

## **GUIDANCE ON REQUIRED POSITIVE IMPACT PLAN AND DIVERSITY PLAN**

### **Purpose**

The purpose of this guidance is to assist applicants by providing further information on the Cannabis Control Commission (Commission) requirement to provide a plan to positively impact areas of disproportionate impact and, separately, a diversity plan. This guidance is not legal advice. If you have questions regarding the legal requirements for licensure in the Commonwealth, you are encouraged to consult an attorney.

### **Background**

The Commission is charged by state law (M.G.L Ch. 94G §4) to adopt procedures and policies to promote and encourage full participation in the regulated cannabis industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities.

As part of this mandate, the Commission requires every applicant applying for any Marijuana Establishment license to provide in its Application of Intent “a plan by the marijuana establishment to positively impact areas of disproportionate impact, as defined by the Commission,” under 935 CMR 500.101(1)(a).

In accordance with the Commission’s interpretation of the above mandate, applicants’ plans to positively impact one or more of the following communities are acceptable to meet this requirement:

- 1) Past or present residents of the geographic “areas of disproportionate impact,” which have been defined by the Commission and identified in its [Guidance for Identifying Areas of Disproportionate Impact](#). The designation of these areas will be re-evaluated periodically.
- 2) State-designated Economic Empowerment priority applicants
- 3) State-designated Social Equity Program participants
- 4) Massachusetts residents who have past drug convictions
- 5) Massachusetts residents with parents or spouses who have drug convictions

Additionally, state law (St. 2017, c. 55, §77) 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.”

Under 935 CMR 500.101(e), every applicant applying for a marijuana establishment is required to have a diversity plan to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation. A detailed summary must be included along with the personnel, record-keeping, inventory, and other operating policies and procedures summarized in the Management and Operations Profile submitted to the Commission.

The requirement to have a plan to promote diversity at all levels of the marijuana establishment itself, particularly in hiring, is a separate and distinct requirement from the plan to positively impact areas of disproportionate impact.

### **Elements of a Plan**

In accordance with the definition of a “plan,” each plan should include:

- (1) Goals: one or more desired outcomes of the plan
- (2) Programs: a detailed process for how to achieve those goals, and
- (3) Measurement and Accountability: metrics to assess whether the goals were achieved

### *Goals*

Each applicant should choose its own specific goals to make a positive impact on areas of disproportionate impact, as required by M.G.L Ch. 94G §4. In creating its Social Equity Program to make a positive impact on those areas, the Commission adopted the following goals:

- Reducing barriers to entry in the commercial adult-use cannabis industry;
- Providing professional and technical services and mentoring for individuals and businesses facing systemic barriers; and
- Promoting sustainable, socially and economically reparative practices in the commercial cannabis industry in Massachusetts.

As a best practice, diversity goals should be specific, measurable, and subject to deadlines. Currently operating businesses may find it useful to include both short-term and long-term goals, such as 2-year and 5-year goals. The goals may span a variety of areas including but not limited to: the culture of the company; the opportunities, trainings, and events available to people in the company; and the levels and types of diversity within the company.

### *Positive Impact Plan Programs*

Applicants are encouraged to be innovative in their plans to positively impact areas of disproportionate impact. Programs to positively impact identified communities may include, but are not limited to:

- Hiring plans identifying certain levels and percentages of positions for people from specific identified communities, including but not limited to:
  - Methods for targeting the recruitment of the identified group(s)
  - Skills-based training programs, or a plan to include individuals previously trained by the Commission’s Social Equity Program
- Incubator or accelerator programs that seek to provide assistance to start-up companies, including but not limited to:
  - Grants
  - Access and introductions to potential sources of capital
  - Cultivation, manufacturing, or retail space
  - Management training or other forms of industry-specific technical training
  - Mentorship from experts
  - Formation of peer support groups

- Other benefits that do not violate the Commission’s regulations with respect to limitations on ownership and control
- Providing debt and/or equity funding to help businesses founded by individuals with limited net worth and access to traditional sources of capital to meet start-up and working capital needs. This funding may take the form of investment vehicles including, but not limited to: standard debt instruments; convertible debt instruments; or equity investment pools with other enterprises; which:
  - Provide access to capital to those applicants from communities that have previously been disproportionately harmed by marijuana prohibition who wish to enter the adult-use cannabis industry;
  - Allow the applicant providing the funding assistance to earn a reasonable return on investment;
  - Allow the individuals receiving the funding assistance to earn a reasonable rate of return on the sum of both their “sweat equity” plus the real equity the individuals are able to contribute; and
  - Do not violate the Commission’s regulations with respect to limitations on ownership and control

### *Diversity Plan Programs*

Strategic planning for diversity is an organization-specific process. Resources are readily available on the topic, as are a variety of consulting services.

### **Measurement and Accountability**

Each plan should include both qualitative and quantitative measures that relate to whether the goals were achieved. Metrics should have an identified data source and method for tracking that data. For example, surveys and focus groups can measure the culture of a company; opportunities, trainings, and events can be counted; and the diversity within a company can be measured through self-identified demographic data.

In its own programs, some of the measures that the Commission currently tracks and will report include:

- Number and percentage of licenses issued to state-designated Economic Empowerment applicants and Social Equity Program participants
- Number and percentage of licenses issued to farmers, Minority Business Enterprises, Women Business Enterprises, and Veteran Business Enterprises
- Number and percentage of jobs in the adult-use cannabis industry held by people of color, specifically people of African-American/Black and/or Hispanic or Latino descent, women, veterans, farmers, and people with drug convictions
- Jobs created in the adult-use cannabis industry in geographic areas of disproportionate impact
- Number of people enrolled and trained through the Social Equity Program
- Number of businesses and individuals participating in and successfully paired with employers through the Commission.