter Consent Decree is holding Los Angeles County hostage.

The Etter Consent Decree was created twenty-four (24) years ago outside of today's budgetary constraints and healthcare realities. The economic recession has impacted all levels of government, yet more and more uninsured people are relying on public hospitals for primary care.

Currently, DHS is attempting to implement a two-phase approach that alters some of the Etter Consent Decree provisions and encourages more patient applications to insurance reimbursement programs. Phase One was implemented in early March 2011 requiring patients in the inpatient division to apply for low income insurance programs, which require proof of income before applying to ATP. Similarly, DHS' proposed Phase Two of this approach will require outpatients to apply for two (2) income insurance programs before applying for ORSA. However, due to the larger outpatient volume DHS must submit budget requirements to better evaluate the cost benefit of Phase Two which outlines the additional staffing and associated hiring and training costs required to implement this phase. Both phases should increase the County's ability to recoup more of the costs of service and to lessen its financial burden on a long-term basis, while maintaining its ability to provide needed care to the uninsured.

To recover the increasing costs of medical care, particularly to the County's low income and uninsured populations, it is time for the requirements of the Etter Consent Decree to be revised.

4. Lack of a uniform pre-payment billing process throughout the facilities adversely affects the level of ORSA enrollment.

ORSA is preferable because reimbursements are higher for the uninsured ORSA population from the State and Federal cost reimbursement pools.

The Registration PRW provides patients with information regarding available low-cost/no-cost programs during the patients' financial screening. While the process from preliminary medical evaluation up to the PRW registration is generally consistent across the facilities, each hospital's practices differ after the PRW registration.

At LAC+USC Pre-Payment billing envelopes are distributed only if the patient returns after they are seen by the doctor and requests this information from the Registration PRW. At Olive View, Pre-Payment envelopes are not provided at any time. If patients would like to use this form of payment, they must visit the cashier and request this information. For these two facilities, patients who specifically request the Pre-Payment plan typically are aware of the program before their hospital visit as noted by facility staff. Since the Registration PRW does not provide the envelopes unless requested, this indirectly encourages a greater number of patients to apply to ORSA. From a program reimbursement perspective, Table 5 shows LAC+USC and Harbor-UCLA Pre-Payment population as compared to the ORSA population in Fiscal Years 2007- 2010.

Alternatively, Harbor-UCLA automatically issues Pre-Payment billing envelopes with discharge materials to each patient with a LAC address. In this facility, patients decide between immediate remuneration or returning to the financial office and applying for ORSA, Medi-Cal, or other low income insurance programs. This method of distribution indirectly encourages more Pre-Payment applications. From an in-house billing and collection perspective, Pre-Payment is preferable, as the facility initially collects more than ORSA (until DHS seeks reimbursement funds). However, these methods influence patients with adequate financial means to apply for the Pre-Payment plan as income verification is not required. Table 5 shows that the number of patients at Harbor-UCLA claim Pre-Payment is significantly higher, despite a considerably larger LAC+USC patient volume:

Table 5. Pre-Payment Plan and ORSA Visits, LAC-USC and Harbor-UCLA UCLA, FY 2007-2010

Year	Facility	Total Visits	Prepayment - Number of visits and percentage of total visits		ORSA - Number of visits and percentage of total visits	
			Number of visits	Percentage	Number of visits	Percentage
FY 2009-10	LAC-USC	691,046	16,271	2.35%	311,702	45.11%
	Harbor-UCLA	344,401	27,239	7.91%	94,664	27.49%
FY 2008-09	LAC-USC	521,960	19,124	3.66%	190,636	36.52%
	Harbor-UCLA	337,992	31,907	9.44%	94,508	27.96%
FY 2007-08	LAC-USC	505,881	25,380	5.02%	207,105	40.94%
	Harbor-UCLA	317,708	43,138	13.58%	99,571	31.34%

5. Facilities have different practices and procedures regarding the Extended Payment Plan Policy causing difficulties in collections.

Establishing more EPP usage can potentially improve overall collection rates. Patients would rather pay off their debt incrementally than have their accounts transferred to debt collectors.

Increasing the use of EPP appears also to be an incentive for hospitals. Hospital staff noted that EPP allows the hospital to recoup some of the cost of service (an estimated average of \$0.60 for every dollar of cost according to staff). Furthermore, it is important that patients are aware of all payment and coverage options, particularly ones that encourage patient responsibility for service payment.

The hospitals' practice of the EPP varies.⁴ LAC+USC reviews contracts and monthly minimums with the patient but then transfers the account to outside collection agencies. These outside vendors will communicate with the patients to receive their monthly payments and levy a service surcharge of 15-20% of the funds collected. Alternatively, Olive View manages and collects these EPP payments in-house and limits their use of outside collection agencies. Harbor-UCLA follows a similar method and sends the EPP accounts to collections only if the account becomes delinquent.

Currently, County hospitals limit their efforts to educate patients regarding the EPP option. The CGJ's interviews revealed that the collection levels for EPP accounts appear to be relatively higher than other types of accounts. (For example, Olive View staff indicated that over 80% of EPP accounts are successfully collected.)⁵

6. Patient accounts classified as “Self-Pay” may be a misnomer; they may never pay.

At the initial financial screening, the Registration PRW first categorizes patients as Medi-Cal or Self-Pay. If the patient is approved for a low-cost/no-cost program, the categorization changes according to the accepted programs.⁶ However, if the patient does not pay their share of cost, their account becomes delinquent and is transferred to collection. The categorization then shifts to Self-Pay. Although current write-offs include the Self-Pay population, there are a variety of residual account types that fail to be collected in-house. Table 6 outlines the types of patients who are initially classified as Self-Pay patients, and the accounts that are referred to the Self-Pay population.

Table 6. Self Pay Patient Characteristics

Classified Self-Pay Patients	Homeless
	Ineligible for programs
	Out of county residents
	Insurance co-pay
	Patients who have not received financial screening
	Non-compliant (undocumented immigrants, patients reluctant to provide insurance information to avoid deductible, and patients disinclined to provide information that disqualifies them for low-cost/no cost programs.)
Residual Accounts that Shift to Self-Pay	Pending and denied Medi-Cal applications
	Residual costs from patient responsibility or share of cost (Medi-Cal, Pre-payment, ORSA, ATP)

While the hospital system, molded by policy and regulation, is designed to provide low income populations with more access to medical care and to prevent hospital facilities from making medical decisions based on economic reasons alone, it is vulnerable to public misuse. There are numerous anecdotal references about patients who have the

⁴ See page 4 Extended Payment Plan

⁵ Note that the hospitals' staffs were not able to provide detailed data on the volume and charge totals of the EPP accounts

⁶ ATP, ORSA, Medi-Cal, Medi-Care, Self-Pay

financial means to pay for their own medical care. However, they opt to withhold critical information and, at times, even provide false information to avoid paying their medical bills. Quantifying the level of fraud or public abuse of the medical system is difficult and beyond the scope of our investigation. But in the CGJ's analysis, it appears there are areas within the public hospital medical care system that are vulnerable to public abuse.

7. Although there has been confusion as to the difference between the total service charge and actual cost of service, the bottom line is: a significant loss to the County.

There is a difference between the actual cost and the charged amount for rendered services. The actual cost represents the direct cost to the hospital providing treatment. The charged amount represents the service cost plus overhead. During patient billing and collection, the facilities and collection agencies seek payment for the service charge.

If the account becomes delinquent and ultimately declared by the County Treasurer and Tax Collector (TTC) to be uncollectible, the service charge is written off. The total service charge written off is the amount reported and released publicly. However, the actual service cost is lower, estimated by management to be approximately 53% of the service charge. Table 7 lists the total service charges for the three (3) hospitals, as well as the estimated actual costs for service based on this reported cost-to-charge ratio:

Table 7. Estimated Total DHS Medical Care Service Charges and Costs

Year	Total Charges for Service	Estimated Actual Cost of Service (Approx. 53% of Total Charge)
FY 09-10	\$733,685,430	\$395,676,552

Note: These costs include the ORSA, ATP, Medi-Cal and Self-Pay accounts. DHS then uses Federal and State funds to reimburse the hospital facilities for their actual costs.

8. After writing off the uncollected Self-Pay accounts, the County still attempts to obtain reimbursement from several State and local sources to cover a portion of the actual cost of services.

TTC reports the charges to be written off to DHS. DHS then attempts to pull from several reimbursement pools to help cover the actual service costs of the uncollected accounts. This process balances the debit caused by the uncollected Self-Pay account. First, the Disproportionate Share Hospital (DSH) pool reimburses the ATP and ORSA costs that were written off at patient discharge. Note that the Self-Pay accounts must go through the account collections process described above. The reimbursement ratio is approximately 87 cents per dollar.

The Safety Net Care Pool (SNCP) is the second program which provides reimbursements. DHS receives 50 cents in reimbursement per dollar of actual cost. Lastly, the Health Care Coverage Initiative broadens Medi-Cal eligibility. Though the funding program will not be fully implemented until 2014, LAC currently receives 50 cents per dollar. In 2014, reimbursement rates will cover 100% of the Medi-Cal costs for providing services to the newly eligible population. Table 8 summarizes the total amount from each reimbursement pool for each facility for the last two (2) fiscal years.

**Table 8. Reimbursements per Program
FYs 2009-2010 (in millions)**

Year	Facility	Disproportionate Share Hospital	Safety Net Care Pool	Health Care Coverage Initiative	Other (South LA Preservation Fund)	Total Reimbursements	Approximate Write-Off Costs
FY 09-10	LAC-USC	\$216.911	\$87.701	\$24.544	-	\$329.156	\$395.676
	Olive View UCLA	\$54.259	\$27.944	\$14.090	-	\$96.292	
	Harbor-UCLA	\$101.847	\$38.533	\$9.899	-	\$150.278	
	Other (MLK)	-	-	\$2.555	\$84.308	\$86.863	
	Other (RLA)	\$39.974	\$14.223	\$1.563	-	\$55.759	
	Total	\$412.990	\$168.400	\$52.650	\$84.308	\$718.348	
FY 08-09	LAC-USC	\$193.508	\$74.898	\$23.535	-	\$291.941	\$75.170
	Olive View UCLA	\$53.026	\$24.624	\$15.704	-	\$93.353	
	Harbor-UCLA	\$89.239	\$30.857	\$9.395	-	\$129.490	
	Other (MLK)	-	-	\$2.265	\$90.588	\$92.853	
	Other (RLA)	\$39.409	\$9.437	\$1.129	-	\$49.976	
	Total	\$375.182	\$139.816	\$52.027	\$90.588	\$657.613	

RECOMMENDATIONS

1. Increase the hours and staffing at Urgent Care and Community Clinics to better meet the needs of the community
2. LAC+USC to increase their Urgent Care patient referral rate from 7.5% to 25% - the average patient referral rate of Olive View and Harbor-UCLA
3. Increase ER referrals to Community Clinics and Public-Private Partnership Program
4. The Initial Contact Nurse to provide a referral list of nearby low cost County Community Health Centers and private community-based providers to those patients who request prescription refills, or treatment for minor medical issues and primary care
5. Support the effort to change the Etter Consent Decree allowing the County to increase its medical cost reimbursement levels
6. Establish a policy for Pre-Payment billings and collection that is consistent in all three (3) major medical facilities in LAC
7. Develop and implement a staff policy and procedure that ensures patient awareness of the availability of the Extended Payment Plan option
8. Establish a directive to expand the use of EPP by uninsured patients who have the means to pay for services
9. Design and implement a program to analyze and prosecute abuse of the LAC public hospital medical care system
10. Change the classification from Self-Pay to Financial Liability because currently it is not a self-pay system but a financial liability for the County

REQUEST FOR RESPONSE

California Penal Code Sections⁷ §933(c) and §933.05 requires a written response to all Recommendations contained in this Report which shall be made no later than ninety (90) days after the Civil Grand Jury published its Report (filed with the Clerk of the Court).

Respond to:

Presiding Judge
Los Angeles County Superior Court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street,
Eleventh Floor, Room 11-506
Los Angeles, Ca 90012

All responses for the 2010-2011 CGJ Report's Recommendations must be submitted to the above address on or before the end of business September 30, 2011.

Responses are required from:

<u>Recommendation Number(s)</u>	<u>Responding Agency</u>
1	LAC DHS
2	LAC DHS
3	LAC DHS
4	LAC DHS
5	LAC DHS
6	LAC DHS
7	LAC DHS
8	LAC DHS
9	LAC DHS
10	LAC DHS

⁷ Reference California Penal Code Sections §933(c) and §933.05 at the beginning of this 2010-2011 Civil Grand Jury Report

ACRONYMS

ATP	Ability to Pay
CGJ	Civil Grand Jury
CHC	Comprehensive Health Center
DHS	Department of Health Services
DSH	Disproportionate Share Hospital
EMTALA	Emergency Medical Treatment and Active Labor Act
EPP	Extended Payment Plan
ER	Emergency Room
FPL	Federal Poverty Level
FY	Fiscal Year
Harbor-UCLA	Harbor-UCLA Medical Center
ICN	Initial Contact Nurse
LAC+USC	Los Angeles County Medical Center
MLK	Martin Luther King Jr. Multi-Service Ambulatory Care Center
MRUN	Medical Record Number
Olive View	Olive View Medical Center
ORSA	Outpatient Reduced-Cost Simplified Application
PPP	Public-Private Partnership Program
PRW	Patient Resource Worker
RLA	Rancho Los Amigos National Rehabilitation Center
SNCP	Safety Net Care Pool
TTC	Los Angeles County Treasure and Tax Collector
USCB	United States Collection Bureau, Inc.

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CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER

Who's Really In The Dark?



Committee Members

Chairperson - Mitchell Group
Grace Hernandez
Kenneth A. Jones
Linda Loding
Judy Packer
Virginia Smith-Rader

LOS ANGELES DEPARTMENT OF WATER AND POWER

WHO'S REALLY IN THE DARK?

SUMMARY

The Civil Grand Jury (CGJ) undertook an investigation of the Governance and Oversight of the Los Angeles Department of Water and Power (LADWP or Department). A major impetus for this review was the transfer discussion and public relations battle that took place among various Mayor's Office, Board of Commissioners (Commission), Los Angeles City Council (Council), Department, and International Brotherhood of Electrical Workers Local 18 (IBEW or Union) personnel in the spring of 2010. There were many additional issues that became apparent during the CGJ preliminary investigations that contributed to this focused investigation.

PURPOSE

The purpose of the review was to analyze four (4) distinct and separate areas of interest as identified by the CGJ. The project scope and objectives identified for this review are:

1. Review the governance structure of LADWP and potential associated costs of existing Succession Planning processes and practices.
2. Review Union involvement in LADWP policies, rates, etc. and contingency plans if workers strike. Describe Union involvement in City elections and campaigns.
3. Review rate setting and General Fund transfer events in the spring of 2010. Determine if sufficient and accurate information is being provided to City officials and the public to ensure transparency of LADWP's financial condition and to facilitate decision making.
4. Determine whether the current ballot measure to provide a Public Ratepayer Advocate has the necessary oversight authority to warrant official support by the CGJ. (A decision has recently been made for the Public Rate Advocate issue to go before the voters. This Report was scheduled for completion prior to the election, there was consensus that this issue should only be reviewed in high level. Update: The Public Ratepayer Advocate measure presented to the voters passed on March 8, 2011 with a large majority.)

Following the brief Background of the Department, and Methods and Procedures Sections, these four (4) objectives will be discussed in four (4) separate chapters:

1. Governance Structure of LADWP. This chapter also includes separate sections on "Pension Issues and Impact of Employee Transfer" and "Succession Planning" within the Department.
2. Union Involvement in City and LADWP
3. City Transfer and Energy Cost Adjustment Factor (ECAAF) Discussion. Each of these items is discussed in separate sections.

4. Ratepayer Advocate Discussion

Each of the four (4) sections (I through IV) provide a summary statement indicating the overall conclusion for each of these areas, a discussion of relevant Background, a brief description of the Methods and Procedures used for that section, and Findings and Recommendations for improvement.

BACKGROUND OF THE DEPARTMENT

LADWP is the nation's largest municipal utility. It was established in 1902 to deliver water to the City of Los Angeles. Electric distribution began in 1916.

The Department serves an area of about four hundred sixty-five (465) square miles and provides service to 4.1 million residents. The number of Power business customers is about 1.4 million with 6,303 DWP employees. The number of Water business customers is about 666,000 with 3,188 DWP employees. (All numbers are from the 2010-2011 Budget Presentation.)

Note: Since the genesis of this review was the issues surrounding the transfer of DWP-Power funds to the City and discussion of transparency of that transfer in the spring of 2010, the focus in this CGJ Report is on the Electric operations; except for some general financial information, Water operations and comparisons are not included.

Included in this section is a brief presentation of comparative information, a brief presentation of financial information, a brief presentation of the distribution of water and power bills, and general employee information.

Comparative Information

In general, the Department provides a reliable source of electricity at a fair price, when compared to other California utilities. As shown in **Exhibit 1. Historical Comparison of Electric Service Rates and Rate of Growth**, the Department provides rates lower than almost all other major California utilities. Historically, through 2008 (the last year comprehensive data is available), only Sacramento Municipal Utility District (SMUD) has a consistently lower rate for service among California Electric providers.

Exhibit 1

Historical Comparison of Electric Service Rates and Rate of Growth (Nominal \$/kWh)

Utility-wide Weighted Average Retail Electricity Prices					
	PG&E	SCE	SDG&E	LADWP	SMUD
1982	0.07803	0.07801	0.11132	0.06388	0.02974
1983	0.06673	0.0783	0.1227	0.06099	0.02767
1984	0.06794	0.08031	0.11862	0.06339	0.03734
1985	0.08078	0.0846	0.1314	0.06644	0.04754
1986	0.08473	0.0876	0.12532	0.07527	0.05477
1987	0.08161	0.08755	0.11825	0.07134	0.06799
1988	0.08569	0.09257	0.11164	0.07804	0.07405
1989	0.09047	0.10156	0.10182	0.08403	0.07596
1990	0.09854	0.10566	0.09943	0.08715	0.07821
1991	0.10937	0.11497	0.10517	0.091	0.07842
1992	0.11204	0.11874	0.10652	0.09481	0.07755
1993	0.1128	0.11601	0.10766	0.0999	0.07701
1994	0.11088	0.12089	0.10976	0.10171	0.0762
1995	0.11215	0.12171	0.10781	0.10001	0.07731
1996	0.10274	0.11173	0.10736	0.09979	0.0751
1997	0.10592	0.11669	0.11543	0.10321	0.07465
1998	0.10022	0.11002	0.1094	0.10458	0.07574
1999	0.10023	0.11005	0.10998	0.10446	0.07574
2000	0.10023	0.11004	0.14253	0.10446	0.07574
2001	0.12105	0.13933	0.15131	0.10385	0.08801
2002	0.13413	0.13728	0.12454	0.12726	0.09652
2003	0.15112	0.15909	0.09832	0.14101	0.10365
2004	0.14689	0.13089	0.16261	0.10446	0.0889
2005	0.12934	0.1334	0.16738	0.10446	0.09361
2006	0.12927	0.15267	0.16583	0.10451	0.09416
2007	0.12925	0.13649	0.16648	0.10812	0.09368
2008	0.13085	0.13753	0.16227	0.11526	0.10019
Rate of Growth	68%	76%	46%	80%	237%

Source: California Energy Commission

Additionally, as shown in **Exhibit 2. Average Service Interruptions per Customer**, the reliability of the Electric system compares favorably with investor-owned utilities providing service in California, shown in the following comparative statistics:

Exhibit 2

Average Service Interruptions per Customer

Company	10 years ago	5 years ago	Today
LADWP	0.50 times/yr	0.85 times/yr	0.78 times/yr
PGE	1.39	1.38	1.33
SCE	1.08	1.13	1.07
SDGE	0.70	0.62	0.55

Source: LADWP Budget Presentation 2010-2011

Financial Information

LADWP's operations are financed solely through the sales of Water and Electric services. Capital funds are partially funded through the sale of bonds. No tax support is received. General financial information for the Department is provided in **Exhibit 3. Summary Financial Statement for 2010-2011.**

Exhibit 3

Summary Financial Statement for 2010-2011 (in Millions)

Revenue	
Power	\$3,298
Water	929
Total Revenue	\$4,227
Purchased Power	907
Purchased Fuel	433
Purchased Water	173
Total Purchased Power, Fuel and Water	\$1,513
Labor	977
Materials	325
Depreciation	536
Total labor, materials and depreciation cost	\$1,838
Other	4
Interest	385
Total Expenses	\$3,740
Net Income	\$ 487
City Transfer	\$ 254
Capital Investment	
Power	\$1,017
Water	568
Total Capital Investment	\$1,585

Source: LADWP Budget Presentation 2010-2011

Distribution of Monthly Payments for Power and Water

Exhibit 4. Distribution of Customer Bills describes the distribution of the typical customer payment to the Department for the Power and Water bills. This exhibit shows each category of expense and the portion of each monthly bill that is used to pay for them, in both real dollars and percentage. For example, the largest component in the typical Electric bill is for “purchased power” which represents about \$18.64 or 28% of the average \$67.77 monthly Electric bill. The City Transfer adds about \$5.22 to the average monthly Power bill. Labor is the largest component in the water section which accounts for about \$10.73 or 31% of the average monthly water bill of \$57.63.

Exhibit 4

Distribution of Customer Bills

POWER SECTION

Power Section: Percent Expenditure	Power Average Monthly Bill (\$67.77)	Power FY 2011 Projected Rev \$3,298 (Millions)
Purchased Power 28%	\$18.64	\$907
Labor 21%	\$14.24	\$693
Depr. 13%	\$8.51	\$414
Interest 7%	\$4.93	\$240
Materials 7%	\$4.75	\$231
Net Income 4%	\$2.59	\$126
City Transfer 8%	\$5.22	\$254
Fuel 13%	\$8.89	\$433

WATER SECTION

Water Section: Percent Expenditure	Water Average Monthly Bill (\$57.63)	Water FY 2011 Projected Rev \$929 (Millions)
Purchased Water 19%	\$10.73	\$173
Labor 31%	\$17.62	\$284
Depr. 13%	\$7.57	\$122
Interest 16%	\$9.24	\$149
Materials 10%	\$5.83	\$94
Net Income 12%	\$6.64	\$107
City Transfer	NA	NA

Source: LADWP Budget Presentation 2010-2011

Employee Information

The Department currently employs about 9900 employees, which has grown by approximately 19% in the last five (5) years. (The number of employees may vary throughout this Report depending on the use of fiscal year or calendar year information.) There are a variety of employee categories, the vast majority (about 88%) of which are represented by one Union, IBEW-Local 18. The division of employee categories, growth numbers and percentage for each are shown in **Exhibit 5. Employee Categories and Employee Growth.**

Exhibit 5

Employee Categories and Five Year Growth Numbers and Percentages

	2006	2011	Five YR Growth	Percent Change
Blue Collar Supv *	555	608	53	9.55%
Assoc of Conf. Empl	8	8	0	0.00%
Mgmt Empl Assc	276	334	58	21.01%
Prof Supr Unit *	132	162	30	22.73%
Unrepresented	3	2	-1	-33.33%
Unrepresented (MEA)	18	21	3	16.67%
Admin and Cler Supv *	145	167	22	15.17%
Not subj to representation	282	508	226	80.14%
Security Unit (Local 721)	173	259	86	49.71%
Daily Rated Bldg Trades	2	2	0	0.00%
Tech. Unit *	449	570	121	26.95%
Prof Unit *	692	1023	331	47.83%
Admin Unit *	254	350	96	37.80%
Stm PI/Wtr Supply *	377	421	44	11.67%
Clerical Unit *	1211	1241	30	2.48%
Oper Mtnc & Srvc Unit *	3698	4144	446	12.06%
Load Disptchrs Unit	44	54	10	22.73%
TOTAL EMPLOYEES	8319	9874	1555	18.69%
* Total IBEW	7513	8686	1173	15.64%
* Percent IBEW	90.31%	87.97%		-2.34%

Employee Salaries

LADWP employees make an average of \$85,900. (The range of salaries is \$40,011 for a Messenger Clerk to \$264,904 for an Assistant General Manager.) Additionally, as shown in **Exhibit 6. Summary of Annual Salaries**, the majority of Department employees, about 67% make between \$60,000 and \$100,000 per year and 82% make between \$60,000 and \$120,000). Only about 8% of employees make in excess of \$120,000 per year.

Exhibit 6

Summary of Annual Salaries

Salary Range from September 2010	Number of Employees	Percent of Employees
\$40,000-\$60,000	913	10%
\$60,000-\$80,000	3269	36%
\$80,000-\$100,000	2889	31%
\$100,000-\$120,000	1385	15%
\$120,000-\$140,000	467	5%
\$140,000-\$160,000	125	1%
\$160,000-\$180,000	58	Less than 1%
\$180,000-\$200,000	20	Less than 1%
\$200,000-\$220,000	17	Less than 1%
\$220,000-\$240,000	28	Less than 1%
Over \$240,000	6	Less than 1%
\$788,501,944	9177	

Source: LADWP Summary of Annual Salaries by Job Title, September 2010

METHODS AND PROCEDURES

The CGJ used a variety of methods and procedures during its review to identify issues and develop recommendations:

1. Interviews were conducted with members of the LADWP management team, LA City Council members and staff, as well as staff from the Mayor's office. Interviews were also conducted with personnel having interests in LADWP issues, such as consumer advocates and Union management personnel.
2. Many documents such as previous consultant or staff reports were provided to the team from LADWP personnel. Additionally, internet searches provided substantial documentation of LADWP-related issues¹. Each of these reports was reviewed in detail for this Report.
3. Surveys were conducted of the largest municipal utilities regarding their governance structure, bargaining unit workforce, use of fuel adjustment factors and existence of a ratepayer advocate function. **Exhibit 7. Large Municipally Owned Utilities** provides details of the utilities surveyed relative to LADWP. Specific information is shown in the appropriate sections of the Report.

¹ "Governance in a Changing Market", Rand Enterprise Analysis; "Money and Power in the City of Angels", Center for Governmental Studies; "City of Los Angeles Independent Fiscal Review of the Los Angeles Department of Water and Power Energy Cost Adjustment Factor and Residential Rate Design Proposals" prepared by PA Consulting, 2010.

Exhibit 7

Large Municipally-Owned Utilities

Utility	Number of Customers
LADWP Los Angeles, CA	1.4 million electric 640,000 water
CPS Energy San Antonio, TX	707,000 electric 322,000 gas
Sacramento Municipal Utilities District (SMUD) Sacramento, CA	592,000 electric
Memphis Light, Gas & Water (MLGW) Memphis, TN (Note 1)	430,000 electric 320,000 gas 257,000 water
Jacksonville Electric Authority (JEA) Jacksonville, FL	417,000 electric 305,000 water
Austin Energy Austin, TX	400,000 electric
Colorado Springs Utilities (CSU) Colorado Springs, CO	208,000 electric 184,000 gas 132,000 water

Note: MLGW is supplied with electricity by the Tennessee Valley Authority (TVA), a federal agency that sells electricity on a nonprofit basis to 159 distributors. MLGW is TVA's largest customer, representing 11% of TVA's total load. MLGW does not generate electricity. While other areas of the country operate in a deregulated electric market, MLGW is required by federal law to purchase all of its electric power from TVA.

I. GOVERNANCE OF LADWP (INCLUDING EMPLOYEE TRANSFER AND SUCCESSION PLANNING)

SUMMARY

There is ample evidence that LADWP is treated more like a City Department, than as a stand-alone utility serving the ratepayers of the City. It is clear that political involvement of the city has had a negative impact to the efficient and effective management of the utility. Examples of this include:

1. Substantial Commission and General Manager turnover in the past ten (10) years.
2. Transfer of money from the Power section which is basically required by the City. While these are officially based on a "surplus," the amount is included in the Department's budget of the previous year. Only mismanagement by the Department or some extraneous event would cause the funds not to be available and transfers made.
3. Employees are transferred from the City to the Department to avoid City layoffs without adequately considering the financial ramifications to the Department or its pension system.
4. Various political requirements, including Executive Order 4 and Proposition 245, allow the Mayor and City Council greater control over the Department by having access to Department issues to make corrective actions.
5. Civil service within the City makes evaluations and promotion of personnel more in line with City structure than it would if the utility were to stand alone.
6. Political power and involvement of the Union representing the Department with elected City officials.

PURPOSE

The purpose of reviewing the Governance of LADWP is to identify the numerous groups or personnel who are involved in managing the Department and to gain insight into how the Department is being managed by those individuals or groups.

BACKGROUND

Basic to the review of governance is whether the LADWP should be managed as a public business emphasizing reliable service, low consumer rates, and cash transfers to the City, while still providing local economic development and environmental leadership. Or should it serve a broader social and political agenda as established by elected officials, especially the Mayor? For example, at what point does a political goal of a "green city" with substantial investment (at a higher cost to the ratepayers) be the direction of the Department? Should the ratepayer be expected to pay for political goals or should they be expected to pay for the most efficient

service? What voice does the ratepayer have in these discussions? How involved should the Mayor, or other elected officials, be in controlling the direction and operations of the Department? These are difficult questions confronting the Department and the City. A confusing and overlapping governance structure only make the decisions more difficult and less transparent to the public.

METHODS AND PROCEDURES

The CGJ interviewed management personnel from each of the entities discussed in Finding Number 1 below. Additionally, the CGJ conducted internet searches and reviewed documents prepared by the Department, utility and governance consultants as well as other interested parties.

FINDINGS

- 1. The governance of the LADWP is distributed among several different groups including the Board of Water and Power Commissioners, the Mayor, the City Council, the City Attorney and the IBEW.**

Although the Water and Power Commission initially had strong executive power over the Department, a series of changes since the 1960s have reduced its authority and increasingly placed it and the LADWP under the control of the City's elected officials. Each entity that has input or involvement into the management and governance of the Department is briefly described below:

Board of Water and Power Commissioners

Established by City Charter in 1925, a five-member Board of Commissioners heads the LADWP. The Commission selects its own officers from among its members, chooses the General Manager, and generally is empowered to oversee the Department. Specifically, the Commission establishes policy for LADWP and is generally identified as the primary governance agency for the Department. The Board members are appointed by the Mayor and confirmed by the City Council for five (5) year staggered terms. Currently there are four (4) members of the Board with one (1) vacancy:

“The board of each Proprietary Department shall appoint the general manager subject to confirmation by the Mayor and Council, and shall remove the general manager subject to confirmation by the Mayor” (New Charter, 1999, Section 604 (a).) However, the General Manager may appeal his/her removal and be reinstated by a two-thirds vote of the Council within ten (10) days of the appeal (Section 508 (e).)

Because the LADWP generates its own revenue from Water and Power sales, the 1925 Charter established it as a “proprietary department” with more autonomy than other City departments. The LADWP has its own budget that is separate from the City's General Fund, can hold property separate from the City, and can issue debt backed by its own revenue rather than rely on the City's general obligation bonds. For more than fifty (50) years, the commission could set salaries for LADWP employees covered under the City's civil service system, but this authority passed to the Council in 1977.

Mayor

As “CEO” of the City, the Mayor exerts principal authority by appointing and removing Water and Power Commissioners and establishing the “vision” for the City and the Department. Originally, the Council had power to confirm each appointment and removal by majority vote, but under the new Charter amendments, the Mayor may remove a commissioner without Council approval (New Charter, 1999, Section 502(d)). Equally important, it has become customary for newly elected mayors to appoint their own commissioners. While justified politically as the way for the City’s top elected official to establish control over the LADWP and other City departments, this effectively has vitiated the commission as an independent, nonpolitical governing board.

Additionally, the Mayor also holds tight rein over the Commission through “advice” from his staff and by requiring “Executive Review and Approval of Departmental Requests for the Proprietary Departments.” Commonly known as Executive Directive 4, issued by the Mayor in October 2005, this Directive takes precedent over previous Executive Directive 39 (issued by a previous Mayor). As stated in the Executive Directive:

“Sections 230 and 231 of the City Charter designate the Mayor as the Executive Officer of the City, with responsibility for exercising management authority over all departments. Consequently, it is necessary that I be kept informed of all matters that may significantly affect City operations or the general public, and have the opportunity to review matters related to the supervision, regulation and management of your departments.

Unless otherwise exempted by law, all matters requiring City Council consideration are matters of consequence. You are directed to submit to my Office for review all proposals requiring City Council consideration prior to submittal to or consideration by your Board of Commissioners.”

The Directive goes on to list thirteen (13) separate items for submittal to the Mayor’s Office including:

“12. A copy of your Board action and supporting documentation, as soon as possible, when the City Council assumes jurisdiction over an action of your Board under Charter Section 245.

13. Matters of policy or financial significance to City operations or the public.”

It is clear from the wording in these items that all major issues must be presented to the Mayor’s office before consideration by the Board of Commissioners.

City Council

The Los Angeles City Council is the legislative body of the nation’s second largest city. Los Angeles has fifteen (15) full-time City Council members who meet three (3) days per week. California’s local elections, including City Council elections, are non partisan. Los Angeles City Council members are subject to term limits and may serve a maximum of three full four-year terms in office. Every two years, during odd-numbered years, half of the City Council members are up for election.

Los Angeles City Council is comparatively smaller than other large cities, such as New York with fifty-one (51) City Council members and Chicago with fifty (50) members. The Council has nineteen (19) committees dealing with issues such as budget and finance, planning and land

use management and public safety. Los Angeles members currently receive the highest City Council salary in the nation, just under \$179,000 per year. The City Council enacts City ordinances, levies taxes, ratifies City contracts and adopts or modifies the City budget. City voters also elect a Mayor, City Attorney and Controller, all of whom serve four (4) year terms. These officials may serve three (3) terms.

As the City's legislative body, the Council has both oversight responsibility for LADWP and direct authority under the Charter to approve rates, set job classifications and compensation under the City's civil service system. They also approve property sales and approve contracts of more than \$150,000 or more than three (3) years in duration. Council ordinances further specify procedures for hiring and other personnel actions, issuing debt, contracting, negotiating long-term customer contracts, and many other operational matters. However, the most controversial of the Council's authorities over LADWP comes from a Charter amendment known as Proposition 245 (Prop 5 in Old Charter), which allows the Council to reconsider essentially any decision made by the Commission. The threat of Prop. 245 vetoes may undermine the Commission's ability to exercise independent judgment in overseeing the LADWP and may potentially result in additional bureaucratic paperwork and delays in decision making.

City Attorney

The elected City Attorney serves as legal advisor to the Commission and LADWP. The City Attorney's office provides the Department's legal staff and is responsible for making personnel and work assignments. Attorneys working on LADWP legal matters report to the City Attorney rather than to the LADWP General Manager or the Commission. Moreover, the City Attorney must approve any use of outside counsel. Upon recommendation by the Commission, and with the written consent of the City Attorney, "the city may contract with attorneys outside of the City Attorney's office to assist the City Attorney in providing legal services" to LADWP (New Charter, 1999, Section 275).

In the past, this arrangement had led to conflicts about who is the real client on LADWP legal matters: the Commission and Department or the City as a whole. City Attorneys, who are elected by the voters, have typically taken the position that they and their staff represent the City at large. But commission and LADWP General Managers contend that the City Attorney must represent them as clients on LADWP legal matters. The new Charter focuses on LADWP, stating that the "boards of Proprietary Departments.....shall make client decisions in litigation.....shall have the authority to approve or reject settlement of litigation exclusively involving the policies and funds over which charter gives those boards control." (New Charter, 1999, Sections 272 and 273)

IBEW

While not a formal governing relationship, one Union (IBEW) represents the vast majority, about 88% of the employees' and, in the opinion of the CGJ plays a significant part in the governance structure. They obtain their influence by representing 88% of all LADWP employees. IBEW contributes significant time and money to approved candidates with the hope that they will be successful in Mayoral, Controller, Councilmember or City Attorney elections (to be discussed later). They currently have a continuity of management that goes back to 1993 when the current IBEW Business Manager was chosen to head the Local 18 branch of IBEW representing LADWP. As such, the Business Manager and his staff have vast knowledge of the operations of both the City and the Department and can generate political pressure on varying decisions made that may concern the Department. (Most of the issues about IBEW involvement are discussed in a later chapter of this Report.)

2. There has been a significant turnover in both Commissioners and General Managers for the LADWP, especially in recent years, which diminishes the overall governance continuity.

Under both the old and new Charters, Commissioners are appointed by the Mayor and are confirmed by the Council. However, they seldom serve out their full terms unless the current Mayor wants them to. The Mayor can remove Commissioners at any time under the new Charter. Additionally, Commissioners customarily offer their resignations after a Mayoral election so that a new Mayor can appoint his or her own Commission.

Commissioners are appointed for a five-year term. However, as shown in **Exhibit 8. Commissioner Length of Service**, the average time served has been 1,192 days or about 65% of a five-year term. The average length of service for present Mayor's appointees (other than current members) is less than the historical average of 1,192 days. Under the present Mayor, the members of the Board of Commissioners have served an average of 1,071 days or 59% of full term.

As mentioned previously, the Commission is responsible for establishing policy and providing governance for the Department. The lack of continuity of governance for the Department is problematic and is not conducive to a long-term perspective for managing the Department or serving the ratepayers.

Exhibit 8

Commissioner Length of Service

Name of Commissioner	Years Served	Number of Days Served
M.J. Gage	1990-1993	1069
D. Green	1990-1993	1216
M.D. Nichols	1990-1992	714
C.L. Rice	1992-1995	917
A. Willoughby	1993-1993	147
J.J. Legaspei	1994-1997	1453
J.M. Miller	1993-2001	2867
D.A. Tito	1993-1996	1120
N.F. Volpert	1993-2000	2502
C.L. Green	1995-1997	780
R.J. Caruso	1996-2001	1690
K.T. Lombard	1997-2003	2256
M.I. Keston	2000-2001	384
M.E. Leslie	2001-2003	575
L. Wong	2003-2004	277
A.E. Cho	2001-2005	1462
G. McMallum II	2003-2005	633
S. Saucedo	2004-2005	449
D.W. Rubalcava	1997-2005	2757
S.C. Stolper	2001-2005	1414
M.D. Nichols	2005-2007	664
H.D. Nahai	2005-2007	742
N. Patsaouras	2005-2008	1131
E. Ramirex	2005-2010	1617
F. Hogan-Rowles	2005-2010	1672
W. Knox	2007-2009	560
L.K. Alpert	2007-2010	1109
J. Parfrey*	2009-present	586
T.S. Sayles*	2009-present	623
E. Holoman*	2010-present	1284
C. Noonan*	2010-present	203
Avg. since 1990		1192
Avg. appointments	Villaraigosa	1071

*Currently serving Commissioners and, therefore, not included in the averages

Source: Office of the Board of Commissioners

Further, as shown in **Exhibit 9. Commissioners Serving Full First Term Service**, only four (4) of the twenty-seven (27) Commissioners have served their full first term since 1990; and only one of fifteen (15) Commissioners appointed since 2000 have served their full first terms. None of the present Mayor’s appointees (since 2005) have yet to serve a full five (5) year term.

Exhibit 9

Commissioners Serving Full First Terms

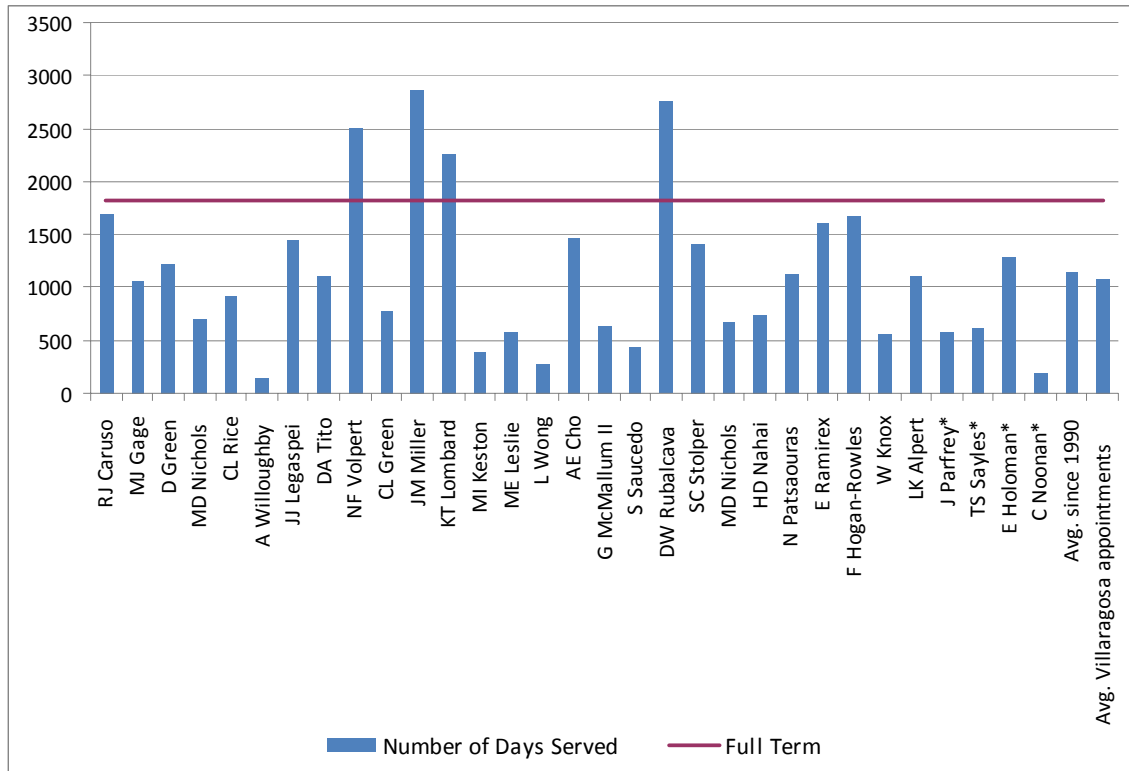


Exhibit 10. Number of General Managers at LADWP since 1990 shows a substantial lack of long-term leadership within the Department. In addition to the substantial Commissioner turnover discussed above, there have been fourteen (14) permanent, interim or acting General Managers since 1990, and six (6) serving since 2005 under the present Mayor. Three (3) of the six (6) General Managers have been in “acting” or “interim” roles. The average tenure of all General Managers from 1990 to 2007 was 22.7 months. The average tenure of General Managers serving under the current Mayor is 10.5 months. This lack of General Manager continuity, and especially in the last five (5) years, contributes to the overall lack of continuity of governance and management at the Department.

Exhibit 10

Number of General Managers at LADWP since 1990

General Manager	GM Status	Dates	Months Served
Daniel W. Waters	Permanent	July 1990-March 1994	44
Kenneth S. Miyoshi	Interim	March 1994-July 1994	5
William R. McCarley	Permanent	August 1994-February 1997	31
Harry Sizemore	Interim	March 1997-August 1997	6
S. David Freeman	Permanent	September 1997-May 2001	44
David H. Wiggs	Permanent	May 2001-February 2004	33
Frank Salas	Acting	February 2004-July 2004	5
Enrique Martinez	Acting	July 2004-December 2004	5
Ronald F. Deaton	Permanent	December 2004-July 2007	31
Robert K. Rozanski	Acting	July 2007-December 2007	5
H. David Nahai	Permanent	December 2007-October 2009	22
S. David Freeman	Interim	October 2009-April 2010	6
Austin Beutner	Interim	April 2010-January 2011	9
Ronald O. Nichols	Permanent	January 2011-Present	

Source: Office of the Board of Commissioners

While it may be unreasonable to assume that all Commissioner and General Manager departures were the sole decision of the Mayor at the time, the point is that LADWP is a large, important utility and deserves improved and consistent management at the General Manager and Commissioner levels.

Governance or leadership turnover since 2007 has caused the utility to go from one environmental strategy to the next: wind was the focus of one General Manager while solar was the focus of another. Time and money were invested on projects, only to see them scrapped or changed. A strong planning function focused on cost-effective processes that have been fully vetted and approved by the entire governance structure and transparent to the public in terms of long-term rate projections, will help to reduce the impact of high turnover.

Additionally, a fully developed and priced out long term plan is essential to provide guidance for the Department. Of course, this plan cannot be politically driven or perceived as a jobs program for the Union, similar to the perception of Measure B, The Solar Initiative, that was rejected by the public, or a specific person's desire to see wind over solar, etc. This has to be a well thought out plan that has been vetted for operational efficiency, rate impact and overall

effectiveness. Once vetted and approved, the developed plan should stand alone and survive governance changes and political pressures.

3. There is a perception that political contributions rather than specialized skills or experience may play a primary part in the decision to appoint personnel to the Commission or other governance positions.

Although there are no formal guidelines available, there are undoubtedly many factors that go into the thought process of who to appoint to a Commissioner spot. Hopefully, the factors include the individual's ability to make a long-term time commitment, to have a strong commitment to the City and the Department, and possess a special skill or interest that would be beneficial to managing a large utility. However, currently it would appear they may even "voice" their commitment through the political contribution process.

Nonetheless, it is interesting to note, as shown in the following exhibit, that 97% of all Commissioner appointees since 2000, also made political contributions. **Exhibit 11. Political Contributions by Commissioner**, shown on the following page, provides a list of the commissioners since 2000 and the amount of money they have contributed to various (Mayor, Council, Controller or City Attorney) campaigns. Only one of the nineteen (19) individuals appointed to the Board of Commissioners have not made any political contributions.

Additionally, four (4) of the recent General Managers (Wiggs, Freeman, Nahai, and Beutner) and at least two (2) of the recent Chief Operating Officers (Salas and Raj) have directly contributed to various City political campaigns.

This analysis is not to suggest that the political contribution was the only reason that the individual received the appointment, but it does contribute to the possible perception that the appointments are political in nature and perhaps not always sufficiently based on specific utility or functional knowledge or expertise. It is this perception of "cronyism" that concerns many ratepayers and the public.

Exhibit 11

Political Contributions by Commissioner

LADWP Commissioners--since 2000	Amount Contributed (1)
M.I. Keston	\$6,000
M.E. Leslie	\$13,450
L. Wong	\$4,100
A.E. Cho	\$3,350
G. McMallum II	\$1,000
S. Saucedo	\$3,300
D.W. Rubalcava	\$26,500
S.C. Stolper	\$0
M.D. Nichols	\$9,750
H.D. Nahai	\$1,600
N. Patsaouras	\$10,392
E. Ramirez	\$400
F. Hogan-Rowles (not including loans to her campaign)	\$500
W. Knox	\$5,550
L. Alpert	\$9,000
J. Parfrey	\$550
T.S. Sayles	\$750
E. Holoman	\$1,000
C. Noonan	\$1,500
Average total	\$5,194
Average-Villaraigosa appointment (2)	\$3,727

(1) Contributions are to Mayor, Controller or Council races.

(2) Contributions to various races from Villaraigosa appointees.

Source: City of Los Angeles, Ethics Office

**4. There are a variety of governance structures in place at other municipal utilities;
there is no one structure that meets all needs.**

There are a number of governance models in effect among municipally owned utilities:

- a. Direct reporting to the City Council (e.g., Colorado Springs, Austin Energy)
- b. Independent City agency (e.g., Jacksonville, Knoxville)
- c. City-owned corporation
- d. Municipal Utility District (e.g., SMUD)

Exhibit 12. Other Representative Governance Structures provides the governance structure for other large municipally-owned utilities.

Exhibit 12

Other Representative Governance Structure

Utility	Structure	Discussion
CPS Energy San Antonio	Board of Trustees five members	Board of Trustees consists of four citizens (geographic) and the Mayor of San Antonio who serves as an ex-officio member. Trustees must reside within the CPS Energy quadrant that they represent. Board members serve for a term of five years and are eligible to serve an additional term. Members are elected by a majority vote of the members of the Board, including the Mayor and approved by the City Council. There are no specific legal requirements for the skills or experience of the Board members; however, the selection process guideline suggests Board members may wish to look for the following sample experience: financial expertise, strategic planning and management, a minimum 10-15 years business experience (corporate and energy industry experience preferred), corporate governance, public policy and related issues, leadership and communication skills, general business skills, and a BA in business, finance or accounting, MBA or Masters in finance
SMUD Sacramento	Municipal Utility District seven directors	SMUD is governed by a Board of Directors elected by the public. The seven directors are elected to staggered four-year terms, and each represents a different geographic area, or ward, within SMUD's service area. The Board of Directors determines policy for the District and appoints the General Manager who is responsible for the District's operations. The Board has autonomous authority to establish the rates charged for all SMUD services. Changes in such rates require formal action, after public hearing, by the Board.
MLGW Memphis	Board of Commissioners five members	MLGW is governed by a five-member Board of Commissioners who are appointed by the Mayor and approved by the City Council. The members of the Board serve staggered terms of three years each. There are no term limits.
JEA Jacksonville	Independent City Agency seven members	The JEA Board of Directors is comprised of seven members who are appointed by the Mayor and approved by the City Council. Members are appointed for four year staggered terms and are expected to serve their entire term. Removal requires a two-thirds Council vote.
Austin Energy	City Council seven members	The Austin City Council sets Austin Energy's budget and electric rates. There are seven members on the Austin City Council: one Mayor and six Council Members. The entire Council is elected at large by the voters of the City. Each member serves a staggered three-year term.

Utility	Structure	Discussion
CSU Colorado Springs	City Council nine members	There are nine members on the Colorado Springs City Council: one Mayor and eight Council Members. Council member serve a four year term and may serve up to three consecutive terms. After sitting out, they may again be re-elected. Council members typically serve long terms. The Council sets policies which are communicated to the Executive Director who has operational responsibility.

RECOMMENDATIONS

Recommendation 1. The LADWP’s governance needs clarification and simplification. A stronger, independent Commission system may be warranted.

Establishing a single governing board, with clear authority and considerable independence from day-to-day political influences, is an appropriate place to start. Strengthening the governance structure is essential to ensuring reliable electrical supplies, low rates, and adequate payments to the City, as well as to maintaining Los Angeles’ leadership among the nation’s municipal utilities.

The LADWP should return to a commission system that restores integrity by balancing independence and accountability. A plan to decrease political involvement by the Mayor and Council would allow the LADWP to operate for the benefit of the ratepayers.

Consider separating the policy making function of the Mayor and Council from the operational responsibilities of the Board and General Manager. The Council and Mayor could set policies and communicate them in writing to the Board which, in turn, would transmit them to the General Manager. It would require the Mayor or Council not give instructions to individuals who report directly to the Board or General Manager, directly or indirectly. Board policies should set out the utility’s purpose and ends to be achieved. They should also designate what actions of the General Manager are considered unacceptable to the Board, both general and in specific. The General Manager may then make all decisions and carry out any activities not expressly prohibited by the Board, without seeking further approval.

Recommendation 2. Establish guidelines for Commissioner appointments, and reduce the politics of appointment, real or perceived.

Examples of guidelines to be written and agreed upon might be to appoint Commissions based on specific levels of expertise (financial, utility operations, corporate governance, education level, or geographic representation). Also ensure that the candidates have the time, inclination and ability to stay the entire five years.

It is important that “politics” (or political contributions) be taken out of the choice for Commissioners. There are a variety of ways to deal with this issue. One is to have a Citizens Council choose the Commissioners or have Commissioners themselves choose a replacement for a member whose staggered term is up. Another example might be to have the Mayor choose two (2) members, the Council chooses two (2) members and the Neighborhood Councils choose one (1) member. Whatever the approach, the perception and the reality must be that money does not buy a Commission position.

Recommendation 3. Expect LADWP Commissioners to serve full five-year terms.

LADWP needs a historical and continuous level of knowledgeable and experienced Commissioners who can make decisions primarily based on their independent judgment. The Commission may remain responsible to the Mayor and Council, but it should be insulated from undue political influences on normal LADWP business matters.

To maintain independence and continuity, LADWP Commissioners should be expected to serve out their terms unless there is cause for their removal. They should not resign when succeeding Mayors are elected. An amendment returning to the previous Charter language allowing for removal by the Mayor with Council approval or for cause by a two-thirds vote of the Council, may be warranted.

Recommendation 4. Reduce the bureaucratic impact to the Department due to Mayor or Council involvement.

While citywide coordination of the Department is an important function of the Mayor's office, the current wording of Executive Order 4 is all encompassing. Regular, informal consultation with the Mayor's office rather than formal ED 4 submittals would potentially speed up and improve the decision making processes of the Commission.

Likewise, the threat of Prop 245 fosters bureaucratic delay, takes up scarce management time, encourages more paperwork to justify decisions and adds uncertainty to normal business dealings.

Pension Issue and Impact of Employee Transfers Finding and Recommendation

- 5. Although there was originally some concern that personnel were taking higher paying jobs at LADWP for only a short time (pension spiking) in order to increase lifetime pensions, such does not appear to be the case. However, the number of transfers from the City to the Department may have a negative impact on the pension funding for the Department.**

The City has taken advantage of the Department's ability to accept additional personnel and provide pension coverage to them (eventually through increased rates) by transferring up to 1600 employees in the last five (5) years. Those transfers were part of a larger effort to keep City workers from losing their jobs in departments hit hard by the budget crisis. While it is a noble goal to protect employees from layoffs, it is unfair to place the financial burden (both salary and pension costs) on the backs of the LADWP ratepayer.

The Segal Company performed an analysis of the Reciprocal Arrangement between the Water and Power Employee's Retirement Plan (WPERP) and the Los Angeles City Employee's Retirement System (LACERS) due to the financial impact the Reciprocity Program has had on the WPERP during the period from April 1, 2004 through March 31, 2010.

Currently, when a former City employee transfers to the LADWP the WPERP recognizes prior service with LACERS, provided the member agrees to have their employee contributions transferred into WPERP. Under the Plan's Reciprocity Program, when a member transfers, full credit for service is established in WPERP, but only their employee contributions are transferred from LACERS to WPERP; employer contributions made to LACERS associated with their service are not transferred to WPERP. Since only employee contributions are transferred, WPERP incurs an additional unfunded liability when an employee transfers to LADWP from the

City. (The Department makes a 110% contribution into WPERP after the employee contributions have been transferred from LACERS. This has the effect of providing immediate employer funding for part of the actuarial loss caused by the transfer but that contribution may eventually impact rates.)

The Segal Company found a large unfunded actuarial accrued liability (UAAL) as a result of these transfers. The total of the increases in UAAL, determined as of each valuation date due to the 1,331 members whose service and employee contributions has already been transferred to the WPERP as of March 31, 2010, is approximately \$128.4 million. These amounts, accumulated with 8% interest to July 1, 2010, total \$152.4 million. The average age for these members, years of service and average employee contributions transferred are 41.3, 6.9 years and \$28,400 respectively.

In addition, The Segal Company received partial information for 292 members that were identified by the Retirement Office as transfers but whose service and employee contributions were not yet transferred to WPERP as of the end of the observation period. The UAAL as of each valuation date due to these members is about \$30.5 million. The average age for these members, estimated average amount of service and average employee contributions to be transferred are 40.7, 7.8 years and \$37,900 respectively.

The grand total of the increases in UAAL for LADWP accumulated to July 1, 2010, including both groups, is about \$183.1 million.

Worried about the cost of those transfers, LADWP officials moved to suspend full retirement benefits for any new worker who comes to the utility from another City agency. The City Council vetoed that measure.

Recommendation 5. The City and LADWP should come to an agreement to rescind the reciprocity agreement until such time as the number of employees transferred back and forth between the City and LADWP reaches equilibrium. Personnel should only be transferred as required by LADWP and then only with full financial contribution to the pension fund.

Succession Planning Finding and Recommendation

6. Succession planning does not take place within LADWP to any meaningful extent.

Given the high turnover of senior management, it is essential that the next several layers of management have the necessary tools, including trained professionals as replacements, to accomplish their functions. Additionally, there are many positions that will be in need of replacement in the next several years; and succession planning will assist the Department in meeting those needs.

This is a City-wide concern. The Los Angeles City Controller conducted a performance audit regarding the City of Los Angeles' hiring practices and determined that "The City of Los Angeles does not strategically plan for its workforce needs." In a department where so many people who serve the citizens of the City are eligible to retire in the next several years, this is also an intolerable situation for LADWP.

It is difficult in a civil service environment to accomplish succession planning for specific positions. Because employee selection in the City of Los Angeles is based on a well established civil service system in place for well over 100 years, LADWP relies on the Civil Service Commission and the City Personnel Department to assist in meeting their hiring needs.

Although filling entry-level positions is important, succession planning to fill supervisory and managerial positions is even more important and must be a priority for the Department. Once identified, a substantial amount of training and leadership development will be required. The key is the successful transfer of technical and operational knowledge to adapt to the current environment.

According to the Department, as of January 1, 2010, approximately 40% of LADWP's workforce was fifty (50) years of age or older. Within the next five (5) years, approximately 20% of the workforce will be eligible for retirement. LADWP must determine how to continue to deliver its services in the future with decreased staff due to upcoming retirements.

To ensure that LADWP has the appropriate resources and positions needed to meet the business goals and objectives, there must be a sufficient number of candidates available to be considered for each job classification, especially those that are critical or have been difficult to fill. This issue alone will require collaborating internally as well as with the Personnel Department's various divisions to consider ways to address this, such as allocating positions, consolidating job classifications, submitting examination requests and pursuing regular and executive recruitment activities.

Additionally, a specific manager may not identify a replacement prior to departure. This does not provide an opportunity for training in the specifics of any job. Personnel are thrown into a job situation that may be new to them and, given all the other personnel scheduled to depart, the institutional knowledge necessary for effective performance may not be available. A change in the civil service rules may be necessary on at least a temporary basis to allow personnel to train their replacements.

The Department has responded to some of these challenges by creating a Workforce Planning Group within the Human Resources Section of the LADWP. This is a good beginning to ensure that services continue to be provided to the citizens of Los Angeles. The Department's Human Resources Manager appears to have a strong grasp of what is required to accomplish this goal

and has developed a well thought out initial plan. But the process will need more resources than the current four (4) individuals assigned to assist him. Additionally, some changes in the current methods of hiring and promoting personnel may be required to ensure continuity of knowledge and ability.

Recommendation 6. Fully staff and fund the Workforce Planning Group to encourage a full review of options for future LADWP employment. Also work with City Personnel Department and the Civil Service Office to allow some changes in hiring and promotional practices for high level essential jobs.

An example would be to allow a process whereby individuals could be chosen for certain jobs prior to the departure of a senior or highly essential position. Current methodology for position listing, testing and choice could be followed, but the timing of the replacement may differ. That way, the individual could have access to the current incumbent's knowledge, techniques and contacts to ensure a seamless transition. It may also provide reduced costs since it would not be necessary to potentially hire the incumbent to return as a consultant to assist in the transition. It is clear, given the immediate nature of this issue, that "out of the box" thinking will be necessary within LADWP as well as support provided by City and civil service personnel.

II. IBEW POLITICAL INVOLVEMENT

SUMMARY

The IBEW has substantial involvement in both the operations and governance of the Department and in the political issues facing the City. They achieve this by monetary political contributions and by involving their members into the political and governance processes.

In addition, there is a personal level of involvement between the IBEW Business Manager and the Mayor and other politicians. Although this involvement has been criticized as “heavy handed” by many in the City and the Department, it should be remembered that the Union representatives and management are only doing their job by watching out for their members. Many of the people we interviewed felt that the Union’s involvement may be too heavy handed or disruptive. It is the responsibility of City politicians and Department management to stop it.

BACKGROUND

While there is little quantitative evidence that campaign contributions impact legislative voting, there can be little doubt that campaign contributions provide contributors with a benefit that average voters do not get access to decision makers. Access provides major contributors with powerful tools to engage in the policy process. Access to candidates and the policy process provide contributors with the opportunity to “educate” policy makers about how supporting or opposing certain types of legislation might impact their organization and community.

Candidates for municipal offices obtain funds from several sources: direct contributions; independent expenditures by individuals or organizations; matching funds; and ballot measure committees.

In 2009, thirty-two (32) candidates for Los Angeles municipal offices received \$14 million in direct contributions, and \$1.7 million in matching funds, with the bulk of these contributions, about \$10 million, going to the sixteen (16) citywide candidates for Mayor, City Attorney and Controller. Organizations and individuals spent \$1.77 million in independent expenditures on these races. Of this amount, organizations spent more than \$1.7 million compared to just three (3) individuals spending only \$48,000 in independent expenditures.

Ten (10) candidates received \$1.7 million in public matching funds, most of which went to citywide candidates. (Under Proposition H, enacted in 1990, City Council candidates are eligible for public matching funds once they have raised \$25,000 in contributions of \$250 or less. Mayoral candidates must raise \$150,000 in contributions of \$500 or less, and City Attorney and Controller candidates must raise \$75,000 in contributions of \$500 or less. Matching funds eligibility is also contingent upon a candidate’s agreement to limit spending and whether an opposition candidate has qualified for matching funds or has raised, spent or has \$50,000 or more in cash.)

The relationship between candidates, ballot measures and candidate controlled ballot measure committees also play a significant role in the political process, as illustrated in a 2009 ballot measure offered to voters. Measure B, Green Energy and Good Jobs Los Angeles, received over \$200,000 in contributions from candidate committees and candidate controlled ballot measure committees. Some suggested that Measure B was a “power grab” by City Council members, while others suggested that a history of union support of political candidates

encouraged politicians to support the measure that would have provided LADWP with a near monopoly on solar power in Los Angeles.

Under existing law, candidates can control ballot measure committees and raise additional contributions and make expenditures through them. Until recently, California law did not require candidates to disclose and identify the ballot measure the committee was formed to support. While new regulations on candidate controlled ballot measure committees require candidates to disclose what measure it was formed to support, these committees are still not subject to contribution limits. Candidates may utilize this loophole in campaign finance laws to raise and spend unlimited amounts of money on ballot measure campaigns.

Between 2006 and 2009, three (3) Los Angeles municipal candidates raised over \$9 million for candidate controlled ballot measure committees. Mayor Villaraigosa controlled three (3) ballot measure committees and nearly all of the \$9 million, \$145,000 of which he contributed to the Measure B campaign.

METHODS AND PROCEDURES

The CGJ interviewed management personnel that have an involvement in the management of the Department, personnel from IBEW and personnel from the Los Angeles Ethics Office. Additionally, the CGJ conducted internet searches and reviewed documents prepared by the Department, utility consultants, and other interested parties.

FINDINGS

- 7. The IBEW is very active in local and State elections, local and State legislation and ongoing City politics. It also contributes substantial time and money to the election of City politicians, including various Council members, the Mayor, and the City Attorney, which potentially allows for a substantial amount of power in the day-to-day governance of the Department.**

While this level of involvement is a cornerstone of American democracy and certainly the right and obligation of IBEW management, it is incumbent upon City management to ensure that Union involvement does not cause operational inefficiency nor increase the cost to the Department and all citizens/ratepayers.

Some of the largest contributors to municipal races are the unions. In the 2009 Los Angeles municipal races, unions were responsible for almost \$800,000 (45%) of the \$1.77 million in independent expenditures. Specifically, the IBEW Local 18 Water and Power Defense league spent \$166,825 to support two (2) separate Council candidates and one controller candidate in 2009 and \$35,625 to oppose one (1) Council candidate.

Additionally, in the most recent 2011 municipal elections, IBEW and other unions reportedly spent about \$1 million in an unsuccessful attempt to unseat a current City Councilmember whose views are divergent with the Union's views.

The IBEW locals were also heavily involved in numerous ballot initiatives over the past several years. Two (2) of these dealt with utility related issues.

- a. IBEW opposed California Proposition 7 (2008): Prop 7 would have required California utilities to procure half of their power from renewable resources by 2025. It also would have required California utilities to increase their purchase of electricity generated from renewable resources by 2% annually to meet Renewable Portfolio Standard (RPS) requirements of 40% in 2020 and 50% in 2025. It would also have allowed penalties for non-compliance to be waived. Under current law, investor-owned utilities (but not municipals) must comply with an RPS of 20% by 2010 and there is no waiver for non-compliance. Prop. 7 was defeated garnering 35.4% of the vote.
- b. LA Measure B, also known as the “Green Energy and Good Jobs for Los Angeles Act” or “Solar B” was a proposed City ordinance to install 400 megawatts of solar panels around the City of Los Angeles. The Measure was proposed by the group Working Californians, which includes the Business Manager for Local 18 representing LADWP employees. Under the terms of Measure B, LADWP workers would be required to do all the solar panel installations. The Measure was on the March 3, 2009 ballot and was narrowly defeated by a margin of 50.5% to 49.5%.

The strong financial support from unions associated with LADWP raised concern among community activists and opponents of the Measure who believed that the Measure would provide LADWP with a monopoly on solar projects, increase taxes, hurt the California economy and benefit unions at the public’s expense. LA Weekly reported that “the unusual speed of the decision, apparent lack of transparency, huge costs to Los Angeles residents and virtual absence of serious public debate drew instant criticism from local media, the City Controller and concerned citizens.” The Los Angeles Times told voters to reject Measure B, calling it “a power grab...by the City Council and the Union that represents LADWP.” Of the \$1.4 million in total contributions in excess of \$25,000, the IBEW (represented by IBEW Local 18 Water and Power Defense League Issues, IBEW Educational Committee and the Working Californians Issues Committee) spent \$235,500 to support the bill.

The unions are also very involved in getting out the vote campaigns and in attending City Council meetings to rally support or opposition to various issues. One small example occurred during the October 26, 2010 City Council meeting when hundreds of utility workers showed up to denounce the attempt by the Council to take over the LADWP retirement benefits (which is separate from the City retirement programs). After previously voicing support, the actions of hundreds in the audience helped to change several Council members’ minds.

8. There is considerable belief that the unions are increasingly involved in the operations and management of the Department.

Although impossible to verify without being privy to private conversations, the CGJ believes based on multiple interviews that Union management has a substantial level of influence at the City political and Department management levels. This is obviously a concern for DWP management and potentially for ratepayers. For example, after a previous appointee was chosen to be the new General Manager, a number of senior DWP managers reported that a Union official called the Mayor to ensure that a previously fired manager sympathetic to Union causes was rehired as Chief Operating Officer

In the CGJ’s opinion this action sends several wrong messages to the employees. First, the best person for the job was not chosen from within the Department by Department management. Second, a person who has previously been terminated for good cause can be brought back for political reasons. Imagine the negative impact to employee morale for the

employees who watched this happen. (Several employees expressed these concerns.) Hard work and ability should be the road to success, not political contributions and involvement.

9. **The public sector unions, especially the IBEW, have been successful for its members by accomplishing a higher level of salary and benefits than other employees. This information is of concern to many ratepayers since it will increase the rates developed to pay for services.**

Although it has often been argued that governments must pay greater benefits to their employees because they cannot pay salaries as high as those in the private sector and they need to offer greater benefits and job security to effectively compete, it does not appear to be true in today's environment. According to the U.S. Department of Labor's Employer Costs for Employee Compensation report for December 2009, state and local government employees earned a total compensation of \$39.60 an hour, compared to \$27.42 an hour for private industry workers, a difference of over 44%. Data from the US Census Bureau, for example, also show that in 2007 the average annual salary of a California state government employee was \$53,958, nearly 32% greater than the average private sector worker pay of \$40,991. (Source: How California's Public Pension System Broke and How We Can Fix It, The Reason Foundation, June 2010)

The public sector pay advantage is most pronounced in benefits. The Bureau of Economic Analysis data show that average compensation in the private sector was \$59,909 in 2008, including \$50,028 in wages and \$9,881 in benefits. Average compensation in the public sector was \$67,812, including \$52,051 in wages and \$15,761 in benefits. (Source: Public Sector Unions and the Rising Cost of Employee Compensation, CATO Journal Winter 2010)

The public is becoming increasingly concerned about the cost differences in union pay and benefits. According to the "Californians and their Government" prepared by the Public Policy Institute of California in January 2010:

- a. Three (3) of every four (4) Californians view the amount of money being spent on the public employee pension systems as a problem.
- b. The percentage calling it a big problem has grown ten (10) points since January 2005
- c. About four (4) in ten (10) across income groups hold this view, while their perception increases with age.
- d. Two (2) of three (3) Californians would favor changing the pension system for new public employees from defined benefits to a defined contribution system similar to a 401 (K) plan. Support increases with rising income.
- e. Of those who call the current pension system a big problem, 79% favor this change, signaling a strong correlation between believing it's a big problem and wanting to change the current system.

In general, IBEW members have enhanced health and dental benefits, higher salaries than their City counterparts and class specific salary enhancements/premiums. LADWP has other "benefits" that not all City departments, including tuition reimbursement, fitness facilities, life insurance, child care and extensive disability coverage.

As mentioned previously, 82% of LADWP employees make between \$60,000 and \$120,000 per year, for an average of about \$85,000. Additionally, a fifty-five (55) year old LADWP employee who retires after thirty (30) years with a salary of \$100,000 will receive a \$69,000 annual pension. This amount increases with each year the individual stays past age fifty-five (55).

10. The IBEW represents about 88% of all LADWP employees which, as shown below, is an unusually high percentage for utilities.

This percentage also represents a challenge for LADWP since a large number of personnel in supervisory positions are in the same union as those they supervise. Clearly, pressure to avoid disciplinary actions would be increased if both parties are in the same union.

As shown in **Exhibit 13. Union Representation at Other Municipal Utilities**, the percent of employees in a single union is substantially higher at LADWP than it is at the comparable municipal utilities we contacted and higher than at any utility of which we are aware.

Exhibit 13

Union Representation at Other Municipal Utilities

Utility	Percent of Work Force Represented	Discussion
CPS Energy San Antonio	37% three unions	<ul style="list-style-type: none"> • International Brotherhood of Electrical Workers (IBEW) – 1,237 members • National Association of Public Employees (NAPE)- 99 members • Service Employee International Union (SEIU)- 1 member <p align="center">Total: 1,337 Union members CPS Energy Headcount: 3,636</p>
SMUD Sacramento	Slightly less than 67% of employees are represented by two unions.	<ul style="list-style-type: none"> • Industrial Relations Association of Northern California • International Brotherhood of Electrical Workers (IBEW), Local 1245, representing the physical workforce (about one-third) • Organization of SMUD Employees (OSE) – a local, internal union representing the clerical and administrative workforce (about one-third) • Professionals, analysts, human resources, etc. are underrepresented (just over one-third)
MLGW Memphis	65% one union	IBEW, Local 1288, is MLGW's only union, representing 1,800 of the 2,800 employees.
JEA Jacksonville	85% five unions	<p>As of September 2009, 1,843 of JEA's 2,158 employees (exclusive of the Power Park) were covered by collective bargaining agreements with five unions:</p> <ul style="list-style-type: none"> • American Federation of State, County, and Municipal Employees • IBEW, Local 2358 • Northeast Florida Public Employees, Local 630, • Laborer's International Union of North America • A professional employees' association and a supervisors' association that have no AFL-CIO affiliation. <p>The terms of these collective bargaining agreements expired in September 2009.</p>

Utility	Percent of Work Force Represented	Discussion
Austin Energy	None See discussion	Texas is a “right to work” state which means that employees do not have to be a part of a union. As part of the city, Austin Energy employees are all municipal city workers. They have a union, and some managers and executives are part of it, but they do not have collective bargaining rights (cannot set wages or strike). The union just has “influence” and the union and management work together in a partnership. If employees have concerns regarding a job classification or the progressive discipline process they could go either to management or to the union who would then go to management. In the end, it is up to management to decide.
CSU Colorado Springs	None	No CSU employees are covered by a collective bargaining agreement.

The most recent addition to the IBEW ranks was in July 2003 when the Engineers and Architects Association (EAA) members chose to go with the IBEW in the middle of their contract year. EAA members are those in the Technical unit, Professional unit, Supervisory Professional, and Supervisory Technical and Administrative (entry-level through supervisory). Classes are engineers, administrative, technical staff, information technology, etc.

11. Although the LADWP and the IBEW engage in “mutual gains bargaining” through a Joint Labor Management Resolution Board (JRB), the bargaining results are reportedly more in favor of the Union. The number of grievances filed by the Union has not materially changed as a result of this process.

According to Article 36 of the Memorandum of Understanding (MOU), “Mutual Gains Bargaining is the process to be used to resolve various issues brought to the JRB. Any person appointed to the JRB, or any other joint labor/management committee, shall be trained in the mutual gains bargaining process prior to participating in the process. In addition to this training, all Union shop stewards and all levels of management beginning with first level supervisors shall be trained in the mutual gains bargaining process.”

Also, according to Article 36 of the MOU, the scope of the Joint Labor/Management Resolution Board (JRB) is to “deal with items typically brought up in the meet-and-confer process and other issues as mutually agreed to by Union and Management. The JRB and the Labor/Management Committees are not intended to subordinate or abrogate in any way the collective bargaining rights and obligations of either party.”

The JRB has the authority to make recommendations which are submitted simultaneously to the General Manager of Water and Power (or his representative) and the Business Manager of Local 18 for their joint consideration and response.

Any Union or Management JRB member may bring an issue to the JRB. Although Department management did not have time to prepare a detailed analysis of recent JRB issues, their opinion is that the issues they are trying to resolve were more Union requests over the past six (6)

months than management concerns raised at the meetings. Generally the requests are resolved in favor of the Union.

While it is not known if the number of grievances would be larger without a mutual gains bargaining approach, its existence has not had a reduced effect on the grievances over time. As shown in **Exhibit 14. Grievance History at the Department**, the number of grievances filed has not diminished materially as a result of the JRB. The exhibit shows the number of employees for each of the last seven (7) years, the number of grievances filed each calendar year, and the number of grievances per one hundred (100) employees.

Exhibit 14

Grievance History at the Department

Period*	Number of Employees	Number of Grievances	Number of Grievances/ 100 Employee
2004	7932	155	1.95%
2005	7888	161	2.04%
2006	7823	179	2.29%
2007	7994	177	2.21%
2008	8690	129	1.48%
2009	9200	126	1.37%
2010	9307	174	1.87%

* Employee numbers are shown for Fiscal years ending in the date shown, while the number of grievances is shown for the calendar year.

12. The LADWP is at risk by having a high percentage of essential personnel in the same union and does not have a current “strike plan” to continue operations and serve the citizens of Los Angeles in case of a work action.

Not only does IBEW represent the vast majority of personnel in the Department, they also represent many of the middle level management, professional staff and technical staff. Only a few members of management remain outside the union and their ability to run the Department for an extended period of time in case of a work stoppage would be questionable. The MOU does not contain a “no strike” clause.

The Department should never have allowed so many personnel to be under the direct representation of a single union and certainly should not have allowed as many essential management and technical personnel to belong to the same union.

No member of Senior Management we interviewed knew of the existence of a current “strike plan” and had not participated in any strike preparation in the unfortunate situation that a strike is called by the IBEW. The Union management is aware that a current strike plan does not exist. This is intolerable.