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and
Director

**BUREAU OF
CONTRACT ADMINISTRATION**

1149 S. BROADWAY, SUITE 300
LOS ANGELES, CA 90015
(213) 847-1922

<http://bca.lacity.org>

Honorable Members of the City Council
c/o Holly L. Wolcott, City Clerk
200 N. Spring Street, Room 395
Los Angeles, CA 90012

November 30, 2017

Honorable Members:

**BUREAU OF CONTRACT ADMINISTRATION - ADDITIONAL RESOURCES
REQUIRED TO SUPPORT THE DEPARTMENT OF CANNABIS REGULATION IN THE
ENFORCEMENT OF LABOR STANDARDS (COUNCIL FILE 14-0366-S17)**

In response to instruction from the Rules, Elections, and Intergovernmental Relations Committee, the Bureau of Contract Administration (BCA) submits this report describing the additional resources required to support the Department of Cannabis Regulation (DCR) in the enforcement of labor standards in the new commercial cannabis industry. Included in the report at the Committee's request is guidance from the City Administrative Officer on how those positions would be funded. A variety of different labor standards programs have been proposed by the City Council and are discussed separately below to highlight the resource requirements for each.

**1. ENFORCEMENT OF MINIMUM WAGE, PAID SICK LEAVE, WAGE THEFT &
THE FAIR CHANCE INITIATIVE FOR HIRING ORDINANCE (FCIHO)**

The development, outreach, and enforcement of minimum wage related labor standards in the cannabis industry would most efficiently and effectively be achieved through a specialized unit comprised of three (3) positions in the Office of Wage Standards (OWS) Division of the BCA. This unit would follow the specialized, industry-specific model implemented successfully by the California Division of Labor Standards Enforcement (DLSE) to address enforcement challenges related to a specific industry.

These positions include one (1) Senior Management Analyst I and two (2) Management Analysts. The BCA would also need resources for additional office space for the three positions.



OFFICE OF WAGE STANDARDS

In 2016 the City established the Office of Wage Standards (OWS) to administer and enforce the City's new minimum wage and wage theft laws on private businesses operating within the City limits. The establishment of the Department of Cannabis Regulation (DCR) to oversee commercial cannabis operations within the City of Los Angeles beginning in 2018 will bring a new industry under the enforcement umbrella of the OWS and move the City into uncharted territory with an industry that operates a unique business model that poses significant challenges to the enforcement of labor standards.

The cannabis industry's operational model will require a specialized, industry-specific enforcement approach from the City to address these challenges. For example, it is common practice in this industry for employee compensation to occur in the form of cannabis product, rather than cash wages, which would violate the minimum wage requirements. An even greater challenge will be the lack of payroll and bank records for many operators who do not have access to bank accounts. Reports related to the recent campaign to establish a City or State bank to address this problem have stated that roughly 70% of cannabis operators do not have bank accounts due to the banking industry's reluctance to open accounts with businesses dealing in an industry that is illegal under federal law.

To address the challenges unique to the cannabis industry, the OWS will need to learn the limitations present within the industry and work with operators to create a feasible framework that ensures that commercial cannabis operators understand how to adapt their model to comply with the City's labor standards. Once the compliance framework is developed, it will need to be communicated to the operators and audited periodically. As the commercial cannabis operators will be tasked with complying with a plethora of new City regulations affecting many aspects of operations, and because the labor standards requirements will require changes to the existing operational model for many of these businesses, the OWS believes it's essential that the City emphasize the education of labor standards compliance and perform a substantive number of proactive audits to deter violations. The California Division of Labor Standards Enforcement, which has a long history of enforcing the minimum wage, has found success in creating specialized units with industry experts who can educate and enforce with an understanding of a particular industry's landscape.

Initially the three positions will be tasked with establishing a compliance framework that satisfies the City's minimum wage and paid sick leave requirements while addressing some logistical challenges such as the lack of bank or payroll accounts. Regulations may need to be created to specifically address commercial cannabis operators, and informational materials will need to be created and updated. Staff will also work closely with the DCR to assess how wage compliance best fits within the DCR's permitting and compliance processes. Later on, the workload will shift to educating the prospective cannabis operators on minimum wage, paid sick leave, and record keeping requirements which will be new to many of them; conducting follow up audits to ensure implementation of the new requirements; investigating complaints; and assessing wage restitution and monetary penalties to employers. To maximize efficiency, education and enforcement of the FCIHO will be included in the wage enforcement activities.



Without these positions, the OWS will not be able to conduct targeted outreach to ensure that cannabis businesses are aware of the changes they must make to their operating practices to comply with labor standards requirements. Moreover, without a dedicated cannabis industry unit, the OWS may not be able to act expediently on complaints that could impact a cannabis permit revocation or renewal, since a wage violation is considered a “serious” violation that could disqualify a business and trigger a fine of three times the Cannabis Application Fee that was proposed at \$8,748.

2. ENFORCEMENT OF WORKER RETENTION & ANTI-RETALIATION

In addition to the enforcement of minimum wage, paid sick leave, wage theft, and the FCIHO, multiple new labor standards programs are in development that would be specific to the cannabis industry. Per the City Council’s instructions approved on October 31, 2017, the Office of the City Attorney has been working with the BCA to draft a cannabis worker retention law. The City Council also directed the City Attorney on October 31, 2017, to draft a law with anti-retaliation protections for workers in the cannabis industry.

The BCA’s role in these new laws is not yet known but these types of labor standards fit well within the BCA’s expertise. The workload would vary depending on whether the OWS is ultimately tasked with investigating and enforcing complaints, but at a minimum, the OWS would likely need to draft informational materials and Rules and Regulations. If the OWS were directed to perform education and outreach of these two labor standard programs to the commercial cannabis operators, or to enforce the law by investigating complaints, one (1) additional Management Analyst position would be required.

3. ENFORCEMENT OF LOCAL HIRE REQUIREMENTS

The Draft Requirements for Commercial Cannabis Activity in the City of Los Angeles require cannabis operator applicants to submit a local hire plan and ensure that at least 30 percent of their workforce hours be performed by residents of the City, of which at least ten (10) percent shall be performed by Transitional Workers whose primary place of residence is within a three-mile radius of the proposed business. Preliminary language for the social equity program also includes a possible local hire component of twenty (20) percent “social equity workers.”

The BCA has not yet received direction on whether it would be involved in local hire enforcement related to cannabis, but it has extensive experience and expertise monitoring local hire requirements on public works construction projects. If directed to monitor local hire on the potentially 2,500-3,000 cannabis operators, the BCA would need to request additional resources.



PROPOSED FUNDING

The Office of the City Administrative Officer estimates the annual cost to fully fund the three positions, one Senior Management Analyst and two Management Analysts, to be \$515,475, comprised of \$298,273 for salaries and \$217,202 for indirect costs. Funding of \$257,738 will be required to provide six-months funding for the three positions for the remainder of this fiscal year 2017-18. Since the projected workload is unknown, the positions should be funded within the existing Bureau's budget. Any resources required for next fiscal year shall be addressed during the 2018-19 budget process.

Sincerely,



JOHN L. REAMER, JR., Director
Bureau of Contract Administration

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