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Department of Agriculture First Round of Application Questions and Answers

The Department has summarized related and repetitive questions and will not respond to questions unrelated to the application process or fact-specific hypothetical questions.

General questions/questions applicable to all applications are first, followed by questions specific to craft growers, then infusers, then transporters, then social equity applicants, and then zoning questions not addressed in the general questions or license-specific sections.

General Questions

1. Will admitting prior experience or use of cannabis, during its prohibition, disqualify an applicant from obtaining a license?

No.

2. The Cannabis Regulation and Tax Act states that the Department shall issue up to 40 craft grower licenses and up to 40 infuser licenses. The Department's emergency rules state that applicants that receive at least 75% of available points will be issued a license by the Department. Can you please explain how those provisions of the Act and the rules work together?

The Department will issue no more than 40 craft grower licenses, and no more than 40 infuser licenses. To be considered for a craft grower or infuser license, the applicant must receive a minimum 75% of available points. Of the applicants that receive at least 75% of available points, the 40 top scoring applicants will receive a license.

3. Does an applicant need a set physical location to apply? Does the applicant need a building already constructed?

A proposed location is a required component of each application, but the building does not have to be constructed at the time of application.

4. Are there formatting requirements for the application and the exhibits? Are there limitations in terms of page size, font, or file type?

All submitted materials should be readable and in a business appropriate format. Single or double-spaced materials are permitted. Applicants should follow application instructions and exhibit descriptions regarding page limits and file types.

5. Are tax records the only documentation that can be used to prove Illinois residency?

No. In lieu of tax records, two of the following may be used:

- (A) a signed lease agreement that includes the applicant's name
- (B) a property deed that includes the applicant's name
- (C) school records
- (D) a voter registration card
- (E) an Illinois driver's license, an Illinois Identification Card, or an Illinois Person with a Disability Identification Card
- (F) a paycheck stub
- (G) a utility bill

6. What exhibits need to be redacted? What is the difference between redacted and anonymous?

Please follow the application instructions and submit the application and exhibits pursuant to the instructions outlined in the application.

Anonymous means the person scoring the application must not be able identify the applicant or any of the applicant's principal officers. Parts of the application requiring anonymity should have all identifying personal information (i.e., names, addresses, specific cannabis business establishment names, etc.) removed. In parts of the application requiring anonymity, applicants should substitute identifying information with generic terms such as "the cultivation center," "Principal Officer 1," or similar.

7. Are any of the exhibits scored on a binary basis (all or nothing)?

The exhibits related to the applicant's status as a Social Equity Applicant, Veteran Controlled or Owned, and Illinois Resident Controlled or Owned, will be scored on a binary basis.

8. When completing the application and exhibits, can we cross-reference other sections and exhibits?

No. When completing the application, applicants should not cross-reference sections and exhibits. Each section and exhibit should "stand alone" and contain all information the applicant desires to submit.

9. Does the Department have a list of approved laboratories?

A list of approved laboratories is posted on the Department's website.

10. What licensees are permitted to share facilities with other licensees?

A craft grower may share its premises with a processing organization, a dispensing organization, or both. [410 ILCS 705/1-10]

An infuser may share its premises with a craft grower, or dispensing organization, or both. [410 ILCS 705/35-25(1)]

A dispensary may share its premises with a craft grower, infuser, or both. [410 ILCS 705/15-100(e)]

11. Will licenses be distributed by region or district like dispensaries?

Licenses will be distributed on a state-wide basis and will not be distributed by region or district.

12. Who in the applicant's organization needs to complete the livescan form? Must they complete even if they are not technically employed by the applicant? Is there a fee for the livescan screening?

All principal officers, board members, and agents. There is a fee for the livescan screening; fees vary by vendor.

13. Must applicants who are a publicly traded corporation provide the identity of all stockholders and directors who own more than 5% of the corporation?

Yes. Applicants who are a publicly traded corporation must provide the identity of all stockholders and directors who own more than 5% of the corporation.

14. What documents will the Department accept to evidence disclosure of all sources of funding?

The Department will accept any and all documents that evidence the disclosure of all sources of funding. Such documents may include but are not limited to: bank statements; organization charts; letters of intent; proof of funds; operating agreements; and DCEO business loan documents.

15. Do applicants need to submit an operating agreement?

Yes.

Craft growers: emergency rules, 8 IAC 1300.305(a)(3).

Infusers: emergency rules, 8 IAC 1300.405(a)(3).

Transporters: emergency rules, 8 IAC 1300.510(d)(6).

16. What requirements exist for a security company contacting with a licensee? Can the security company be an out of state company? Must the security agreement have a labor peace agreement with its employees?

Applicants are required to submit a security plan, which is part of the scoring criteria. The Act and emergency rules do not contain requirements of security companies.

17. What are the liquid asset requirements for each licensed category?

Craft growers and infusers must demonstrate \$20,000.00 in liquid assets. Transporters do not have a liquid asset requirement.

18. Is an applicant bound by the information and plans submitted in the application if a license is awarded?

Licenses are awarded based on the information in the application. Licensees are required to notify the Department of any material change.

19. Is preference given to, or additional points awarded to, applicants whose facilities are located in Disproportionately Impacted Areas?

Additional points will not be awarded based on the location of the applicant's facility.

20. Is there a license requirement to engage in cannabis digital marketing?

No. The Act and the Department's emergency rules do not address a licensing requirement for digital marketing.

21. Does an applicant need to submit floor plans, specifications, or drawings depicting the applicant's existing or proposed building and facilities?

Certain parts of the Department's emergency rules require an applicant to submit floor plans. Please familiarize yourself with 8 Ill. Adm. Code 1300.300(29), 8 Ill. Adm. Code 1300.300(12), 8 Ill. Adm. Code 1300.300(3).

Also, please note that the Exhibit A of the application for craft growers and infusers requires that the applicant demonstrate the suitability of the proposed facility.

22. What does an applicant need to do to submit a security plan approved by ISP as required for craft growers (1300.300(3)(6)) and infusers (8 IAC 1300.400(d)(6))?

Applicants for craft grower and infuser licenses only need to submit a security plan at the time of application. If awarded a license, the applicant's security plan will be reviewed and must be approved by ISP.

Craft Grower Questions

1. How many licenses may an applicant (individual or entity) obtain?

One.

2. What location restrictions apply to craft growers?

Applicants should comply with any location restrictions in the Cannabis Regulation and Tax Act and the Department's emergency rules, as well as any applicable zoning ordinances.

3. Do craft growers need to file a bond with the Department?

No.

4. Exhibit B mentions a handbook. Is the handbook considered in the scoring of the craft grower application?

The Act and the Department's emergency rules set forth the point values to be used in scoring applications. The Department will not be providing a public description of the specific scoring system.

for applications at this time. Applicants are encouraged to complete all relevant sections of the application and submit the most competitive application possible.

5. For Exhibit O, is it sufficient for an applicant to have applied for zoning approval, or must approval be obtained? When is the latest that an applicant may receive final zoning approval?

Exhibit O has multiple options for zoning authorities to select. Applicants must provide a copy of any applicable zoning regulations and state whether they have received zoning approval, submitted an application for zoning approval, or no zoning regulations currently apply, as required by Exhibit O. The Exhibit must be completed and submitted with the application.

6. For Exhibit P, must all owners and beneficial interests be disclosed, or only those who would qualify as a “principal officer” (i.e. those with an interest > 1% ownership interest in a privately-owned company, or > 5% interest in a publicly traded company)?

All ownership and beneficial interests must be disclosed. For publicly traded companies, all interests more than 5% must be disclosed.

7. If a craft grower wants to grow cannabis, extract cannabis concentrate and product cannabis-infused products, must an infusion plan be included in the cultivation plan as part of the application?

A craft grower may process cannabis concentrates and cannabis infused products. [410 ILCS 705/30-30(p)]. A craft grower applicant that intends to conduct such activities should describe them in their operations plan.

8. Are there any restrictions on an individual or entity that is awarded a craft grower license applying for an adult-use cultivation center license in the future?

410 ILCS 705/30-20(b): A person who is licensed in this State as a craft grower, or any partnership, corporation, limited liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed in this State as a craft grower shall not have more than 10% legal, equitable, or beneficial interest, directly or indirectly, in a person licensed as a cultivation center, nor shall any partnership, corporation, limited liability company, or trust or any subsidiary, affiliate, or any other form of business enterprise having any legal, equitable, or beneficial interest, directly or indirectly, in a person licensed in this State as a craft grower or a craft grower agent be a principal officer, agent, employee, or human being with any form of ownership or control over a cultivation center except for a person who owns no more than 5% of the outstanding shares of a cultivation center whose shares are publicly traded on an exchange within the meaning of the Securities Exchange Act of 1934.

9. If applying for a craft grower license and a transporter license, must the applicant obtain additional zoning approval?

Zoning approval is required in both applications. The Department cannot speak to the specifics of a local zoning authority’s requirements.

10. Are there any events that would justify an extension in the amount of time a licensee has to start growing cannabis?

The Department cannot address specific hypotheticals at this time. The Department is committed to working with licensees in a fair and reasonable manner to ensure that the adult-use cannabis program is successful. A craft grower licensee is required to begin production within 6 months after the license has been issued. See 8 Ill. Admin. Code 1300.310(e). However, a craft grower licensee may submit a written request to the Department for an extension of time to begin production if the licensee provides a justification for being unable to do so within 6 months of license issuance. See 8 Ill. Admin. Code 1300.310(e).

11. Can a craft grower use a modular unit as grow space or for extraction of cannabis concentrate?

All applicants must demonstrate that the facility is suitable for the effective and safe production of cannabis and cannabis infused products.

Infusers

- 1. For exhibit A, the Department asks for an “Operations and Practices Management Plan.” The definition for an Operation and Practices Management Plan seems to apply mainly to craft growers. How should an infuser complete exhibit A?**

Applicants are encouraged to submit the most complete response possible in each Exhibit. Infuser applicants should submit the parts of the Operations and Practices Management Plan definition that apply to an infuser license.

- 2. For exhibit O, is it sufficient for an applicant to have applied for zoning approval, or must approval be obtained? When is the latest that an applicant may receive final zoning approval?**

Exhibit O has multiple options for zoning authorities to select. Applicants must provide a copy of any applicable zoning regulations and state whether they have received zoning approval, submitted an application for zoning approval, or no zoning regulations currently apply, as required by Exhibit O. The Exhibit must be completed and submitted with the application.

- 3. For exhibit P, must all owners and beneficial interests be disclosed, or only those who would qualify as a “principal officer” (i.e. those with an interest > 1% ownership interest in a privately-owned company, or > 5% interest in a publicly traded company)?**

All ownership and beneficial interests must be disclosed. For publicly traded companies, all interests more than 5% must be disclosed.

- 4. If an applicant wants to do licensed edible infusion in conjunction with a dispensary, will the failure to include a concentrate processing or production plan cost the applicant points in exhibit A?**

Only cultivators, craft growers, and infusers are authorized to conduct infusion activities. Applicants for a craft license should describe any intended infusion activity plans in their operations and management plan.

- 5. What tasks are an infuser permitted to perform? Can an infuser purchase cannabis concentrate from a cultivation center and create a purified distillate and sell the purified distillate to cultivation centers?**

Please see the Act for the definition of infuser, as well as the infuser organization requirements and prohibitions. Under the Cannabis Regulation and Tax Act, an infuser license does not authorize the licensee to extract cannabis concentrate from cannabis flower.

- 6. Can an infuser do anything that a craft grower can’t do?**

No.

- 7. Can an infuser produce topical cannabis products?**

Yes. Topical cannabis products are a “cannabis-infused” product.

Transporters

- 1. Under the Cannabis Regulation and Tax Act, can a transporter deliver cannabis or cannabis-infused products to retail customers?**

No. Transporters are not permitted to deliver cannabis or cannabis-infused products to retail customers.

As prescribed by 8 Ill. Adm. Code 1300.500(c), a transporter may not transport cannabis or cannabis-infused products to any person other than a cultivation center, a craft grower, an infuser, a dispensing organization, a testing facility, or as otherwise authorized by rule.

2. What requirements exist for a transporter vehicle?

Please review the emergency rules related to transporters and Article 40 of the Act.

3. How many transporter licenses will be issued? How will the Department grade applications? Why does the Act say that applicants that receive at least 85% of available points will receive a license, while the emergency rules reference 75%?

There is no limit on the number of transporter license to be issued in the Act or the Department's emergency rules.

The Cannabis Regulation and Tax Act as originally enacted in P.A. 101-27 (effective June 25, 2019) was amended by P.A. 101-593 (effective December 4, 2019) to reduce the minimum scoring requirement for transporter licenses to 75% of available points.

4. What restrictions exist for the location of the transporter business? For example, can a transporter be located at a residential property or must it be located at a commercial or industrial property?

All proposed facilities must comply with any restrictions in the Cannabis Regulation and Tax Act and the Department's emergency rules. The Department is unable to provide guidance on how other state laws or local ordinances, homeowner association requirements, and zoning requirements impact a transporter's business location.

5. Is there a restriction on the number of vehicles that a transporter can employ?

No.

6. In the Department's emergency rules, 8 Ill Adm. Code 1300.510(d)(6), it references an "Operations and Management Practices Plan." However, the definition of an "Operations and Management Practices Plan" appears to be inapplicable to a transporter.

Information required by 8 Ill. Adm. Code 1300.510(d)(6) is submitted in Exhibits A, B, and C of the application.

Social Equity Applicants

Error notice: The Department's emergency rules contain an error related to the qualifications of Social Equity Applicants. The error is language that describes the threshold as being "more than 51%." In every instance where the phrase "more than 51%" appears, it should be replaced with "51% or more," matching the definition of Social Equity Applicant found in the Cannabis Regulation and Tax Act.

1. What is the definition of a "Social Equity Applicant" and what information is required to apply as one?

The Cannabis Regulation and Tax Act defines a Social Equity Applicant as an applicant that is an Illinois resident that meets one of the following criteria:

- The applicant has at least 51% ownership and control by one or more individuals who have resided for at least 5 of the preceding 10 years in a Disproportionately Impacted Area*;
- The applicant has at least 51% ownership and control by one or more individuals who:
 - Have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Cannabis Regulation and Tax Act**; or
 - Is a member of an impacted family***;
- The applicant has at least 10 full-time employees and at least 51% of whom:
 - Currently reside in a Disproportionately Impacted Area; or

- Have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Cannabis Regulation and Tax Act or a member of an impacted family.

* A list of Disproportionately Impacted Areas identified by the Department of Commerce and Economic Opportunity is available at <https://www2.illinois.gov/dceo/Pages/CannabisEquity.aspx>

***“Offenses eligible for expungement for expungement under the Cannabis Regulation and Tax Act include possession of cannabis up to 500g or the manufacturing and delivery of up to 30g of cannabis.

***“Member of impacted family” means an individual who has a parent, legal guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of the Act, was arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Cannabis Regulation and Tax Act.

2. What is the value of applying as a “Social Equity Applicant?”

Social equity applicants are eligible for reduced fees and additional points in the application and licensing process and may be eligible for business development loans from the Illinois Department of Commerce and Economic Opportunity.

3. Does an offense committed in a different state count towards the criteria to meet the definition of a “Social Equity Applicant” under the Cannabis Regulation and Tax Act?

The Cannabis Regulation and Tax Act only made offenses committed in Illinois eligible to be expunged. As such, offenses committed in other states cannot be used to qualify an applicant as a Social Equity Applicant.

4. What documentation is sufficient to show that an individual is an eligible impacted family member of a parent, sibling or dependent that was arrested for a qualifying offense? What if that person has a different last name? What if their name has changed after being issued a birth certificate?

Applicants should submit records that can be verified by application scorers such as, but not limited to, government or court records. Examples of records could include, but are not limited to, income tax forms, court records, insurance forms, bank statements, pension payments, records from public assistance agencies, school records, and birth certificates. In the event of a name change, applicants should provide the court records or other government documents documenting that name change.

5. How does the Department calculate the time spent residing in a disproportionately impacted area? Is it sufficient to show, for example, that the applicant resided in the relevant geographic area from 2015 – 2020, or does the applicant need to demonstrate, that it resided in the relevant geographic area for 60 months?

Applicants must show that they lived in a Disproportionately Impacted Area for 60 months. The 60 months do not need to be consecutive.

6. For individuals who did reside in areas that were considered Disproportionately Impacted Areas, but were homeless within the 5 years of the last 10 years, what considerations are given to allow for individuals with this type of experience to show habitation within a Disproportionately Impacted Area?

An applicant who resided in a Disproportionately Impacted Area but was homeless for some or all of the relevant time period may provide a signed Homeless Status Verification form provided by the Illinois Secretary of State (available here: https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf) to show they resided in a Disproportionately Impacted Area during that period of time.

7. For Principal Officers who are veterans, how is active duty military time within the past 10 years treated for purposes of determining whether the Principal Officer has lived in a Disproportionately Impacted Area for 5 of the last 10 years and counts toward 51% of Social Equity ownership?

Applicants, including veterans or active duty military personnel, may use any residence listed on tax forms submitted to the State of Illinois as their primary residence as evidence of their residence in a Disproportionately Impacted Area. Veterans or active duty military personnel will not be disadvantaged by time spent away from their primary residence due to their military service.

8. What does an applicant need to show to qualify as a Social Equity Applicant based on the status of the applicant's employees?

To demonstrate evidence as a Social Equity Applicant through employment, applicants must submit something more than a mere statement of qualification. Applicants should submit records that can be verified by application scorers such as, but not limited to, government and business records. Examples of such records include, but are not limited to, W-2 and/or W-4 forms, pay stubs, New Hire Reporting Forms submitted to the Illinois Department of Employment Security, payroll records, residency records, income tax forms, court records and disposition papers, utility bills, insurance forms, bank statements, pension payments, records from public assistance agencies, and school records.

9. What is the definition of a "full-time" employee?

"Full-time employee" means an individual for whom a W-2 is issued by the applicant and is employed for a basic wage for at least 35 hours each week. "Basic Wage" means compensation for employment that is no less than the legal minimum wage of the jurisdiction in which the person is employed. Salary shall consist of all basic wage compensation not including overtime pay, bonus pay, stock options, awards or any other equity-based incentive, unreimbursed employee expenses or piecemeal rate of pay, or any form of deferred compensation.

10. To qualify as a Social Equity Applicant based on having qualified employees, do all employees need to be Illinois residents?

No, the employees do not all need to be Illinois residents. The applicant must be an Illinois resident but there is no residency requirement for employees.

11. What documents may be submitted a proof of Illinois residency?

Two of the following:

- (A) a signed lease agreement that includes the applicant's name
- (B) a property deed that includes the applicant's name
- (C) school records
- (D) a voter registration card
- (E) an Illinois driver's license, an Illinois Identification Card, or an Illinois Person with a Disability Identification Card
- (F) a paycheck stub
- (G) a utility bill
- (H) tax records

12. Do Social Equity Applicants have to meet the full liquid asset requirement for each licensed category?

Yes.

13. Do Social Equity Applicants get additional time to find a business location?

No.

14. What records are required to demonstrate that an applicant has arrested for, convicted of, or adjudicated for any offense that is eligible for expungement under the Act?

To establish that an applicant has been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement pursuant to the Act, applicants should provide a record of the arrest, conviction, or adjudication from the responsible legal authority. One example of a document that may demonstrate a Principal Officer was arrested for, convicted of, or adjudicated delinquent for an offense that is eligible for expungement pursuant to the Act is a “disposition paper” from the court in the applicable jurisdiction.

Applicants that have had their cannabis arrest expunged in the past may: (1) provide a court record showing that an expungement was granted, (2) apply to the circuit court that granted the expungement to unseal the records of the arrest and provide a copy of those records to the Department, or (3) provide any other records that serve as evidence of the prior arrest, conviction, or adjudication. Affidavits from the accused will not be accepted without additional documentation.

15. Can you provide a complete list of “offenses eligible for expungement under this Act”?

Offenses identified in Sections 4 and 5 of the Illinois Cannabis Control Act (720 ILCS 550) that were classified as Class 4 felonies or misdemeanors at the time of the offense are eligible for expungement. None of these crimes are expungable if the offense was associated with a violent crime or a penalty enhancement for selling to a person under the age of 18 if the seller was over the age of 18. Applicants should review whether their offense was charged as a Class 4 felony or any level misdemeanor to verify their eligibility for expungement.

Zoning Questions

1. If an applicant’s property is located in a municipality that has passed an ordinance allowing for the licensed activity as a “special use” but the applicant cannot apply for the special use permit until it first obtains a license from the Department, how does the applicant qualify as being in compliance with local zoning? Is attaching the ordinance sufficient?

Craft Grower and Infuser applicants are required to submit a copy of the current local zoning ordinance and verification that the proposed facility is in compliance with the local zoning rules with their application. Applicants are encouraged to submit the most complete application possible.

2. If a municipality passes an ordinance permitting the licensed activity, an applicant obtains a license selecting a business location in said municipality, and the municipality later rescinds the ordinance permitting the licensed activity, will the Department permit the licensee to secure another location?

The Department cannot answer specific hypotheticals. Applicants must meet zoning requirements at the time of application and license issue.

3. Must an applicant apply for special use approval prior to applying for a license with the Department? What box should under the section “To be completed by Zoning Authority or Local Government” should be checked?

Applicants are required to submit a copy of the current local zoning ordinance or permit and verification that the proposed craft grower is in compliance with the local zoning rules and distance limitations established by the local jurisdiction.

The Zoning Exhibit must be completed. The zoning authority must determine on its own which checkbox is most applicable.