

CITY OF LOS ANGELES

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June 26, 2020

CF 20-0600
CF 20-0600-S2

Honorable Paul Krekorian, Chair
Honorable Curren D. Price, Jr., Vice Chair
Honorable Paul Koretz, Member
Honorable Bob Blumenfield, Member
Honorable Mike Bonin, Member
Budget and Finance Committee
City Council, City of Los Angeles
Room 435, City Hall

Honorable Eric Garcetti
Mayor of the City of Los Angeles
Room 303, City Hall

Mr. Richard H. Llewellyn, Jr.
City Administrative Officer
Room 1500, City Hall East

Re: Response to motion CF 20-0600-S2 and Mayor's 6/24/20 letter on cost containment regarding exceptions from furloughs, hiring, and contracting controls in FY2020/2021

Dear Honorable Budget & Finance Committee Chair and Members, Mayor, and CAO:

The financial impacts of the COVID-19 crisis demand making difficult choices. City-wide, blanket measures, however, can have unintended consequences for small Offices. In the case of the Office of Public Accountability/Ratepayer Advocate (OPA), these measures will not provide fiscal relief to the General Fund or reserves. This consequence was an intended feature of this independent Office. OPA is concerned that the City austerity measures hamstringing the office at a time when important utility rate and policy decisions will be coming before the DWP, OPA, Council, and Mayor.

This 2020-2021 fiscal year, OPA needs to expand activities to review a planned 4 year rate proposal from Department of Water and Power (DWP), which can also be an opportunity to explore economic justice and economic stimulus measures. This year's

activities could involve reviews of over \$50 billion in major, multi-decade, water and power capital and program plans. The OPA expert staff is at 25% of its budgeted level (2 of 8 technical experts). Administrative needs during the COVID-19 crisis and recovery require additional work for the executive and the 1.5 support staff. Key contracts to support this effort are in place, but changes in these contracts and additional task orders are needed to support the reviews.

Current furlough, hiring, and contracting limitations, if implemented for the Office of Public Accountability/Ratepayer Advocate (OPA) without needed exceptions, will drastically inhibit the ability of the OPA to achieve its Charter mandated goals this year.

Exceptions from furloughs (applying standards in motion CF 20-0600-S2), hiring restrictions, and contracting controls (applying exception standards in Mayor's letter of June 24, 2020) are appropriate because:

1. OPA generates revenue to the General Fund equal to its expenses. DWP fully reimburses the General Fund for all OPA costs, including overhead, so OPA cost savings provide no net gain for the General Fund.
2. OPA's reviews are legally mandated by the Charter, as discussed in Background below.

In addition, the OPA needs the Mayor's and Council's support for the designation of 2 technical/professional exempt positions, already budgeted but vacant.

Background

The OPA is a City Charter mandated Office, which reports to the Board of Water and Power Commissioners (Commission), and is charged with providing public independent analysis of DWP actions as they relate to water and electricity utility rates.¹ The unopposed ballot statement that argued in favor of creating the OPA in 2011 stated that it would shed greater light on DWP's operations and finances, and would analyze proposed increases in water and power rates on a timely and continuous basis.

Driven in part by the strained multi-year policy debates involving the Mayor, Council, Commission, and DWP prior to the creation of OPA, the OPA Charter amendment intended that the OPA function independently of the DWP and City Officials. Critical to that independence was that the OPA exists outside of DWP and other City Departments and Offices. To implement this Charter provision successfully, it is imperative that the OPA be provided fully delegated authority to flexibly respond to DWP actions in executing its annually budgeted work plan. As further identified in the Los Angeles Administrative Code:

¹ City Charter Section 683 (a) and (c)(1), in Article IV Proprietary Departments.

“While substantively the OPA shall function independently of the DWP and its management structure and of the City Council, Mayor, and Controller, administratively the OPA shall be given ongoing support by City Departments and offices in a manner that does not compromise the OPA’s independence.”²

This would include, although not be limited to, be provided sufficient funding, hiring, and contracting flexibility for the use of as-needed technical experts to augment regular staffing. As described below, OPA needs an additional 2 exemptions from the Civil Service employment provisions of the Charter. Without the funds, hiring and contracting exceptions, or the exemptions, the office will be short essential resources during a rate review and studies on major capital programs.³

Since inception, the OPA’s advice has led to adoption of rates nearly \$3 billion lower than initially proposed. This is a high return for supporting a fully reimbursed contracting and staffing budget. The OPA has provided a high level of transparency in the administrative, financial, technical, and operational efforts of DWP, along with numerous cost reductions, problem avoidance, and rate review findings.⁴ Additionally, the OPA provides billing reviews to assess DWP customer service performance.

All costs of the OPA, including full recovery of all indirect costs calculated using Federal grant standards, are reimbursed by DWP in accordance with the City’s normal billing process administered by the CAO. The City sends an invoice to DWP twice a year. So the OPA costs are exactly balanced by revenue from DWP. A multi-year review of OPA spending would show the annual budgets are already conservatively managed to match DWP initiated reviews, and that the Charter-provided financial independence of the Office has functioned efficiently.

Anticipated Fiscal 2020-2021 OPA Reviews

The 2020-21 approved budget of the Department of Water and Power incorporates actions that necessitate significant OPA involvement, including a comprehensive 2020-21 rate review, the concluding stages of the 100% renewables study by the National Renewable Energy Laboratory, and the studies of local water supply from waste water. These actions also include a 2019 directive from the Commission that “... the General Manager [is] to formally propose electric and water rate actions by report to the

² Los Angeles Administrative Code Section 23.144 (c)(1) in Division 23 Departments Having Control Of Their Own Funds.

³ The May 24, 2020 CAO report restated June 4, 2020 for the furloughs in CF 20-0600 on page 30 stated “Furloughs may lead to delays in the completion of the Office’s [OPA’s] planned workload for 2020-21.” http://clkrep.lacity.org/onlinedocs/2020/20-0600_rpt_CAO_06-04-2020.pdf.

⁴ See key publications at http://opa.lacity.org/html/important_documents.html.

Commission no later than January 1, 2021...” Additionally, the Commission directed the General Manager to formally propose electric and water rates to the Commission every four years beginning in 2021. These actions are **essential** to achieve the long term goals of the City, and take complex efforts to bring forward timely proposals for rates, programs, and major capital plans, which may bolster economic recovery and low income programs.

Requested Exceptions for OPA

We are highly concerned that, without approval of these requests, it is very likely that the OPA will not be capable of fulfilling our City Charter directive of adequately responding, on a timely basis, to the actions directed by the DWP Commission and on-going major capital initiatives for power and water. The OPA’s succession plans will also suffer. The OPA has several requests:

1. The OPA requests exception from the furlough program for both technical experts and support personnel, including 120 day substitute authority appointments. The OPA qualifies for this exception under the standards in motion CF 20-0600-S2.
2. The OPA requests an exception from the managed hiring process for our authorized and 120 day substitute authority positions. OPA also requests an exemption from any hiring freeze to fill at least two of our six vacant authorized technical positions, retain an existing 120 day substitute authority position, and any new vacancies that occur.

Due in part to delays in exemptions, the OPA has a vacancy rate of up to 75% in technical experts. The narrow hiring window during the 5 year tenure of the OPA’s Executive Director appointment has come into focus as complex and technical expertise is challenging to hire in the later years of the tenure.

3. The OPA requests an exception to any contracting controls, such as in the Mayor’s June 24, 2020, letter on cost containment. **These controls have no correlation to general fund or reserve fund benefits, and may unfortunately weaken the rate review OPA can provide.**
4. The OPA requests the support of the Mayor and the Council in obtaining two additional technical/professional exemptions⁵ as soon as possible and retention of existing technical/professional exemptions for any personnel that leave the OPA.

⁵ Charter Section 1001 (b).

Important oversight offices like the Ethics Commission, City Attorney, and CLA are *all* exempt staff – and the OPA has exemptions for all existing full-time staff. The OPA has diligently sought exemptions for *all* new staff, believing that any new Executive Director should not be restricted in hiring or replacing staff.

As the year progresses, the OPA may need to revisit the exceptions to furloughs, hiring freeze, managed hiring, and contracting controls. Additional funds for contracting of experts may be required from the Unappropriated Balance or more. Expansion of the technical/professional exemptions may also need to be revisited as hiring efforts move forward.

We urge favorable consideration and support for our requested exceptions on furloughs, hiring freezes, and contracting controls along with providing at least 2 more exempt staff. I am readily available for you or your staff for any questions or assistance.

Regards,



Frederick H. Pickel, Ph.D.
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cc: Sharon Tso, CLA
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