



October 3, 2018

Dear Applicant:

Thank you for your organization's application for licensure as a medical marijuana processing facility. As you know, the Department of Commerce ("Department") completed initial scoring of the processor applications and awarded provisional licenses, beginning August 3, 2018, to those applicants who met the minimum scoring qualifications. In order to award additional licenses in a second round of scoring, the Department seeks to clarify and confirm certain elements of your organization's proposal. This request will supersede the original application instructions – and the score based on the clarification response will supersede any prior score¹ – with regard to the Security Plan of the processor application. However, applicants will still be bound by any enhanced security features or other optional security elements described in their original applications.

Please carefully read each of the criteria below and submit all requested information, and the affirmations contained herein, documenting that you have read and intend to comply with all of the rule requirements for licensure.

Criteria 1: Facility Plot Plan. Section 2D of the application (Security Plan) requires the Applicant, among other requirements, to submit a plot plan of the proposed processing facility, drawn to scale, that designates the different areas of operation including the marijuana processing area, with mandatory access restrictions and the elements of Ohio Administrative Code (OAC) 3796:3-1-02 (B)(5)(d), 3796:3-1-03 (B)(4)(d), 3796:3-2-03, and 3796:3-2-05 delineated. **As part of this request for clarification, please provide a revised plot plan² that meets the criteria described in application Section 2D, with the guidance described above.**

Criteria 2: Security Plan Affirmations. Form 2D also delineates a number of sections of the OAC, and the Applicant is asked to detail support for implementing them. Many of the application elements related to security are mandatory under the program rules, and the Applicant will be required to implement them upon receipt of a provisional license and before a certificate of operation can be awarded by the Ohio Department of Commerce. As such, this clarification request will ask Applicants to read, understand, and affirm a commitment to compliance with these rule requirements.

Please review each of the following rule-required elements, and provide the requested attestation for each:

AFFIRMATION #1

A. OAC 3796:3-2-05 (A) requires the processor to, at a minimum, do the following:

- Install an adequate security alarm system around the perimeter of the facility to prevent and detect diversion, theft, or loss of medical marijuana, utilizing commercial grade equipment;

¹ This clarification request is not being provided to applicants awarded licenses in Round 1. Scores achieved after clarification for Round 2 will not be compared to the scores achieved by Round 1 licensees. The Round 2 scores will determine allocation of the 27 licenses still available after Round 1.

² Please note that while the facility plot plan may be revised relative to the security requirements, it must still be consistent with any facility drawings or descriptions in other application sections.

- Maintain or construct fencing and gates that surround the facility to prevent unauthorized entry to the facility or unauthorized access to waste disposal containers located outside the facility;
- Utilize a video surveillance recording system installed by a vendor that is approved by the department and that meets the standards required by the department to prevent and detect diversion, theft, or loss of medical marijuana;
- Maintain all security system equipment and video surveillance systems in a secure location so as to prevent theft, loss, destruction, or alterations:
 - (a) A processor shall limit access to surveillance areas to type 1 key employees that are essential to surveillance operations, law enforcement agencies, security system service employees, the department, and others when approved by the department; and
 - (b) A processor shall make available to the department, upon request, a current list of type 1 key employees and contractors who have access to the surveillance room. A processor shall keep all on-site surveillance rooms locked and shall not use such rooms for any other functions.
- Keep all approved safes, vaults, or any other approved equipment or areas used for processing or storing of plant material, medical marijuana extract, and medical marijuana products securely locked and protected from unauthorized access;
- Ensure the outside perimeter of the facility is well-lit and in accordance with the processor's plan in its license application;
- Restrict access to any area within the facility containing plant material, medical marijuana extract, or medical marijuana products to all persons except licensed employees and agents or an individual permitted to access the facility under the supervision of a licensed employee or agent in accordance with the visitor authorization procedures set forth in rule 3796:5-2-01 of the Administrative Code;
- Limit the use of combination numbers, passwords, or electronic or biometric security systems to licensed, authorized employees, and prevent the sharing of any employee-specific access credentials; and
- Not allow keys to be left in the locks and not store or place keys or badges in a location accessible to persons other than licensed, authorized employees.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- B. OAC 3796:3-2-05 (B) requires the processor to install a security alarm system and a video surveillance recording system that, at a minimum, contains the following:
- A system designed to detect motion and identify unauthorized access to the facility;
 - Video cameras that capture the entire facility, including direct placement near the entrances, exits, and parking areas to capture a clear and certain identification of any person entering or exiting the facility, which shall be appropriate for the normal lighting conditions of the area under surveillance;
 - Video cameras shall be directed at all approved safes, approved vaults, marijuana sales areas, and any other area where plant material, medical marijuana extract, or medical marijuana products are being processed, stored, or handled;
 - The video surveillance recording system shall comply with the following minimum capabilities:
 - Provide a direct feed and login capabilities to the department to allow for real-time access and monitoring of the facility via the live video surveillance recording system.

- A display monitor with a minimum screen size of twelve inches shall be connected to the electronic recording security system at all times.
 - Installed in a manner that will prevent cameras from being readily obstructed, tampered with, or disabled.
 - The ability to immediately produce a clear color still photo that is a minimum of ninety-six hundred dpi from any camera image, live or recorded.
 - A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture.
 - Cameras installed outdoors and in low-light interior areas shall be day/night cameras with a minimum resolution of six hundred lines per inch (analog) or D1 (IP) and a minimum light factor requirement of 0.7 LUX. The installation of additional lighting may be required to increase picture clarity and brightness. Cameras shall be calibrated and focused to maximize the quality of the recorded image.
 - Allow for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
 - Security recordings shall provide an image resolution of at least D1, and the image frame rate shall be at least three frames per second during alarm or motion based recording.
 - Repair or replace any failed component of the video surveillance recording system within twenty-four hours, unless notice is provided to the department and an extension is approved.
- Twenty-four hour live feed with motion-activated recording capabilities from all video cameras, which the processor facility shall make available for immediate viewing by the department upon request and shall retain the recordings for at least forty-five days. If a processor is aware of a pending criminal, civil or administrative investigation or legal proceeding for which a recording may contain relevant information, the processor shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the processor that it is not necessary to retain the recording;
 - Silent alarm, which can be utilized in the event of a holdup or other instances of duress, which notifies law enforcement;
 - Panic alarm, which for purposes of this subsection means an audible security alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring a law enforcement response;
 - Automatic voice dialer, which for purposes of this subsection means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch;
 - A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to the processor facility within five minutes of the failure, either by telephone, email, or text message; and
 - The ability to comply with the security requirements of this rule for a period of at least forty-eight hours during a power outage.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- C. OAC 3796:3-2-05 (C) requires the processor to have a back-up alarm system approved by the department that shall detect unauthorized entry during times when no employees are present at the facility and that shall be provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- D. OAC 3796:3-2-05 (D) requires the processor to keep all security equipment in good working order and the systems shall be inspected and all devices tested on an annual basis.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

AFFIRMATION #2: Records and reporting requirements

- E. OAC 3796:3-2-08 (A) requires each processor to keep and maintain upon the licensed premises for a five-year period, unless otherwise stated in the rules, true, complete, legible, and current books and records. All required records must be made available for inspection if requested by the department. The following records shall be maintained:
- Records relating to the disposal of medical marijuana, medical marijuana products, and waste in accordance with paragraph (E) of this rule and rule 3796:3-2-03 of the Administrative Code;
 - Records related to the sale of medical marijuana in accordance with paragraph (D) of rule 3796:3-2-04 of the Administrative Code;
 - Transportation records in accordance with rule 3796:5-3-01 of the Administrative Code;
 - Records of all samples sent to an independent testing lab and the quality assurance test results;
 - Security records in accordance with paragraph (B) of rule 3796:3-2-05 of the Administrative Code;
 - Inventory tracking records and inventory records maintained in the inventory tracking system, as well as records maintained by the facility outside the inventory tracking system, in accordance with rule 3796:3-2-04 of the Administrative Code;
 - Processing records, which at a minimum shall include:
 - The form and types of medical marijuana maintained at the facility on a daily basis;
 - Production records, including extraction, refining, manufacturing, packaging, and labeling;
 - Financial records in accordance with paragraph (C) of rule 3796:3-2-05 of the Administrative Code;
 - Employee records in accordance with paragraph (D) of rule 3796:3-2-05 of the Administrative Code; and
 - Records of any theft, loss, or other unaccountability of any medical marijuana as described in rule 3796:5-4-01 of the Administrative Code.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- F. OAC 3796:3-2-08 (B) authorizes a processor to use an electronic system for the storage and retrieval of records, but notes that any loss of electronically-maintained records shall not be considered a mitigating factor for violations of rules. If a processor uses an electronic system, it must be a system that:
- Guarantees the confidentiality of the information stored in the system;
 - Is capable of providing safeguards against erasures and unauthorized changes in data after the information has been entered and verified by the processor;
 - Is capable of placing a litigation hold or enforcing a records retention hold for purposes of conducting an investigation or pursuant to ongoing litigation; and
 - Is capable of being reconstructed in the event of a computer malfunction or accident resulting in the destruction of the data bank.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- G. OAC 3796:3-2-08 (C) requires a processor to maintain financial records, which shall include the following:
- Records that clearly reflect all financial transactions and the financial condition of the business, including contracts for services performed or received that relate to the processor;
 - Purchase invoices, bills of lading, manifests, sales records, copies of bills of sale, and any supporting documents, including the items and/or services purchased, from whom the items were purchased, and the date of purchase;
 - Bank statements and canceled checks for all accounts relating to the processor, if applicable; and
 - Accounting and tax records related to the processor and all investors in the facility.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- H. OAC 3796:3-2-08 (D) requires a processor to maintain employee records, which shall include the following:
- All records relating to the hiring of employees, including applications, documentation of verification of references, and any other related materials;

- An employee log that includes the following information for every current and former employee:
 - Employee name, address, phone number, and emergency contact information;
 - Registration number and access credential designation;
 - Date of hire and date of separation from employment, if applicable, and the reason for the separation;
 - All training, education, and disciplinary records; and
 - Salary and wages paid to each employee, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with any medical marijuana entity, including members of a non-profit corporation, if any.
- Documentation that each employee has been successfully trained in accordance with the operations plan submitted as part of the processor application and in compliance with paragraph (B)(3)(f) of rule 3796:3-1-02 of the Administrative Code.
- Visitor logs maintained in accordance with rule 3796:5-2-01 of the Administrative Code.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- I. Pursuant to OAC 3796:3-2-08 (E) medical marijuana production and disposal records may be stored at the facility and shall include all of the following:
- The registered strain or product name, form, and quantity of marijuana involved;
 - The date of production or removal from production;
 - The reason for removal from production, if applicable;
 - A record of all medical marijuana sold, transported, or otherwise disposed of;
 - The date and time of selling, transporting, or disposing of the medical marijuana; and
 - If the medical marijuana is destroyed, the processor shall maintain records in accordance with paragraph (D) of rule 3796:3-2-03 of the Administrative Code.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

AFFIRMATION #3: Transportation of medical marijuana and medical marijuana products.

- J. OAC 3796:5-3-01 (A) requires that prior to transporting any medical marijuana, regardless of form, a medical marijuana entity licensed by the department shall maintain a transportation log, in writing, that contains the following information:
- The names and addresses of the medical marijuana entities sending and receiving the shipment;
 - The names and registration numbers of the registered employees transporting the medical marijuana or the products containing medical marijuana;
 - The license plate number and vehicle type that will transport the shipment;
 - The time of departure and estimated time of arrival;
 - The specific delivery route, which includes street names and distances; and

- The total weight of the shipment and a description of each individual package that is part of the shipment, and the total number of individual packages.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- K. OAC 3796:5-3-01 (B) requires that the medical marijuana entity transporting medical marijuana under paragraph (A) shall transmit a copy of the transportation log to the medical marijuana entity that will receive the products and to the department before the close of business the day prior to transport. The medical marijuana entity shall enter the information required in the inventory tracking system in accordance with section 3796.07 of the Revised Code and the rules promulgated in accordance with Chapter 3796 of the Revised Code. The transportation log shall be made available to law enforcement agencies upon request. A medical marijuana entity shall maintain all transportation logs in accordance with the record keeping requirements established under the rules promulgated in accordance with Chapter 3796 of the Revised Code, and make them available at the request of the department.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- L. OAC 3796:5-3-01 (C) requires that the vehicle transporting the medical marijuana or any product containing medical marijuana meet the following requirements:
- Be insured as required by law;
 - Store the medical marijuana and any product containing medical marijuana in a locked, safe, and secure storage compartment that is part of the motor vehicle, or in a locked storage container that has a separate key or combination pad;
 - Ensure any medical marijuana or product containing medical marijuana is not visible from the outside of the vehicle;
 - Be staffed with a minimum of two employees registered with the department, with at least one employee remaining with the vehicle at all times that the vehicle contains medical marijuana;
 - Have access to a secure form of communication with personnel at the medical marijuana entity and the ability to contact law enforcement through the 911 emergency system at all times that the vehicle contains medical marijuana, unless notification is impractical under the circumstances; and
 - Not contain any marks, logos, brands, or other illustrations on the exterior of the vehicle, other than those affixed to the vehicle by the vehicle manufacturer or dealership.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

M. OAC 3796:5-3-01 (D) requires any vehicle transporting medical marijuana or any product containing medical marijuana to travel directly from the sending medical marijuana entity to the receiving medical marijuana entity and to not make any stops in between except to other medical marijuana entities listed on the transportation log, to refuel the vehicle, or to notify the medical marijuana entities, the department and law enforcement in the event of an emergency. In the event of an emergency, the employees will report the emergency immediately to law enforcement through the 911 emergency system and to the medical marijuana entities, which will immediately notify the department, unless the notification is impractical under the circumstances.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- N. OAC 3796:5-3-01 (E) requires a registered employee transporting medical marijuana to do the following:
- Display his or her department issued employee identification card at all times when transporting or delivering medical marijuana and shall produce it for the department or department's authorized representative or law enforcement official upon request;
 - Ensure delivery times vary and routes are randomized;
 - Report any vehicle accident that occurs during the transportation to a person designated by the transporting medical marijuana entity to receive such reports within two hours after the accident occurs;
 - Report any loss or theft of medical marijuana that occurs during the transportation of medical marijuana in accordance with rule 3796:5-4-01 of the Administrative Code;
 - Carry a copy of the transportation log completed pursuant to paragraph (A) of rule 3796:5-4-01 of the Administrative Code for the duration of the trip; and
 - Notify the medical marijuana entity when the delivery has been completed.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

AFFIRMATION #4: Medical marijuana entity loss, theft, and emergency reporting

O. Pursuant to OAC 3796:5-4-01 (A), if a medical marijuana entity licensed by the department has reason to believe that an actual loss, theft, or diversion of medical marijuana has occurred, the medical marijuana entity shall immediately notify the department and law enforcement. A type 1 key employee of the medical marijuana entity licensed by the department shall provide the notice by submitting a signed statement that details the estimated time, location, and circumstances of the event, including an accurate inventory of the quantity and type of medical marijuana unaccounted for due to diversion or theft. The notice shall be provided no later than twenty-four hours after discovery of the event.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- P. Pursuant to OAC 3796:5-4-01 (B), within ten days of a report submitted under paragraph (A) of this rule, a medical marijuana entity licensed by the department shall do the following:
- Review and secure video surveillance footage during the time of the suspected theft or diversion;
 - Submit a report that contains the following information:
 - The names and identification numbers of every employee at the facility at the time of the theft or diversion;
 - The internal measures taken to locate the cause of the loss, theft, or diversion; and
 - The total quantity and type of medical marijuana stolen or otherwise diverted following a subsequent audit of the facility's actual inventory compared to the inventory reported by the inventory tracking system.
 - Submit to the department a revised plan to secure the facility's inventory and measures that will be taken to prevent future loss, theft, or diversion; and
 - Identify all the records at the facility and potential evidence outside the facility, including video surveillance footage, that will be sealed and prevented from being destroyed until a full investigation is conducted by the department and law enforcement, if deemed necessary.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- Q. OAC 3796:5-4-01 (C) requires a medical marijuana entity licensed by the department to notify the department within twenty-four hours and submit a written report within ten days if there is any of the following:
- An alarm activation or other event that requires response by public safety personnel occurs;
 - A breach of security; or
 - The failure of the security alarm system due to a loss of electrical support or mechanical malfunction.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- R. OAC 3796:5-4-01 (D) requires a medical marijuana entity to notify the department of any fire or other hazardous materials related incident or any incident requiring an emergency response to the licensed premise within twenty-four hours after the discovery of the incident.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

- S. OAC 3796:5-4-01 (E) requires a medical marijuana entity licensed by the department to maintain and make available all documentation related to an occurrence that is reportable pursuant to paragraphs (A) to (C) of that rule.

Please affirm that you have read and intend to comply with all of the above requirements.

Signature

The affirmations above must be signed by an individual authorized to legally bind the Applicant. **Please complete the following information for the individual who has signed the affirmations above.**

Printed Name

Title

Email Address

Phone Number

Signature

Date

The written clarification responses should be submitted electronically **by 12:00 PM (Noon) Columbus, Ohio time on Wednesday, October 17, 2018**. Responses containing unsolicited materials or materials that deviate from those requested under this clarification will not be reviewed and will subsequently disqualify the application from further licensure consideration. This request will supersede the original application instructions – and the score based on the clarification response will supersede any prior score – with regard to the Security Plan of the processor application.

In the email submitting the clarification response, the subject line should read “Processor Application (MMCP-P-XXXX) Clarification.” Please also include your original application number in the body of the email and attach all written materials as read-only PDF documents. Submissions should be emailed to MMCP@com.state.oh.us.

Sincerely,

Ohio Department of Commerce
Medical Marijuana Control Program