



Mendocino County Board of Supervisors
501 Low Gap Road
Ukiah, CA 95482

October 11, 2020

Re: Agenda Item 3b for 10/13/20 BoS Meeting

Discussion and Possible Action Including Presentation on the Cannabis Local Equity Program, Adoption of a Resolution Approving a Revised Mendocino County Local Equity Program Manual and Authorizing the Chief Executive Officer to Execute the Grant Agreement and Related Documents Including Extensions or Amendments (Sponsor: Planning and Building Services)

Honorable Supervisors,

MCA applauds the imminent opening of the Equity Grant process which we anticipate will provide much needed assistance to members of the cannabis community still recovering from the effects of the War on Drugs. MCA stands ready, as always, to assist the County in crafting fair eligibility criteria consistent with the requirements of this grant, as outlined by GoBiz. However, we also implore the County to separate the tasks of aligning the program to the current funding source requirements, as required by GoBiz, from the task of reworking the LEP Manual to encompass the larger, and foundational parameters of our local Equity Program. The re-worked LEP Manual can and should be used to apply for additional sources of funding to meet any needs and goals that are beyond the scope of this specific grant.

It is worth noting that a number of local grant authorities are currently in the process of changing their LEP's to more accurately meet state requirements as well as better serve their applicants by encompassing needs and goals that are broader than the current GoBiz grant.

Here are the specific revisions that MCA suggests¹ for the County's Local Equity Program Manual:

1. Eligibility criteria should be written to encompass the maximum number of applicants in

¹ On July 13, 2020, MCA provided the County with a detailed proposed program structure, including eligibility requirements and point matrix to determine award amounts based on extensive research and Equity Program comparisons. Staff was kind enough to meet with us but has not brought forward those suggested changes. At the time, Staff indicated it did not want to delay the roll-out of the program by changing the LEP Manual. However, now, 3 months later, Staff is recommending changes to the LEP Manual and GoBiz is still approving updated LEP Manuals in other jurisdictions,

the County whom the War On Drugs has impeded or prevented from participating in the legal, regulated industry. So, for example, the changes proposed in the 10/07/20 LEP Manual to the eligibility requirements could unnecessarily limit the reach of the program. While GoBiz may require certain types of eligibility requirements that can be incorporated into the list, it is imperative that care is taken to not unnecessarily limit the LEP Manual if such requirements are not specifically mandated.² Item number 5 is illustrative of the need to further adjust language in the LEP Manual to avoid unintentionally shutting out existing cultivation businesses from eligibility. Direct harm from the War On Drugs, as proven in a variety of ways as outlined below, should, and must, be the guiding principle regarding eligibility. Additional factors can then be utilized to determine the amount of the award each applicant is entitled to.

2. In line with the GoBiz recommendations for administering the current grant, MCA recommends that the County allow applicants to use these funds at their own discretion, for the purposes needed to recover from the effects of the War On Drugs on their new or existing businesses. An applicant's identification of the use of funds and demonstration of use of those funds for that purpose will provide accountability and allow the applicant to be eligible for future funds.

3. In order for the applicant to prove direct harm from the War On Drugs, the LEP Manual must include a provision that requires the County to cooperate and assist applicants in obtaining the needed documentation by giving access to relevant records needed to supply proof. For example, an applicant should be allowed to offer a notice from the District Attorney of a threatened asset forfeiture, as proof of w.o.d. impact. Likewise, proof that a raid was conducted, as provided by law enforcement, would be allowed as an illustration of direct harm, regardless of whether anyone was arrested. Types of proof should be listed as examples, but should not limit the proof required to prove the direct harm (i.e., "Proof of direct harm may include, but is not limited to..."). Sensitivity to the unique disadvantage of providing proof that victims of the War On Drugs face must be incorporated into the process.

4. Enable County staff evaluating grant applications to use a matrix of eligibility criteria so that, when appropriate, an increase in the amount of funding awarded is possible. This flexibility allows the County to specify different amounts in its award system and provide greater awards for those most severely impacted.

5. Adjust the recommended Eligibility Criteria so that the stated databases concerning poverty levels are adjusted to account for the unique position that cannabis businesses are in with respect to federal prohibition and I.R.S. Rule 280E which prohibits the depiction of ordinary businesses expenses. Cannabis industry applicants must be evaluated based on the net income of the cannabis businesses. However, to avoid grants to businesses that pay the owners high salaries or compensation, any pay to an Owner or immediate household member should be added back into the net if otherwise deducted when reporting the net income of that business.

6. Applicants who have successfully used equity grant funds to bring their businesses into the legal marketplace, or who are able to demonstrate use of the grant to achieve the applicant's stated purpose for the grant (i.e., install solar power for the business, or upgrade

² On 10/05/20, Staff emailed the Cannabis Ad Hoc a list of preferred avenues for addressing feedback from GoBiz regarding the eligibility requirements. However, Staff incorporated the most restrictive version into this draft LEP Manual dated 10/07/20, prior to getting feedback from the Ad Hoc or stakeholders.

the culvert to CDFW standards, etc.) should be eligible for further funding through a later grant.

In closing, it is imperative to separate out the two parallel goals of adjusting the specific grant distribution requirements in response to GoBiz's requests for *this particular grant* from the separate task of reworking our county's LEP Manual and overarching Equity Program. The LEP Manual and entire Equity Program must be written and designed in a manner that achieves the overall vision and purpose of *ANY* equity funding. It must stick to the principles intended of redressing the harm caused by the War On Drugs on those most impacted by it. The GoBiz grant and its requirements help fill a *portion* of those goals. Future grants from a variety of sources may be more broadly directed than this current grant, so it is important to have an LEP Manual that encompasses the broader vision and goals of the entire county Equity Program.

Thank you for your consideration.

Mendocino Cannabis Alliance