

THE MENDOCINO COUNTY CANNABIS EQUITY GRANT PROGRAM

“Building the Airplane While It’s Flying”

SUMMARY

In 2020 the State of California created the Cannabis Equity Grant (CEG) program to assist those harmed by the war on drugs in transitioning to becoming licensed and legal growers. Mendocino County was chosen in 2020 to receive up to \$6 million and distribute 80 percent of the funds to eligible applicants. The funds were to be used for direct cash grants, cannabis fee waivers, paying county fees with state grant funds, or providing technical business assistance such as how to create a budget, meet insurance and health and safety/environmental requirements.

In the beginning, the Mendocino County Cannabis Department (MCD) had no process in place for implementing a grant program and had limited staff with a permit program in ongoing turmoil. The MCD developed an application and made it available in February 2021. Yet as of May 25, 2022, only five applicants had received a check to implement projects. Issues arose almost immediately with income limits that took several months to resolve. Most grant applications were for capital improvement projects, which required budgets and project estimates. The MCD also undertook assessment of application project details to compare them with permit information, which required adjustments to applications. An entire contract review process within county departments was unknown to the MCD until late in the grant approval process, and a last-minute decision by County Counsel to implement even more requirements into approvals continues to delay payments. These challenges and others point to the lack of experience with distributing grant money to individuals, the effects of county/state disconnect on permitting, the ongoing effects of insufficient experienced planners and perhaps holdover mistrust of cannabis operators.

The applicants for these grants are those who were in the medical or illegal market, suffered for it, and are now attempting to grow their businesses for the future in a legal environment. This grant money will not stop the decline of cannabis revenue, guarantee success for recipients, or fix complicated permitting issues. But it will help those who are trying to stay in the industry until market forces stabilize. The MCD priority should be given to completing the first and second round applications along with meeting the state’s deadlines for distribution of funds.

Finally, in the attempts to be stringent with grant project reviews, the MCD highlighted an inherent conflict between holding cultivators to tight environmental requirements including power and building standards and getting cash in their hands to try to make farms both compliant and profitable. With the *Local Jurisdiction Assistance Grant* (LJAG) also awarded in 2021, the county will receive an additional \$10 million of direct grant funds to distribute in the next several years. A fair and efficient grant review

process will benefit not only CEG recipients but others in the cannabis industry in the county.

While this GJ did not review the permitting process, it is apparent from reviewing the ordinance, listening to multiple community discussions, and reviewing statistics, that the permitting program is in disarray.

BACKGROUND

On November 8, 2016, California voters approved Proposition 64, *the Control, Regulate, and Tax Adult Use of Marijuana Act* (AUMA). In its statement of purpose and intent, AUMA calls for regulating cannabis in a way that "...reduces barriers to entry into the legal, regulated market".

The Cannabis Equity Grant Program (CEG) was announced in April 2020, with initial statewide grants totaling \$30 million. The Governor's Office of Business and Economic Development (GO-Biz) announcement of the Equity Grants Program stated:

"The Cannabis Equity Grants Program for Local Jurisdictions is intended to aid local equity program efforts to support equity applicants and equity licensees. Offering technical support, regulatory compliance assistance, and assistance with securing the capital necessary to begin a business will further the stated intent of the AUMA by reducing barriers to entry into the regulated cannabis industry. Offering these types of support will also aid the state in its goal of eliminating or reducing the illicit cannabis market by bringing more people into the legal marketplace."

Mendocino County was awarded \$2.2 million for fiscal year (FY) 2019-20, and an additional \$800,000 for FY 2020-21. The majority of these funds, plus an additional \$100,000 awarded by the County, were initially to be distributed by February 2022. This deadline was extended to August, first round, or October, second round, by GO-Biz early in 2022 due to jurisdictions having implementation delays. In February 2022, Mendocino County was awarded an additional \$2.9 million for *the Local Equity Entrepreneur Program* (LEEP), to be distributed by August 2023. Thus, the complete funding for the CEG stands at just over \$6 million. Approximately 80 percent of these funds are designated for direct grants, with the remaining amounts to be used: 10 percent for administration, and 10 percent for technical training.

The 2021-22 Mendocino County Grand Jury (GJ) undertook an investigation of the process used to evaluate CEG applicants, approve applications, and distribute funds for the CEG. During this investigation, the GJ excluded the permitting process and the detailed planning efforts required to evaluate permits. It is important to note, however, that staffing issues affect all operations in the Mendocino Cannabis Department (MCD), and permitting complexities contributed to the CEG delays.

METHODOLOGY

The GJ interviewed the MCD Director, a member of the Board of Supervisors (BOS) Cannabis Ad hoc, Equity applicants or their representatives, and local advocates and subject matter experts. Each of these shared both data and their experiences with the CEG process. The GJ attended and reviewed:

- BOS Regular and Special meetings from October 2021 through May 2022, documenting public comment on cannabis issues and discussions on agenda items related to cannabis,
- monthly LEEP webinars conducted by the Mendocino County Cannabis Program (MCP) in conjunction with Elevate Impact from October 2021 through May 2022,
- documents on the Elevate Impact website, county Cannabis Program website, and State of CA GO-Biz website,
- the Mendocino County Cannabis Cultivation Ordinance, Chapter 10A.17, and the Cultivation Sites Chapter 20.242, adopted April 2, 2017,
- multiple social and news media outlets where cannabis issues are generally discussed.

One member of the GJ was recused from participation in this investigation due to a conflict of interest.

DISCUSSION OF FACTS

Development of the Program

Mendocino County adopted Resolution 20-134 on October 7, 2020, creating the Cannabis Local Equity Program Manual¹. The manual contains specific criteria for eligibility and the types of grants that would be available.

Implementation of the Program

On February 3, 2021, the application for the Equity Grant went live online. Mendocino County chose the contractor *Elevate Impact* to coordinate applications from eligibility through preliminary approval and to communicate with applicants. The program was called the *Local Equity Entrepreneur Program* (LEEP).

Eligibility

The initial county income requirements of “very low” or “extremely low” were in fact too low to allow current businesses to be eligible. This was changed twice, first to a medium income level and finally removing the income requirement completely. All changes to

¹ (Appendix A)

the LEEP manual required BOS discussion and approval until late 2021. This resulted in months-long delays in changes to income limits, which were ultimately eliminated. Once restrictions were removed, the applications were forwarded to *Elevate Impact* for data collection. This contractor then became the primary point of contact for applicants. No further issues were reported relative to applicant eligibility.

Document Review and Preliminary Approval

The process of accumulating required documents and ensuring compliance with requirements as stated in the LEEP manual was supposed to be managed by *Elevate Impact*. However, given that virtually all of the direct grant applications were for capital improvement projects such as solar installations, culvert replacements, building upgrades, etc., close coordination with the MCD was required to ensure that projects would not endanger applicants' current permits. *Elevate Impact* had no experience in rural cultivation projects, and a lack of resources in the MCD led to significant delays in approving direct grant applications.

A further delay was created at the October 5, 2021, BOS meeting when a discussion concerning county cannabis taxes resulted in a requirement that grant recipients be current on all county taxes. This required an additional step of submitting all applications to the Tax Collector's Office for review prior to notifying applicants of status. This change took some applicants out of approval status. This change was not requested by the MCD.

Preliminary vs. Actual Approvals

Once the detailed grant review was completed and all documents were received, *Elevate Impact* began to notify applicants. A contract was generated and began a review process conducted by multiple county departments in a contract management system called *Cobblestone*. This secondary review process was not explained to applicants, who understandably thought "approval" meant the funds were forthcoming. The review was estimated to add an additional 30-45 days to the timeline before applicants could expect a check. Applicants were finally notified of this process in late 2021 after expressing concerns that funds would not be available before the initial grant deadline of February 2022. General timelines were discussed during LEEP update zoom meetings. However, a detailed timeline² of the entire grant process from application to check issuance was not provided to applicants until the February 2022 LEEP update meeting.

Communication Throughout the Process

The MCD has increased and improved outreach with equity applicants and the cannabis community. Monthly LEEP update meetings are well publicized and allow time for public comment and questions. Timelines now published will help both current and future applicants. Meetings are recorded and presentations are available online. Weekly zoom

² Appendix B

meetings on general cannabis issues are also held with Question-and-Answer time. The MCD has announced that it will be holding traveling meetings in Summer 2022 to meet with the community in person.

Despite the delays in processing applications and getting checks in the hands of recipients, lately public communication between the MCD and community members was generally respectful and devoid of unfair criticism. The GJ believes that this will be critical as this \$6 million is distributed along with the additional \$10 million from the LJAG.

As of the date of this report five grant payment checks have been issued to applicants, with approximately 36 applications in the county's *Cobblestone* pipeline.

The PG&E fire recovery funds were the first to be distributed by the county to applicants. The LEEP funds were the second county-administered grant program distributed directly to individuals. The state has strict record keeping and tracking requirements for both the recipient and the county for direct payments of grant funds.

In March 2022, the MCD announced that the total direct grant award was raised from \$50,000 to \$80,000 and the Fee Waiver Grant was raised from \$7,500 to \$15,000.

Development of a process to facilitate granting of county fee waivers was announced at the LEEP update meeting on March 16, 2022 and has since been enhanced to cover more fees and taxes.

The MCD evaluated applications for continued compliance with county and state permit requirements and communicated with applicants to resolve conflicts. Until this step in the process was completed, applications could not move forward to budget submission and approval. Because of the lack of experienced cannabis planners in the MCD this task fell to the Director.

Processing of applications for the first two grant periods has been frozen until all applications received through February 2022, approximately 105, have been processed in order to meet the August 2022 funds distribution deadline for the majority of the funds.

No information about future reporting requirements to the county or state was provided to applicants until the April 20, 2022, LEEP update zoom meeting. Compliance with these requirements is critical for future grant applications.

No technical assistance services have been provided to applicants to help with application or budget preparation, bookkeeping or other business functions.

While this GJ did not review the permitting process, it is apparent from reviewing the ordinance, listening to multiple community discussions, and reviewing statistics, that the permitting program is in disarray. Many of the issues raised in this report affect the cannabis permit processing as well.

FINDINGS

- F1. There was no process developed for the distribution of grant funds to individuals prior to applications being received. This has resulted in extended delays at every step from eligibility to application to communication to contract generation. This continues to prevent timely funds distribution to approved LEEP applicants.
- F2. The county did not ask the state for requirements on record keeping for LEEP grant recipients until May 2022 and apparently did so only to establish the county's risk of having to repay funds if they were not spent for approved purposes. Applications ready for final approval are being held up by County Counsel. The requirements³ do not appear to be onerous as they are quite similar to those previously communicated requirements. However, records which must be provided to the state may still cause even more information requests before final *Cobblestone* approval and should have been sought much earlier in the process.
- F3. The MCD has not been adequately staffed or resourced to enable the timely processing of LEEP equity grants including communication with applicants. Inadequate MCD staffing continues with 10 vacant positions reported in May 2022 and only 12 current employees.
- F4. The contractor chosen to implement the grants, *Elevate Impact*, has worked primarily in urban areas and lacks the capital project expertise needed to support and escalate the speed of LEEP grant distributions.
- F5. The LEEP applications are delayed until a qualified planner can review the application. Qualified planners hesitate to work in the cannabis industry.

RECOMMENDATIONS

The Grand Jury recommends that:

- R1. the BOS initiate a standing committee on cannabis including, but not limited to, consideration of LEEP progress updates, issues and challenges, and encouraging community input. The Grand Jury notes while all businesses are not equity applicants, these issues may be relevant as future grants (e.g., LJAG grants), become available. (F1- F5)
- R2. the County promptly identify the issues which may be impeding the distribution of current direct grant funds by the August 2022 deadline and implement a plan for addressing those delays so that the potential loss of current and future grant funds can be avoided. (F1 - F3, F5)

³ Appendix C

R3. the County provide detailed instructions to future applicants for the CEG program regarding potential permit issues and record-keeping requirements (such as an expectation that applicants manage their cash flows and keep appropriate records), to facilitate the presentation of properly submitted applications and to ensure the use of funds are properly tracked. (F1 - F3)

R4. the County offer a business plan creation and general business training to applicants as part of Direct Technical Assistance prior to application submission. Possible funding sources for such training could be investigated from existing resources, such as the grant funds allocated for Direct Technical Assistance. (F1 - F4)

RESPONSES

Pursuant to Penal Code § 933.05, responses are required from the following board:

Board of Supervisors (All Findings and All Recommendations)

Pursuant to Penal Code § 933.05, responses are requested from the following individual:

MCD Director (All Findings and All Recommendations)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code § 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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APPENDIX A

Mendocino County Cannabis Local Equity Program Manual V3. 10/7/2020

Purpose of Cannabis Equity Grants Program for Local Jurisdictions – Administered by The Governor’s Office of Business and Economic Development (GO-Biz)

The purpose of the Cannabis Equity Grants Program for Local Jurisdictions is to advance economic justice for populations and communities impacted by cannabis prohibition and the War on Drugs (WoD) by providing support to local jurisdictions as they promote equity in California and eliminate barriers to enter the newly regulated cannabis industry for equity program applicants and licensees. By issuing these grants to local jurisdictions, The Governor’s Office of Business and Economic Development (GO-Biz) aims to advance the well-being of populations and communities that have been negatively or disproportionately harmed by cannabis prohibition and the WoD.

The term “equity” recognizes that because different individuals or groups have different histories and circumstances, they have different needs and unequal starting points. Using an equity approach, individuals and groups receive different resources, opportunities, support, or treatment based on their specific needs. By providing what each individual or group needs, they can have equitable or fair outcomes.

Local jurisdictions can help further the purpose and intent of Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) by fostering equitable access to licensure and employment in the regulated cannabis industry, ensuring that persons most harmed by cannabis criminalization and poverty are offered assistance to enter the multibillion-dollar cannabis industry as entrepreneurs or as employees with high-quality, well-paying jobs, and ensuring the cannabis industry is representative of the state’s population.

Mendocino County’s Cannabis Equity Program

The Mendocino County Cannabis Equity Assessment (2020) established that Mendocino has been hit hard by the criminalization of cannabis, and a targeted, data-driven and well-funded equity program can help certain populations and neighborhoods, particularly small growers and those impacted from past policies that may be left behind, into a legal, sustainable economic future.

The purpose of this manual is to describe the qualifications for, and services to be provided by, the Mendocino County Cannabis Local Equity Program (LEP).

A. Qualifications

- 1. Program Eligibility:** A local equity applicant must be eligible for a cannabis related application, permit, and/or license to operate a cannabis business in unincorporated Mendocino County, whose activities are specific to

cultivation, nurseries, processing, manufacturing, laboratory analysis, distribution or retail of cannabis; have a household income as defined as "very low income" or "extremely low income" for Mendocino County in the [2020 State Income Limits](#) produced by the California Department of Housing and Community Development and meet one of the following qualifications within

Mendocino County's LEP to become eligible for consideration for funding in all service categories offered:

- a. Have lived within a 5-mile radius of the location of raids conducted by the Campaign Against Marijuana Planting (CAMP) program;
- b. Have a parent, sibling or child who was arrested for or convicted of the sale, possession, use, manufacture or cultivation of cannabis (including as a juvenile);
- c. Any individual who has obtained or applied for a cannabis permit in Mendocino County, or who has worked in or currently works in the cannabis industry, and was arrested and/or convicted of a non-violent cannabis-related offense, or was subject to asset forfeiture arising from a cannabis-related event;
- d. Are a person who experienced sexual assault, exploitation, domestic violence, and/or human trafficking while participating in the cannabis industry;
- e. Have become homeless or suffered a loss of housing as a result of cannabis enforcement.

B. Services

Services to be provided by the Mendocino County Cannabis Equity Program may include, depending on need and the availability of funds from grants or other sources:

Grants

1. Grant Fee waiver of County fees for cannabis-related permits, including fees for Application Assistance Meetings of up to four hours, with the Cannabis Program of the Department of Planning & Building Services;
2. Grants for purposes of assuring compliance with regulatory requirements of local or state permits or licenses that mitigate adverse environmental effects of cannabis cultivation. This includes categories such as regulatory compliance, capital improvement, fixtures or equipment to address the following activities including, but not limited to:
 - a. Water storage for irrigation during forbearance periods of surface water diversion required by state or local regulations;
 - b. Remediation and relocation of cannabis facilities located within streamside setbacks required by state or local regulation;
 - c. Installation of solar electrical systems to replace diesel or gasoline generator power for off-grid cannabis facilities where connecting to the grid is economically infeasible.
 - d. Road remediation, watershed mitigation, culverts or infrastructure

- needed to meet state or local regulations.
3. Grants for the purpose of employment skill training for eligible equity participants employed or seeking employment in licensed cannabis operations in Mendocino County

Direct Technical Assistance

“**Direct Technical Assistance**” refers to support to help cannabis equity applicants and licensees acquire the knowledge and/or skills necessary in order to gain entry to, and to successfully operate in, the regulated cannabis marketplace. Direct technical assistance includes:

One-on-one consulting and training, including direct interactions in group settings, to provide equity applicants and licensees the technical knowledge and expertise necessary to facilitate business ownership and employment in the cannabis industry.

Small business support services, professional mentorship services, training and education regarding state cannabis licensing and regulatory requirements, manufacturing assistance, financial management, and business resilience such as emergency preparedness.

Direct Technical Assistance is provided as follows:

1. Direct Technical Assistance for Cannabis and Small Business Development Assistance including business planning, loan application preparation, site location services, human resource management, capital procurement services, bookkeeping and accounting practices and systems, etc.
2. Direct Technical Assistance regarding legal regulations for Cannabis Cooperative associations pursuant to Business and Professions Code sections 26220 -26231.2, and educational information regarding the process of forming Cannabis cooperatives.

C. Program Administration

1. No more than ten percent (10%) of any funding from the Governor’s Office of Business and Economic Development Cannabis Local Equity Program Grant Funds may be utilized for program administration;
2. Principal Administration and Coordination of Services shall be performed by the Mendocino County Department of Planning & Building Services - Cannabis Program Division or a contractor selected through the County’s procurement process.
3. Mendocino County Department of Planning and & Building Services shall promulgate any policies, procedures, grant funding caps per category, grant agreements/execution deadlines, application windows, and forms necessary for program administration.
4. Mendocino County Department of Planning & Building Services shall monitor and report on all program services provided through the LEP, as

directed by the State grant agreement. 5. Mendocino County Department of Planning and Building Services or contractor(s) selected in the County's procurement process may be designated to receive and process applications to determine eligibility and grant funding of equity program participants.

D. Provision of Services

1. Staff in the Mendocino County Department of Planning & Building Services Cannabis Program or Administration Services contractor selected in the County's procurement process shall serve as the liaison between equity applicants/licensees who receive grant funding and the selected agency(ies) that provides an eligible service. Agencies include, but are not limited to:
 - a. Technical Assistance Service Contractor selected in the County's procurement process
 - b. Mendocino County Departments
2. Mendocino County Department of Planning & Building Services may enter into a contract agreement in line with the County's procurement process with qualifying internal or external agencies/vendors capable of providing the services described in SB 1294, business and professional codes and Mendocino County Local Equity Program Manual. These services may include:
 - a. Direct Technical Assistance Services
 - b. Assistance in Administration of the Local Equity Program

E. Budget Allocation

Available program funds shall be allocated for Program Services specified in Section B., above, as follows:

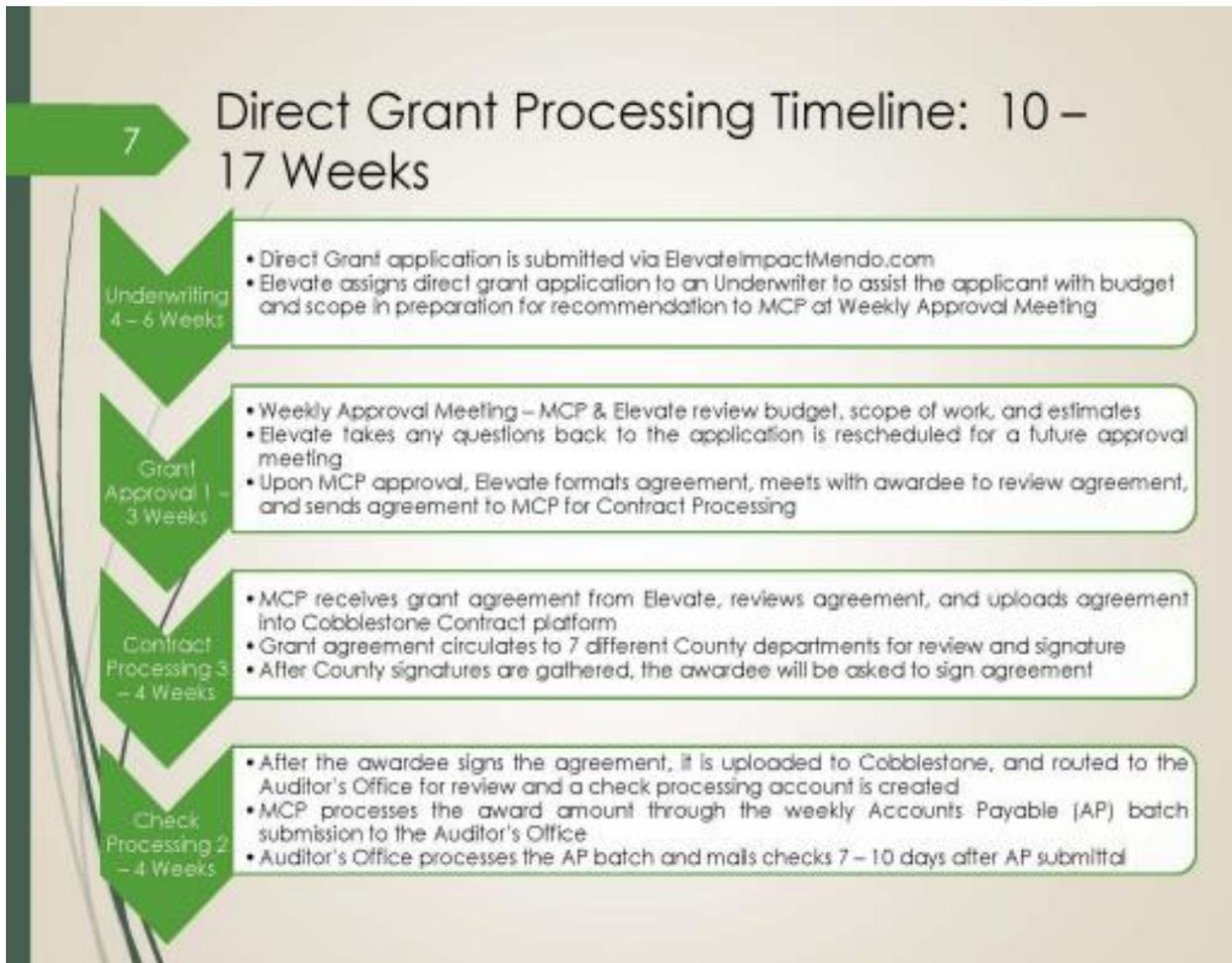
Grants 80%

Direct Technical Assistance (not to exceed) 10%

Administration (not to exceed) 10%

APPENDIX B

Timeline presented on the LEEP Update Zoom meeting, 2/16/22



APPENDIX C

Guidance From GO-Biz on the Misuse of Funds and Jurisdiction Liability

Jurisdictions are responsible for the following:

Enacting policies and procedures to ensure state grant funds are used appropriately by equity applicants and licensees, including:

- Informing equity applicants and licensees of eligible uses of the state grants funds
- Periodically collecting and reviewing documentation from equity applicants and licensees, and require them to preserve and retain documents for a reasonable period of time for audit purposes

In the case of misuse of funds by an equity applicant or equity licensee, attempt to recover misspent funds in a manner similar to how the jurisdiction would attempt to collect other debts owed to it, based on analysis of the circumstances, size of debt, and potential recoverability.

Informing GO-Biz when it becomes aware of misspent funds, and when it has either collected the funds, or deemed them unrecoverable.

If funds are misspent and not repaid by the equity applicant or licensee, withhold further state grant funding to the equity applicant or licensee that misused and failed to repay the state grant funds.

Jurisdictions that follow the above referenced guidelines will not be required to repay the misspent funds to GO-Biz.