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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

May 4, 2017

Honorable Members:

**BUREAU OF CONTRACT ADMINISTRATION – LOS ANGELES FAIR CHANCE
INITIATIVE FOR HIRING ORDINANCE (BAN THE BOX) EMPLOYER INPUT AND
RECOMMENDATIONS FOR IMPLEMENTATION / REQUIRED RESOURCES FOR
OUTREACH (COUNCIL FILE 14-0746)**

In response to instruction from the Entertainment and Facilities Committee, the Bureau of Contract Administration (BCA), with the assistance of the Economic Workforce Development Department (EWDD), submits for your consideration a report on employer input regarding implementation of the Fair Chance Initiative for Hiring Ordinance (FCIHO) and estimated costs for various outreach options to enable the BCA to inform affected businesses.

EMPLOYER INPUT

In order to reach out to the broadest range of the City of Los Angeles' business community, the BCA worked in conjunction with the EWDD to obtain access to a large sample of email contacts. Requests for comments and suggestions about how the City can better assist businesses in implementing and effectuating the FCIHO were emailed on December 8, 2016; January 4, 2017; January 5, 2017; and January 9, 2017, to well over 1,000 contacts in the business community. These contacts included chambers of commerce, Neighborhood Councils, Business Improvement Districts, the BCA's Office of Wage Standards subscribers' mailing list contacts, EWDD's Business Source Centers' contacts, and other neighborhood organizations.

The BCA received a total of twenty-five (25) responses to these multiple email requests. The majority of the responses provided the BCA with insight into employer concerns about the ordinance and suggestions for how BCA can assist employers in implementing the FCIHO in their hiring process. Out of the 25 responses, the majority of the responses were neutral questions about the FCIHO, suggestions for its implementation, suggestions for future policy amendments, or miscellaneous information. Nine (9) of the responses were negative criticisms of the FCIHO. Three (3) of the responses were positive feedback and included support for the FCIHO. The Valley Industry & Commerce Committee provided a thorough response with a number of suggestions including amendments and implementation ideas.



The suggestions received from the business community can be summarized as follows:

Type of Suggestion for the Implementation of the FCIHO	Number of Responses
Clarify FCIHO posting requirements.	3
Define “conditional offer of employment” for temporary staffing agencies.	2
Ensure there is a complaint process and penalty structure.	1
Provide an explanation of exemptions and sample/online documents, assess the negative effects of the FCIHO on businesses.	1
Assess the effectiveness of the FCIHO on the targeted population, perform education/outreach.	1
<i>Total Number of Suggestions</i>	8

Some of the negative reactions to the FCIHO can be described as follows:

Type of Complaints Received About the FCIHO	Number of Responses
FCIHO will be burdensome for small businesses or will require additional paperwork for employers.	3
Employer concerns about hiring employees with convictions that are job responsibility-related or safety-related.	4
Unfair to businesses.	2
<i>Total Number of Complaints</i>	9

RESULTS REVIEW

In response to the feedback, the BCA has developed a variety of tools to assist employers in implementation. The BCA website now contains official posters, Rules and Regulations, sample forms, and answers to frequently asked questions. The BCA also drafted a step-by-step Guideline for Employers (Attachment A) and an Individual Assessment Form (Attachment B) to help walk employers through the process of hiring in compliance with the FCIHO. The BCA has also worked with the Mayor’s Office of Re-Entry to provide training to City Personnel Department staff and members of the Blue Ribbon Commission for Employment Equity. The BCA has also worked with the Office of the City Attorney to respond to inquiries received from employers and employment law firms.



SUMMARY OF IMPLEMENTATION RECOMMENDATIONS FROM EMPLOYERS

Suggestion	Status
BCA should create documents such as rules and regulations, employer guidelines, and sample forms, and post them online.	Completed by BCA.
BCA should focus its short term efforts on education and outreach.	BCA has utilized existing resources to respond to all requests for materials, information, or attendance at events.
Educational material should list the specific industries exempted from compliance.	In progress by the Office of the City Attorney.
The BCA should develop ways to assess the effectiveness of the FCIHO on its targeted population.	May be more appropriate for CAO or CLA.
The BCA should develop ways to assess any negative effects the FCIHO has on businesses.	May be more appropriate for CAO or CLA.
The City Council should amend the Ordinance to include specific exemptions identifying industries such as schools, hospitals, and day care, rather than referring broadly to exemptions covered under existing federal or state law.	Requires City Council action.
The City Council should consider amending the Ordinance to allow criminal history checks after an applicant has been invited for an interview.	Requires City Council action.

EDUCATIONAL OUTREACH OPTIONS AND RESOURCE REQUIREMENTS

The BCA has outlined several options for the City Council’s consideration, with a variety of cost ranges, for informing employers about the requirements of the City’s FCIHO. The strategies below were implemented successfully as part of the BCA’s Minimum Wage outreach with the exception of Option 7, which was not implemented due to the cost constraints of direct mail.

1. **E-mail.** The Office of Finance maintains a database of all employers registered with the City of Los Angeles (City). This list will be utilized to contact approximately 230,000 businesses who have provided e-mail addresses.

The BCA has distributed information about the FCIHO to over 100 chambers of commerce and business organizations so that it can be further shared with their members.

Cost: Currently available City resources can be utilized.



2. **Advertising.** A variety of paid media outlets could be used to inform various ethnic and cultural communities about the new requirements. The cost estimates below are based on the upcoming Minimum Wage advertisement campaign that will last for a month.
 - a. Radio: \$84,000 Includes four general and ethnic radio stations in English, Spanish, and Korean
 - b. Newspaper: \$63,000 Includes two advertisements in 21 ethnic and trade publications in 12 languages
 - c. Bus Stops and LADOT DASH busses: \$71,000 Includes 50 bus benches, 60 bus shelters, and 175 interior cards on DASH buses throughout the City.
 - d. Digital Media: \$48,800 Includes website ads in four languages.

3. **Consultants.** Advocacy groups and consultants have been essential in educating employers and employees about the Minimum Wage Ordinance, and are also a resource for FCIHO outreach. The BCA has a Pre-Qualified On-Call Community and Business Outreach Consultants List that is valid into 2019. If the City Council were to allocate funding for FCIHO outreach purposes, this on-call list could be utilized to have consultants perform general employer outreach using pamphlets, posters, and other handouts with targeted outreach to job seekers who are re-entering the workforce.

In two upcoming Task Order Solicitations seeking consultants to perform door to door outreach directly to businesses throughout the City, FCIHO posters and information will be included along with minimum wage information.

Cost: This fiscal year's approved Minimum Wage outreach budget is \$733,000 which includes contractual services, advertising, technology, materials, and printing. While no funds have been allocated by the City Council toward outreach for the FCIHO, the BCA will utilize opportunities where it can, for the minimal cost of printing, incorporate the FCIHO into Minimum Wage outreach activities, such as the door-to-door and electronic outreach.

4. **BCA Office of Wage Standards Staff Outreach.** The BCA has received numerous inquiries related to the FCIHO. Often these inquiries are legal in nature and require extensive research and consultation with the Office of the City Attorney. The BCA has participated in three outreach or training events and is scheduled for an additional one in the coming weeks. In addition, BCA staff has performed direct, door to door outreach to 98 businesses to provide the poster and information. Most of the businesses were not aware of the new requirements.



Cost: Currently, the BCA does not have any staff dedicated to FCIHO outreach or enforcement.

The BCA had five authorized employees working on minimum wage outreach efforts leading up to the July 1, 2016 effective date of the Minimum Wage Ordinance. Since then, the BCA has added 17 positions for a total of 22 staff members. The BCA currently has seven employees dedicated to outreach and information activities that include the BCA's own outreach and information campaign as well as managing task orders for outreach by consultants.

These staff have been able to perform the critical tasks of establishing FCIHO Rules and Regulations, developing forms and tools for employers, responding to inquiries and performing door to door outreach and training presentations.

5. **Partnerships with City Departments.** The BCA will follow its minimum wage model of utilizing partnerships with Council Districts, the Mayor's Office, the BusinessSource and WorkSource Centers, and the Office of Finance to provide outreach to the public.

Cost: Materials such as posters and handouts will need to be printed for distribution to partner departments.

6. **E-Newsletter.** The BCA currently has an email notification function whereby employers sign up to be notified of significant updates related to Minimum Wage. This e-newsletter function has been utilized to notify over 800 businesses about the FCIHO.

Cost: Currently available City resources can be utilized.

7. **Direct mailing.** The BCA has contacted the General Services Department (GSD) for an approximate cost of mailing a notice to employers who have registered with the Office of Finance. These notices would be sent to approximately 405,000 employers throughout the City which should increase awareness of the FCIHO. Unfortunately, the Office of Finance does not track the number of employees for any given business so the mailing cannot be limited to affected businesses with ten or more employees.

Cost: Postage costs will be approximately \$166,050 for a standard postage mailing of postcards. Standard postage will take 7-14 days for delivery. If first class postage is used then the cost will be approximately \$190,350. Production costs for postcards are estimated to be \$16,000.

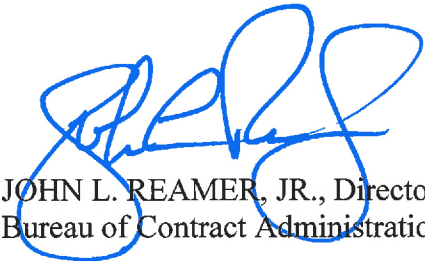
Note: The BCA did not utilize this direct mailing approach for Minimum Wage outreach due to budget limitations.



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With the City Council's direction and resources, the BCA is prepared to implement the outreach strategies outlined above.

Sincerely,



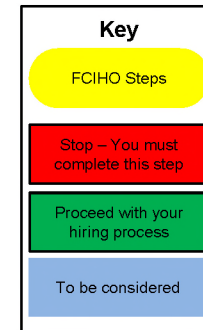
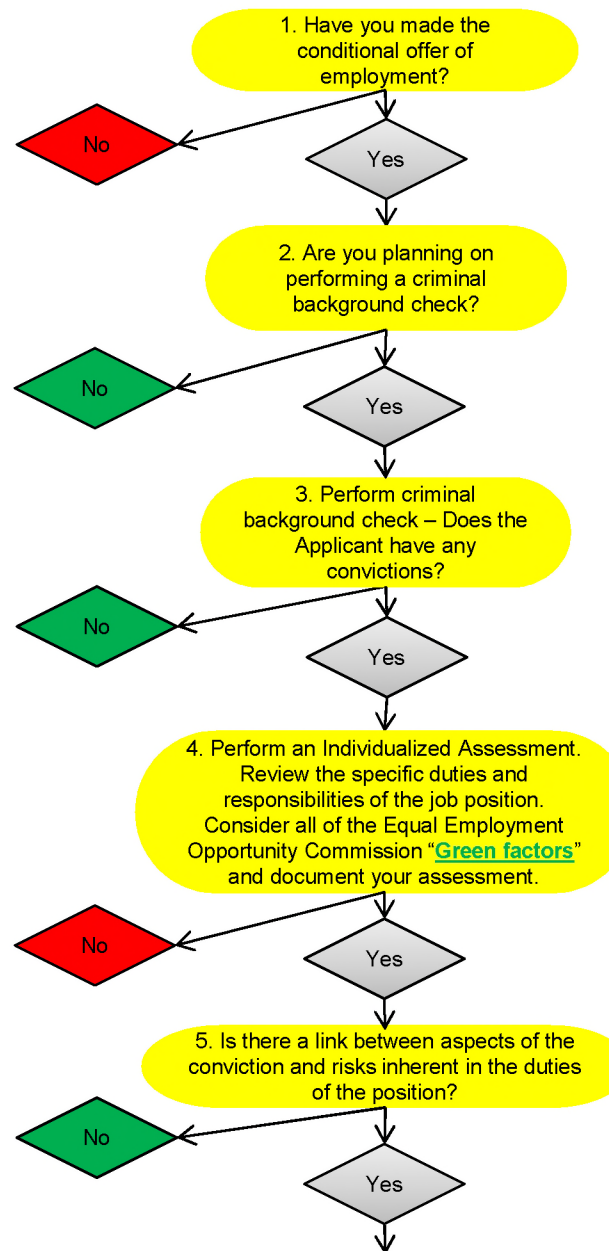
JOHN L. REAMER, JR., Director
Bureau of Contract Administration

JLR:KF:bes
20170504 Consolidated FCIHO Report

Attachments



Fair Chance Initiative for Hiring Ordinance Guideline for Employers



When Reviewing Criminal History Records, an Employer shall consider the EEOC **“Green factors”**:

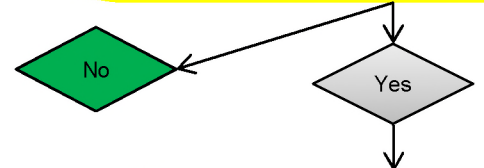
1. What is the nature and gravity of the offense? (The harm caused by the criminal conduct should be considered)
2. How much time has passed since the offense? (Convictions remote in time are less significant than similar more recent ones)
3. What is the nature of the job duties and responsibilities? (Consider the job’s essential functions, circumstances, and the environment in which the job is performed.)
4. Are you looking at ONLY convictions? Arrests cannot be considered in employment decisions.

See **EXAMPLE I** below

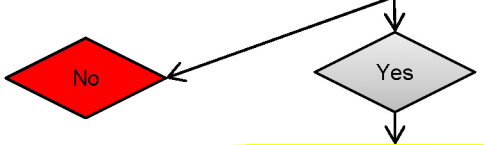
6. Provide Applicant with notice of proposed rescindment of employment offer (sample can be found at www.bca.lacity.org), copy of the Individualized Assessment, and any supporting documentation.



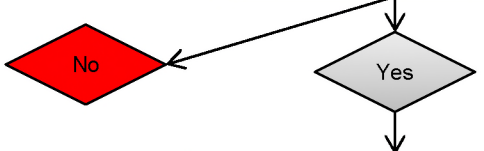
7. Fair Chance Process - Document the date that the Applicant is notified. You need to hold the job open for **at least five (5) days** to allow the Applicant the opportunity to submit documentation. This may include proof of rehabilitation, errors in the criminal background history, or an explanation of mitigating factors. Within this time, did the Applicant submit any documentation?



8. You are required to review all documentation that an Applicant submits. When doing so, have you considered the examples of relevant individualized evidence?



9. Have you notified the Applicant of the final decision and sent Applicant a copy of the written reassessment?



You have completed your Fair Chance Initiative Hiring Ordinance obligations.

Key

- FCIHO Steps
- Stop – You must complete this step
- Proceed with your hiring process
- To be considered

- Evidence that the individual performed the same type of work, post conviction, with the same or different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense or conduct;
- Rehabilitation efforts
- Employment or character references and any other information regarding fitness for the particular position; and
- Whether the individual is bonded under a federal, state or local bonding program.

See **EXAMPLE II** below

EXAMPLE I - Sample Job Description for Delivery Driver

- Required to have a CA Commercial Driver's License
- Clean Motor Vehicle Record for the past 5 years
- Make deliveries to households and businesses
 - May have access to cash
- May be required to deal with confidential information, such as debit/credit cards.

Scenario A Criminal History Record	Scenario B Criminal History Record	Scenario C Criminal History Record
11/2016 – DUI 5/2016 – DUI 2015 – DUI 2012 – Battery Scenario A – Very recent activity shows conviction pattern that would be a liability for a job where the a majority of the job responsibilities require a clean driving record.	2014 – Check Fraud 2013 – Credit Card Fraud 2012 – Grant Theft 2011 – Petty Theft 2011 – Shoplifting Scenario B – Conviction pattern (series of convictions that are all theft/fraud related) with fairly recent activity indicates a liability for a job that is required to handle both cash and confidential credit card information. While these are not primary functions, they are necessary components of the required responsibilities.	1999 – DUI 1996 – Reckless Driving 1992 – Simple Assault 1990 – Aggravated Trespassing 1989 – Vandalism Scenario C – While some of the Convictions are related to the job duties, the last Conviction occurred more than 17 years ago, and there has not been noted criminal convictions in recent years.

In Example I, Scenario C, after performing an Individual Assessment, an Employer may conclude the Applicant's clean record in recant years supports the decision to hire the Applicant.

EXAMPLE II – In Scenario A, the Applicant submits documentation showing:

- Errors in Criminal History (2015 and 2016 entries) that were the result of identity theft.
- 2012 Battery charge explanation as self defense when the Applicant tried to break up a fight.
 - Character reference from volunteer organization for the past 5 years

In Example I, both Scenario A and B, the Employer could consider rescinding the offer of employment to the Applicant because of recent convictions listed on their Criminal History Report. However, in Scenario A, the Employer received documents, such as those listed in Example II. After the review of the documents, the Employer must do a reassessment to determine if the information submitted changes the outcome of the initial assessment.



**FAIR CHANCE INITIATIVE FOR HIRING ORDINANCE (FCIHO)
INDIVIDUAL ASSESSMENT and REASSESSMENT FORM**



INFORMATION

Employer Name:	Applicant Name:
Position Applied For:	Date of Conditional Offer:
Date of Criminal History Report:	Individual Assessment Performed by:
Date of Assessment:	Date of Reassessment (if applicable):

The following factors were considered, as required by Section 189.03 of the Los Angeles Municipal Code or Section 10.48.3 of the Los Angeles Administrative Code, before making our determination:

1. The specific duties and responsibilities of the job, which are:
 - a) _____
 - b) _____
 - c) _____
 - d) _____
2. Description of the criminal conduct and why the conduct is of concern.
3. How long ago did the criminal activity occur:
4. Age at the time of last criminal activity:
5. Activities since criminal activity such as work experience, job training etc.:
 - a) _____
 - b) _____
 - c) _____
 - d) _____

Based on the factors above, we are considering rescinding our offer of employment because:

Describe how there is a link between the specific aspects of the Applicant's Criminal History with risks inherent in the duties of the Employment position.

To be completed for a Reassessment:

1. Was there an error made in the Criminal History Report?
2. Evidence of rehabilitation and good conduct, which is:
 - a) _____
 - b) _____
 - c) _____
 - d) _____

Evidence includes documents that the Applicant attended school, religious institution, job training, or counseling; or is involved with the community. They can include letters from people who know them, like teachers, counselors, supervisors, clergy, and parole or probation officers.

Based on the evidence provided, we are rescinding/not rescinding (circle one) our offer of employment because:

Note: Employers shall retain all records and documents related to Applicants' Employment applications and the written assessment and reassessment performed for a period of three years following the receipt of an Applicant's Employment application.