



Washington State Liquor and Cannabis Board

January 14, 2022

TO: Representative Morgan and the Social Equity in Cannabis Task Force

FROM: Rebecca Smith, Director of Licensing and Regulation

SUBJECT: Social Equity in Cannabis Taskforce recommendations

Dear Representative Morgan and Task Force Members,

Thank you for sending the Social Equity in Cannabis Task Force recommendations to the Liquor and Cannabis Board (LCB) on January 6, 2022. We appreciate the substantial work by the committee to support our efforts to improve the cannabis licensing system.

The LCB is committed to adopting a social equity program that is impactful and can withstand legal challenges. After careful review, there are some concerns about the current scoring rubric. The LCB strives to ensure that any licensing processes can withstand constitutional challenges. The federal Equal Protection Clause prohibits the LCB from using explicit racial preferences in licensing. We have taken steps to identify an alternative option that includes race neutral factors we hope will achieve the social equity goals expressed in the legislation.

Utilizing the Task Force's original scoring rubric draft as a foundation, the LCB has developed a model that incorporates other factors that reflect the impact on the community as a result of the war on drugs, including:

- Household income less than the State median
- Type of sentence received for cannabis related conviction

As you review our proposed changes to the rubric, please understand that although the format is a bit different, we used all but two of the original questions from the Task Force.

To further support the Task Force's work, the LCB is conducted outreach to other states that have successfully implemented and issued licenses for their social equity program. We reviewed Colorado, LA County and Massachusetts social equity programs. We were seeking information and resources that speak to the number of licenses issued, their approach to scoring applications, whether a third-party reviewer was contracted, any litigation and the outcome, lessons learned, etc. The outcome of this outreach provided valuable data that will aid in how the LCB moves forward to support the Task Force recommendations and initiate a solid program for Washington state.

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The Agency remains committed to meeting the needs of the community and we look forward to continued partnership to reach our shared vision of a sound, viable and successful Social Equity program.

If you have any questions or would like to schedule time to discuss in more detail, please do not hesitate to let me know. Thank you for your time and consideration.

Attachments (2)

cc: David Postman, LCB Board Chair
Ollie Garrett, LCB Board Member

Social Equity Applicant Requirements

To be considered a Social Equity Applicant, the following requirements must be met.

1. The social equity applicant must be a person (not a company) and must hold 51% majority/controlling interest.
2. Applicants are eligible if they have resided in Washington for six months prior to the application date (as required currently in [RCW 69.50.331](#)) and demonstrate at least two of the following criteria outlined numbered 1-3 below:
 - Criteria 1: Lived in a Disproportionately Impacted Area (DIA) in Washington State for a minimum of 6 months.
 - Criteria 2: Applicant or family member (as defined in law Washington Family Medical Leave Act) arrested or convicted of a cannabis offense.
 - Criteria 3: Household income less than average state income.
 - [WA Household Income 2019: \\$73,775 / Per Capita \\$38,915](#), US Census Bureau
3. Submit a Social Equity Plan.

Scoring Rubric

The following scoring rubric will be used to prioritize social equity applicants:

Category	Criteria Elements	Point Scale
Eligibility Criteria	1. Lived in a Disproportionately Impacted Area (DIA)	40
	1a. How long have you lived in a DIA? 6m-5y = 5 points 5y-10y = 10 points 10+ years = 20 points	20
	2. Convicted of a drug offense? (Self)	5
	2a. Convicted of a cannabis offense? (Self)	20
	3. Convicted of a drug offense? (Family)	5
	3a. Convicted of a cannabis offense? (Family)	5
	4. If you were convicted of a cannabis offense, what type of sentence did you receive: Fine=5 points Served probation=10 points Confined to home =20 points Served time in jail or prison=40 points	40
	5. Did you or your family member's incarceration keep you from getting employment?	5
	6. Did you lose your home or ability to purchase a home or rent a home as a result of your convictions?	5
	7. Is your household income less than average state income? WA Median Household Income in 2019: \$73,775 / Per Capita \$38,915, US Census Bureau	40
8. Do you have previous cannabis business experience that would make your business more viable? <u>or</u> Were you a member of a medical cannabis collective garden between 1998-2016?	5	
9. Have you held or do you currently hold 51% majority/controlling interest of a state cannabis (marijuana) retailer license? No = 10 points	10	

	Yes = 0 points	
Total Points		200 points
Technical Assistance	<ol style="list-style-type: none"> 1. Do you want to apply for the Technical Assistance Grant and how much do you need? 2. Do you need assistance with a Business Plan or any of the following? <ol style="list-style-type: none"> a) Navigating the licensing process; b) Cannabis-business specific education; c) Regulatory compliance training; d) Financial management training; e) Strengthening a social equity plan; and/or f) Connecting applicants to industry members. 	

DRAFT

The Social Equity in Cannabis Task Force was formed in 2020 in accordance to [HB 2870](#), allowing additional marijuana retail licenses for social equity purposes. The task force met remotely throughout 2020 to develop the following recommendations to establish a social equity program for issuing and re-issuance of existing retail cannabis licenses.

Liquor & Cannabis Board:

1. The definition of Family that is used for the eligibility criteria for the Social Equity Application will follow the definition in statute, [HB 2614](#).
2. Definition of “Family member”: includes a biological, adopted, or foster child, a stepchild, a child’s spouse, or a child to whom the applicant stands loco parentis (in place of a parent), is a legal guardian, or is a de facto parent, regardless of age or dependency status; grandchild, grandparent, parent, sibling, or spouse, and also includes any individual who regularly resides in the applicant’s home or where the relationship creates an expectation that the applicant care for the person and that individual depends on the applicant for care. Except that it does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.
3. Utilize the Ranking formulas and Indicators Formula to determine disproportionately Impacted Areas

Disproportionately Impacted Areas Formula:

DIA FORMULA

% Unemployment +

Median Household Income as Proportion to County +

of Drug Convictions +

2.9 × of Black Residents +

1.6 × % of Latino/a/x Residents +

1.6 × % of Indigenous Residents +

= DIA Score for Census Tract

Legend:

Explicitly Expressed in legislative mandates

Prioritizing communities of color

Incorporating the disparities in cannabis convictions

1) Social Equity Application

a) **Social Equity Application Process:**

- i) 30-60-day application window to submit information (closed window)
- ii) Liquor & Cannabis Board to contract with Equity organization (3rd party).
- iii) double-blind tiebreakers (If necessary)
- iv) Social Equity Applicants are given a preliminary letter of approval from the case manager.
- v) No time restrictions to secure a location.
- vi) Social Equity Case Manager (Within Liquor Cannabis Board) to ensure equity standards are met and to help guide applicants during the process.

Application Definitions:

Social Equity Contractor (3rd Party)

- Responsibility is to review and score social equity plans. Then recommend winning candidates to the Social Equity Case Manager (LCB) for approval and advancement.

Double-Blind Lottery (3rd party)

- Method used to determine winners in the event of a tie.

Preliminary letter of approval

- Approval letter is given to selected applicants by the Social Equity Case Manager. Applicants with an approval letter can then take that letter to apply for grants from the Department of Commerce. These grant dollars can then be used to help the applicant secure retail location and other necessities needed to complete the remaining portion of the application process

No time restriction to secure location.

- This allows the applicant to secure a location. The Liquor & Cannabis Board will give the Social Equity Applicant a window to search for a location. The Social Equity Case Manager will monitor that applicant was given full time to secure the location.

Social Equity Case Manager

- This role will be associated with the Liquor & Cannabis Board to ensure social equity standards are met during and after the social equity application process. They will give the preliminary approval letter after reviewing recommendations from 3rd party. This individual will also be a resource for applicants and license holders to file grievances whenever facing inequity within the agency.

2. Scoring rubric criteria for social equity application

Category	Criteria Elements	Point Scale (Maximum Possible)		
Eligibility Criteria	1. Lived in a Disproportionately Impacted Area (DIA) Black-30pts Hispanic-25pts Native-10pts	30		
	2. Conviction History Convicted of a marijuana offense Black-30pts Hispanic-25pts Native-10pts	30		
	OR 2a. Convicted of a drug offense Black-20pts Hispanic-10pts Native-5pts			
	OR 2b. Family member convicted of any drug offense-5pts			
	4. Black (150pts), Hispanic (75pts), Native American (25pts) ** Based on arrest rates ratios from (240,000 Marijuana Arrests Costs, Consequences, and Racial Disparities of Possession Arrests in Washington, 1986-2010, Marijuana Arrest Research Project	150		
Total for Category		250		
Eligibility Criteria Weight % of overall Scoring		38%		
Social Equity Ownership Scoring	Black Ownership - 100%- 200pts 90-99%-150pts 76-89%-100pts 51-75%-50pts	200		
	Or Hispanic Ownership - 100%- 100pts 90-99%-75pts 76-89%-50pts 51-75%-25pts			
	Or Native Ownership - 100%- 40pts 90-99%-30pts 76-89%-20pts 51-75%-10pts			
	Total for Category		200	
	Social Equity Plan Elements Weight % of overall Scoring		31%	
Business Plan	1. Executive summary, vision and mission? a. Employment and labor practices	150		
	2. Do you have a previous cannabis business experience that would make your business more viable?	30		
	Total for Category		200	
Business Plan Elements Weight % of overall Scoring		31%		
Other Priority Criteria	1. Do you want to apply for the Technical Assistance Grant and how much do you need?	No Points		
	3. Do you have ownership of a current license, what percentage?	No Points		
<p>Affirmations (licensee must affirm that all statements are true and risks being removed from consideration if any statement is found to be untrue)</p> <p>Affirm the business is at least 51% minority ownership</p> <p>Affirm if you lived in a DIA area and the length of time you lived there it's accurate on your application and plan.</p> <p>Affirm if you represent you or your family member was convicted of a marijuana or drug offense it is true.</p> <p>Affirm if you represent you have marijuana business ownership experience, it's true.</p> <p>Affirm everything on your application and business plan is true</p> <p>Affirm all owners and parties of interest that are represented on this plan and the application are accurate.</p> <p>Affirm all ownership represented on the plan is the same ownership that will be represented on the application and the operating agreement including all documents to WSLCB, county, and city.</p> <p>Affirm that no outside management companies other than management company owned by a social equity/Minority licenses holder can have any form of controlling interest in the business.</p> <p>Affirm that you are a resident of the state of Washington</p> <p>Affirm that any affirmations that are affirmed by applicant and found not to be true will result in denial of application or license revoked.</p>		No Points		
Other Priority Weight % of overall Scoring		0% (0pts)		
Total Score:		650		

Department of Commerce:

1. Cannabis mentorship program.
 - Provides financial assistance to cannabis licensees who meet the social equity definition.
 - The “social equity applicant” means
 - i. An applicant who has at least fifty-one percent ownership and control by one or more individuals who have resided in a disproportionately impacted area for a period of time defined in rule by the board after consultation with the Commission on African American Affairs and other commissions, agencies, and community members as determined by the board;
 - ii. An applicant who has at least fifty-one percent ownership and control by at least one individual who has been convicted of a cannabis offense, a drug offense, or is a family member of such an individual:
or
 - iii. An applicant who meets criteria defined in rule by the board after consultation with the Commission on African American Affairs and other commissions, agencies, and community members as determined by the board. (RCW 69.50.335)

Legislative Requests:

1. Create a community reinvestment fund using 50% of cannabis tax revenue
 - a. 10% - Financial assistance awards will be funded by transferring the cannabis tax revenue to the cannabis social equity grant program.
 - b. 5% - Low-interest loans for licensees who meet the social equity definition.
 - c. 35% to Disproportionally Impacted Areas for programming: Faith-Based organizations and non-profits to provide these services.
 - d. That any new cannabis licenses are reserved for social equity through 2029, this includes new licenses that are passed through the legislator. (ex. Delivery licenses, social consumption lounges, and additional retail licenses)
2. Any new cannabis licenses will be reserved for social equity through 2029. This includes new licenses that are passed through the legislature. (e.g. Delivery licenses, social consumption lounges, and additional retail licenses.)
3. Social equity retail licenses are eligible for mobility, contingent on local approval within their respective counties.
4. Reduce buffer zones from 1000ft to 500ft (excluding elementary schools, secondary schools, playgrounds which must remain at 1000 feet.)

If you have any questions or concerns, please contact Social Equity in Cannabis Task Force Chair, Representative Melanie Morgan, at Melanie.Morgan@leg.wa.gov.