

Guidance on Required Diversity Plans

Revised by the Commission: June 4, 2020

Overview

Purpose

The purpose of this amended guidance is to assist applicants with additional clarity and information on the Cannabis Control Commission (Commission) requirements to submit a diversity plan. This guidance is not legal advice. If you have questions regarding the legal requirements for licensure and renewal in the Commonwealth, you are encouraged to consult an attorney.

Background

The Commission is charged by state law to adopt procedures and policies to promote and encourage full participation in the regulated cannabis industry by individuals from communities disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities. M.G.L. c. 94G, § 4. State law specifically requires the Commission to “provide meaningful participation of communities disproportionately affected by cannabis prohibition and enforcement, including minority business enterprises, women business enterprises, and veteran business enterprises.” St. 2017, c. 55, § 77.

As part of its mandate, the Commission requires the applicant to provide in its Management and Operations Profile packet a diversity plan “to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation.”¹

Elements of a Diversity Plan

Every applicant seeking licensure must submit a diversity plan.

As part of an extensive review of application materials, the Commission will scrutinize the diversity plan separately to make sure it includes the following:

1. Goals: one or more desired outcomes of the plan;
2. Programs: detailed actions, activities, or processes that will be utilized or implemented to achieve the outlined goals; and

¹ 935 CMR 500.101(1)(c)(7)(k); 935 CMR 500.101(2)(e)(8)(k)



3. Measurements: specific metrics that will be implemented to assess the progress and success of the programs.

The diversity plan should follow this format to be considered compliant with the Commission’s regulations. Miscellaneous, extraneous, or additional information unrelated to the goals, programs, and measurements of each plan is not necessary and should not be included in the submission.

The following sections will provide guidance on the Commission’s expectations, examples, and additional state requirements that should be included in each plan. The examples provided below are not an exhaustive list and applicants are encouraged to be innovative while remaining compliant with the Commission’s regulations and requirements and any other applicable laws.

Diversity Plan

Prior to drafting this plan, the applicant must understand who the plan is intended to affect and tailor its goals, programs, and measurements to that demographic. The Commission has specifically stated in its regulations that this plan should promote equity among the following demographics:

1. Minorities;
2. Women;
3. Veterans;
4. People with disabilities; and
5. People of all gender identities and sexual orientations.²

Goals of Diversity Plans

Each applicant should establish specific goals to promote equity for the above-listed groups in the operations of the Marijuana Establishment. “Operations of the Marijuana Establishment” (ME) means to attract, contract, hire, promote, and retain board members, contractors, executives, employees, managers, and service providers. Please note that this plan should not be tailored to address equality (which may be required under law and is laudable) but to, in fact, promote equity. Equity is providing everyone with the tools or opportunities they need to be successful and leveling the playing field. Equality is simply treating everyone the same.

Some possible goals that could be included in this plan include the following:

1. Increasing the number of individuals falling into the above-listed demographics working in the ME and providing tools to ensure their success;

² 935 CMR 500.101(1)(c)(7)(k); 935 CMR 500.101(2)(e)(8)(k)



2. Increasing the number of individuals falling into the above-listed demographics in management and executive positions in the ME and providing tools to ensure their success;
3. Providing access for and assisting individuals falling into the above-listed demographics to achieve their goal of entering the adult-use marijuana industry; and
4. Increasing the number of businesses owned by individuals falling into the above-listed demographics that can contract or otherwise do business with MEs.

Programs in Diversity Plan

Every applicant should tailor its programs to promoting equity for the identified groups and include them in the operations of its ME. Strategic planning for diversity is an organization-specific process. Resources are readily available on the topic, as are a variety of consulting services. Examples of some programs that could effectuate the goal of an applicant's diversity plan include the following:

1. Advertising employment opportunities in diverse publications or other mediums;
2. Advertising employment opportunities tailored to individuals falling into the above-listed demographics with career centers;
3. Distributing internal workplace newsletters that encourage current employees to recommend individuals falling into the above-listed demographics for employment;
4. Creating a promotion process that employs equity principles for current employees;
5. Providing trainings or mentorship programs for individuals falling into the above-listed demographics to promote their entry into the marijuana industry;
6. Providing recruitment meetings or participating in job fairs with a focus on attracting individuals falling into the above-listed demographics; and
7. Establishing relationships with specific organizations that are diversity-focused for the purposes of:
 - a. Networking with their constituencies for employment purposes;
 - b. Providing information on employment opportunities;
 - c. Providing trainings or informational sessions for individuals falling into the above-listed demographics on the marijuana industry.

Measurements of Diversity Plan

Each applicant must disclose the specific measurement metrics to be used in measuring the success of its programs. This is important as every licensee, upon renewal, must demonstrate that the identified programs in the plan led to measurable success of the licensee's goals.³

This section of the plan should include both qualitative and quantitative measures that demonstrate the progress or success of the plan. Metrics should have an identified data source and method for tracking that data.

³ 935 CMR 500.103(4)(a)



The applicant is responsible for disclosing the intended measurement metrics. Depending on the stated goals and programs, measurement metrics will vary. Some examples of metrics that could be utilized include the following:

1. Number of individuals from the above-referenced demographic groups who were hired and retained after the issuance of a license;
2. Number of promotions for people falling into the above-listed demographics since initial licensure;
3. Number of positions created since initial licensure;
4. Number of and type of information sessions held or participated in with supporting documentation;
5. Number of postings in diverse publications or general publications with supporting documentation; and
6. Number and subject matter of trainings held and the number of individuals falling into the above- listed demographics in attendance.

Additional Requirements for Diversity Plans

The diversity plan has unique requirements and standards that have been discussed above. In addition to those requirements, the plan requires the applicant to affirmatively state the following:

1. The applicant acknowledges and is aware, and will adhere to, the requirements set forth in 935 CMR 500.105(4) which provides the permitted and prohibited advertising, branding, marketing, and sponsorship practices of every ME; and
2. Any actions taken, or programs instituted, will not violate the Commission's regulations with respect to limitations on ownership or control or other applicable state laws.

General Information Pertaining for Diversity Plans

When drafting the diversity plan, every applicant should be mindful of the following information:

1. The plan to positively impact areas of disproportionate impact and the diversity plan are separate and distinct application requirements. One plan deals with improving areas of disproportionate impact (as defined above) and the other plan deals with promoting equity with respect to diversity (of the groups listed above). These two plans should not be blended or submitted as one document or plan.
2. Applicants may have consented to certain requirements in an executed Host Community Agreement (HCA) with the municipality where they will be located. Programs or actions taken under the diversity plan should be in addition to any HCA agreement conditions or requirements. In other words, please do not include elements of your plans that also are conditions or requirements of your executed HCA.



3. Applicants should endeavor to disclose only the information necessary to comply with the requirements of the diversity plan. The plan should be no longer than three pages each. Applicants may have appendices; however, this is discouraged.
4. Progress on the diversity plan will be evaluated upon license renewal. Please ensure that the plan submitted as part of the application is practical and one that the applicant plans to implement and achieve success. It is recommended that the applicant institute a process to evaluate the plan's progress quarterly in preparation for demonstrating success upon renewal. Upon license renewal, the Commission shall evaluate any information deemed necessary to assess the bona fide progress of the diversity plan.
5. This revised guidance should be utilized immediately. For compliance purposes, Commission staff will begin reviewing all applications not previously reviewed in accordance with this document upon approval by the Commission.

Questions? If you have additional questions regarding this guidance on diversity plans, please contact the Commission at Commission@CCCMass.com or (774) 415-0200.

