



Ohio Department of Commerce



Medical Marijuana Control Program (MMCP)

Cultivator Application – Request for Applications (RFA) / Instructions Packet (MMCP-C-1000)

The Ohio Department of Commerce is requesting applications from parties interested in operating as a cultivator under Ohio’s Medical Marijuana Control Program (MMCP). The following application instructions are provided for the two sections of the application, Cultivator Application – Filing Packet Section 1 (MMCP-C-1001A) and Cultivator Application – Filing Packet Section 2 (MMCP-C-1001B). Both sections of the application are required and must be submitted along with the respective fee during the application acceptance period.

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I. Overview

Number of Cultivator Licenses

In accordance with rule 3796:2-1-01 of the Administrative Code, the Department may issue up to 12 Level I and 12 Level II cultivator provisional licenses before September 9, 2018.

Application Acceptance Periods

The application acceptance period will vary depending on the level of cultivator license. The acceptance periods for the cultivator license applications will be as follows:

Level II Cultivator Applications: June 5, 2017 – June 16, 2017

Level I Cultivator Applications: June 19, 2017 – June 30, 2017

Applications shall be submitted only on weekdays during the hours of 9:00am EST and 5:00pm EST. Any applications or related documents delivered after 5:00pm EST on the last date of the applicable application acceptance period will not be accepted or considered.

Application Submission Instructions

The Department anticipates high volume traffic as applicants submit their applications towards the end of the applicable application acceptance periods. To help reduce this anticipated heavy traffic, applicants may schedule a time with the Department to deliver the application and fee. This will help ensure adequate team availability to process and receive the applications in a timely manner and prevent any long wait periods. Appointments for both application acceptance periods can be scheduled by calling (614) 387-5479 beginning on Monday, May 22, 2017, and ending at 5:00pm on Friday, June 2, 2017. Appointments will not be scheduled on the last two days of the Level II acceptance period or the Level I acceptance period.

Applications along with accompanying fees must be hand-delivered (in person or by a representative) directly to the Ohio Department of Commerce's Medical Marijuana Control Program before the expiration of the applicable application acceptance period. MMCP is located at:

Ohio Department of Commerce
Vern Riffe Center
77 S. High St, 23rd Floor
Columbus, OH 43215



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Please note that visitors must leave adequate time to check in with security. A valid photo ID is required to obtain a visitor's badge at the security desks on the 1st or 3rd floors of the building. Be aware that backpacks are not allowed in the building. All bags are subject to search.

It is recommended that all parties interested in applying for a cultivator license become familiar with Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code. The burden of proving an Applicant's qualifications to operate as a cultivator rests solely on the Applicant.

The application, excluding the application instructions, consists of two sections. Section 1 and Section 2 of the application are made available on the MMCP website. Both sections must be completed in full based on the instructions in this packet. Each section of the application must be completed per instructions or marked N/A, if appropriate. All pages should be included in the submitted application. Attachments should be included following the respective cover pages. The application shall consist of the following:

- **One copy of applicant's application must be submitted on paper (standard copy paper, 8.5x11, white),**
- **Two standard CD-R or DVD-R (read-only and no read-write), each of which must contain as separate files a digital copy of Section 1 and a digital copy of Section 2 of the application in PDF format, and**
- **The applicable application fee.**

The information submitted on the paper copy must be identical to the information submitted on the digital copies. The following requirements are to be followed in the preparation of and submission of the application:

- **Binders, tabs, and other types of packaging are not required and must be kept to a minimum.**
- **All attached documents must be 12-point font and margins must be no less than ¾ inch on all borders.**

Application Fee

A certified check or money order for the entire application fee must be payable to: "Treasurer, State of Ohio." The fee for Level I applicants is \$20,000 and the fee for Level II applicants is \$2,000. These fees are non-refundable and will not be returned to an applicant regardless of



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whether the applicant receives a provisional license. If the check is returned by a bank for any reason, the application will be disqualified.

II. Disclosure of Application Information

Information Subject to Disclosure

Applications that are submitted may or may not be public records and subject to disclosure under the Ohio Sunshine Laws. (O.R.C. 149.43) While there are exceptions to production in Ohio statutes, federal law, and common law privileges, MMCP cannot guarantee that any or all data in the application will remain confidential at all times. Further, MMCP may use or disclose information contained in the application submission to the extent provided by law. Applicants are strongly encouraged to review the applicable law prior to submitting an application as MMCP is unable to provide legal advice as to the absolute confidentiality of the data received.

Applicants that assert that some or all of the application are trade secrets, as defined in R.C. 1333.61, or who wish to submit an express statement to comply with R.C. 149.333(C) and that do not want such information used or disclosed other than for the evaluation of this proposal shall:

- A. Clearly mark every page of trade secret materials in the application submission at the time the proposal is submitted with the words “TRADE SECRET” and/or “INFRASTRUCTURE RECORD,” as appropriate, in capitalized, underlined, and bold type of at least 20 pt.;
- B. Acknowledge that the State of Ohio does not assume liability for the use or disclosure of unmarked or unclearly marked trade secret information;
- C. Fill out the “Trade Secret and Infrastructure Record Notification Form” in Section 1, specifying the pages of the application submission that are to be restricted and justifying the trade secret designation or infrastructure designation for each item. If no material is designated as trade secret information or as an infrastructure records, a statement of “None” should be listed on the form; and
- D. Satisfy the burden established by statute and legal precedent.

MMCP may reject a claim that any particular information in an application submission is trade secret information if it determines that the applicant has not met the burden of establishing the content to be trade secret information under any circumstance. Use of generic trade secret language encompassing substantial portions of the application submission or simple assertions of trade secret interest without substantive explanation of the basis therefore will not be sufficient to create



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a trade secret designation. Applicants should understand that the MMCP will err on the side of disclosure of information to comply with R.C. 149.43.

The Applicant must defend any action seeking release of the materials that it believes to be trade secret information, and indemnify and hold harmless the State, its agents, and employees, from any judgments against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a license. In submitting an application, the applicant agrees that this indemnification survives as long as the trade secret information is in the possession of the MMCP.

III. Preparing and Submitting your Application

Financial Interest

Paragraph (D) of rule 3796:2-1-04 of the Administrative Code prohibits a person from being granted more than one cultivator provisional license or certificate of operation OR from holding a financial interest in or being an owner, partner, officer, director, shareholder, member or other person who may significantly influence or control the activities of more than one cultivator. Financial interest is defined in rule 3796:1-1-01 to include any actual or future right to ownership, investment, or compensation arrangement with another person. For clarification, the Department offers the following.

- An applicant is permitted to submit separate applications *with identical ownership structures and financial interest allocations*, each accompanied by the corresponding fee, for a cultivator provisional license at different locations. However, the submission of multiple applications is subject to the restrictions in paragraph (D) of rule 3796:2-1-04. In the event both applications score high enough to be awarded a provisional license, the applicant will have 10 days to choose which location will be awarded the provisional license, otherwise the Department will make that determination. The application for the other location will be deemed abandoned, and the application fee will be forfeited.
 - If an applicant submits multiple applications that *do not have identical ownership structures and financial interest allocations* and both applications score high enough to be awarded a provisional license, both applications will be denied and both application fees will be forfeited.
- If separate applicants submit applications that list the same person, entity or person affiliated with the entity in the owners and officers roster form as having a financial interest in the applicants and both applications score high enough to be awarded a provisional



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license, both applicants will be denied a provisional license, and the application fees will be forfeited.

- A “compensation arrangement,” as used in the definition of financial interest found in rule 3796:1-1-01 of the Administrative Code, does not include employer-employee compensation structures or payments to vendors for supplies and/or work performed on an ongoing basis that is necessary to operate in the normal course of business. The term “compensation arrangement” does include royalty payments and other reoccurring payments made to another person or entity where supplies or services are not being provided on an ongoing basis, such that the royalty or reoccurring payment was made in lieu of an equity interest in an attempt to circumvent the restrictions in rule 3796:2-1-04 of the Administrative Code.

Identifiable Information

An applicant for a cultivator license is prohibited from including identifiable information in Section 2 of the application. To assist with the exclusion of this information, the Department has provided Form 1I Owners and Officers Roster and Form 1P Entity Identifier Legend to designate non-identifiable reference terms that will maintain the anonymity of the applicant. The scope of information that is deemed identifiable is **not limited** to the information provided on Form 1I and Form 1P.

The following categories of information will be treated as identifiable information for which points will be deducted if included in Section 2 of the application:

- Individual, entity, or university names;
- Personal addresses, business addresses, or individual components of an address, which includes numbers, cities, counties, municipalities, etc.;
- Personal or entity identification numbers;
- Contact information;
- Company logos, trademarks, or other identifying marks;
- Location references that would make it possible for a reviewer to identify where the proposed facility will be located; and
- References to involvement in Ohio’s marijuana legalization efforts.

An applicant that includes identifiable information listed above in Section 2 of the application will have two points deducted from the total raw score for every instance that identifiable information is used and requires redaction from the original application submission. A maximum of 10 points



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will be deducted from an applicant's total raw score for the inclusion of identifiable information in Section 2 of the application. An applicant that exceeds five instances where identifiable information is included in Section 2 of the application will be denied, and the application fee will be forfeited.

The Department may require additional redactions in Section 2 of the application if the Department believes other information not listed above could reveal the identity of the applicant or any individual associated with the applicant. If such a redaction occurs, points will not be deducted from the application.

Important Notices/Disclaimers

The application may not be altered or changed in any fashion, except to fill-in the areas provided with the information that is required. Should any alteration or revision occur, the Department reserves the right to deny the application in its entirety, or may choose to attribute no points to the response. By submitting an application, an applicant understands and consents to the following:

- An application that contains misstatements, omissions, misrepresentations, or false information may be deemed abandoned by the Department.
- An applicant for a Level I cultivator license is prohibited from applying for a Level II cultivator license, regardless of the affiliation (i.e., financial interest, compensation arrangement, employee, etc.). Similarly, an applicant for a Level II cultivator license is prohibited from applying for a Level I cultivator license, regardless of the affiliation. If the Department discovers that an applicant is in violation of this rule restriction, the Department will deny both applications.
- An applicant is permitted to submit multiple, separate applications, each accompanied by the corresponding fee, for a cultivator provisional license at more than one location, subject to the financial interest restrictions in paragraph (D) of rule 3796:2-1-04, as further explained in these instructions.
- An applicant must not include any identifying information in Section 2 of the application. An Identifier Legend and Entity Identifier Legend have been provided on Form 1I and Form 1P for applicants to designate an identifier that will be used in Section 2 in place of the name of an individual or entity, if needed.
- The issuance of a cultivator provisional license does not permit the licensee to cultivate medical marijuana, or otherwise operate as a cultivator, until the licensee passes a pre-operation inspection and has been issued a certificate of operation by the Department and submits the applicable license fee under rule 3796:5-1-01 of the Administration Code.



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- All application submissions become the property of the Department and will not be returned.

Elements of the Application Package – Section 1:

Notarized Cover Sheet – Sheet should be completed and notarized. The purpose of this form is to certify understanding that the applicant and the owners and officers associated with the applicant will be held responsible for the representations on the form.

Checklist – For use as a guide for the applicant.

1A Business Entity and Contact Information Form – Form must be completed appropriately. This form includes the key information that will be used for filing and tracking purposes.

1B Liquid Assets Form – Form must be completed appropriately and notarized.

1C Financial Responsibility - Insurance – Form must be completed appropriately. In the event insurance products are not available at the time the form is being prepared, applicant should check the first box to indicate willingness and intent to purchase when those products eventually become available. If coverage is available, applicant should check the second box and attach documentation.

1D Financial Responsibility – Escrow/ Surety – Form must be completed appropriately. Either an escrow or surety bond must be obtained by the time the applicant is ready to receive approval for a certificate of operations license. The form is to certify the ability to obtain one of these financial securities.

1E Property Owner Approval for Use Form – Form must be completed appropriately. The purpose of this form is to ensure that the applicant is either the owner of the proposed facility property, has a lease or agreement with the property owner that recognizes and permits the proposed use of the property as a cultivator facility, or has the ability to secure a lease or agreement with the property owner that recognizes and permits the proposed use of the property as a cultivator facility.

1F 500 Foot Compliance Cover Page – Compliance with this cover page includes providing an attachment of a map which identifies the surrounding area around a facility and ensures that the neighboring structures or property are not on the list of prohibited facilities, or if they are on the list, the proposed facility is more than 500 feet away. Different types of maps (i.e., satellite images,



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street maps, etc.) are permissible, but the map must be clearly labeled and legible to be acceptable for the purposes of this requirement.

1G Notice of Proper Zoning Form – Form must be completed appropriately. The purpose of this form is to ensure that the applicant has reviewed local zoning issues and actively communicated with local zoning officials on any relevant codes imposed by the local jurisdiction. A permit is desirable but not required at application due to the length of time for processing a zoning permit. The form should be signed by a local zoning representative or it should be indicated on the form that no local zoning is in place.

1H Zoning Permit Cover Page – Compliance with this cover page includes providing an attached copy of any approved zoning permit, if the applicant was able to obtain one at the time of application. If this was not obtained, the applicant will not be penalized but should complete the form stating that it was not yet obtained.

1I Owners and Officers Roster Form – Form must be completed appropriately. This form must list all owners and officers and anyone associated with the proposed facility that has a financial interest in the operation. For each name on this list, the application must include a corresponding copy of Form 1K. An additional blank list page is included as a convenience for the applicant but is not required in the packet if not used.

1J Organizational Chart Cover Page – Compliance with this cover page includes providing an attached organizational chart. The chart should indicate positions of any officers identified in 1I and 1K.

1K Individual Background Information Form – Form must be completed appropriately for each person listed on 1I above. Additional forms are available on the website.

1L Business in Other Jurisdictions Form - Form must be completed appropriately. The purpose of this page is to obtain information on the applicant's history of business in Ohio's various jurisdictions as well as information on business conducted in other states. Applicant will certify that no owner or officer has received a revocation or suspension from another jurisdiction for the conduct of business. Additional copies of this form should be added if necessary to provide the appropriate information.

1M Copies of Licenses from Business in Other Jurisdictions Cover Page – Compliance with this cover page includes attaching the respective license for any business identified on 1L.



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1N Tax Payment Records Cover Page – Compliance with this cover page includes tax summaries for the past three years for any business or any person with a financial interest of 1% or greater.

1O Disadvantaged Group Applicant - Form must be completed appropriately. This certifies whether the applicant is a member of a Disadvantaged Group, as defined in Chapter 3796 of the Revised Code, and meets the requirements set forth in Chapter 3796 of the Revised Code.

1P Entity Identifier Legend – Form completed to assign a non-identifiable term to an otherwise identifiable entity in Section 2 of the application. The applicant must use the designated terms in this legend when referring to the entities in Section 2.

1Q Trade Secret and Infrastructure Record Notification – Form completed to specify the pages of the application submission that are to be restricted and justifying the trade secret designation or infrastructure designation for each item. If no material is designated as trade secret information or as an infrastructure records, a statement of “None” should be listed on the form.

Elements of the Application Package – Section 2:

Each of the sections is a cover page that describes the expected application subject to be addressed in a narrative provided by the applicant. Because this section will be evaluated and scored *without identifiable information* from the applicant, all narratives MUST BE ANSWERED WITHOUT the use of or any reference to identifying information, as set forth in these instructions, or any other type of information that could reveal the identity of the applicant or any individual associated with the applicant.

2A Business Plan – The purpose of this section is to seek information on the applicant’s experience in any type of business environment, establish the business model for the proposed cultivation facility, and demonstrate the ability to operate the proposed facility, which includes steps taken with the local authorities. Applicant will provide this information in a NON-IDENTIFYING narrative.

2B Operations Plan – The purpose of this section is to seek information from the applicant in the following areas: experience in agriculture/cultivation, proposed cultivation methods and techniques, product timeline and production schedule, marijuana cultivation area layout and environment, proposed strains of marijuana to be cultivated, and standard operating procedures and staffing models. Every subsection noted in 2B must be addressed by the applicant. Applicant will provide this information in a NON-IDENTIFYING narrative.



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2C Quality Assurance Plan – The purpose of this section is to establish a plan for packaging and labeling that will comply with Division 3796 of the Administrative Code, propose the use of approved pesticides, fertilizers and/or other production control factors, submit an inventory control plan, establish disposal and destruction procedures for medical marijuana waste and non-marijuana waste, prepare for the handling of adverse events and recall procedures, and develop a plan for recordkeeping regulatory compliance. Applicant will provide this information in a NON-IDENTIFYING narrative.

2D Security Plan – The purpose of this section is to establish the methods that will be used for security across the proposed facility and during operations, including surveillance technology, security measures around the physical structure, plot plan and map of the entire facility that includes points of ingress and egress and other restricted access areas, emergency notification procedures and transportation guidelines and policies. Applicant will provide this information in a NON-IDENTIFYING narrative.

2E Financial Plan – The purpose of this section is to establish the applicant's ability to meet the financial responsibility requirements and to provide a cost breakdown that has been performed as part of a financial plan. The breakdown must be clear and well-presented but is not required to be in a particular format. The level of detail will be considered as part of the evaluation. Applicant will provide this information in a NON-IDENTIFYING narrative.

IV. Application Review and Scoring Methodology

Review Process

The Department will conduct a comprehensive, fair, and impartial evaluation of all applications received in response to this RFA. This review will involve a two-step process.

Round 1: Every application will be assessed to determine whether it meets the mandatory qualification criteria set forth in rule 3796:2-1-03 of the Administrative Code. An applicant who fails to provide information or who fails to submit one of the attachments that establishes they meet the mandatory qualification criteria set forth in rule 3796:2-1-03 of the Administrative Code will be disqualified prior to the scoring process.

Round 2: Once it is determined that an application meets the mandatory qualification criteria, it will be reviewed and scored by a separate panel of reviewers based on the information in the non-identifiable information section. Scores will be based on the quality of the responses to the



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requirements set out in the RFA. The identity of the applicant and the individuals associated with the applicant will not be known to the panel conducting this round of the evaluation.

The Department may conduct interviews, contact references, conduct background checks, contact state regulators in any other states(s) where the applicant, applicant's backers or others associated with the applicant have engaged in, or sought to be engaged in, the state's medical marijuana program and visit the location of the proposed production facility or of other marijuana related businesses associated with the applicant or the applicant's backers or key personnel.

Mandatory Qualification Criteria

The Department will only review and score applications that:

- Are submitted during the designated submission period with the application fee;
- Fully respond to all mandatory items in Section 1 of the RFA;
- Do not contain significant inconsistencies or inaccuracies;
- Do not contain more than five instances where identifiable information had to be redacted from Section 2 of the application;
- Include the appropriate number of copies; and
- Contain all required signatures.

The Department reserves the right to waive minor irregularities or to request clarifications, modifications or amendments to an application if the Department believes doing so does not result in an unfair advantage to the applicant, providing such application substantially complies with the RFA.

Evaluation Criteria

Every application that meets the mandatory criteria established in rule 3796:2-1-03 of the Administrative Code will be evaluated and scored by the Department. A maximum raw score of 100 points is possible. An applicant must achieve the minimum raw score in every plan submitted in Section 2 of the application, as outlined below in Table 1, AND achieve an overall minimum raw score of 60 overall points, after any applicable point deductions are made for redacted information in Section 2 of the application, to be considered for a provisional license. If an applicant scores below 60 overall points or fails to meet the minimum score for every plan submitted in Section 2, the application will be denied.



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After the raw scores are calculated and the number of points that will be deducted are tallied (if applicable), the Department will apply the conversion factors listed in Table 2 and record the weighted scores on the applicant’s score sheet. The Department will calculate the total weighted score and rank each applicant according to its total weighted score. Upon selecting the successful applications, the Department shall notify all applicants of their status in writing.

If an insufficient number of applications obtain a raw score of at least 60 points and satisfy the minimum score requirements for each plan in Section 2 to award all of the licenses the Department deems appropriate, the Department may request modifications from those applicants whose scores are closest to 60 raw points, so as to render the applications acceptable. Alternately, if the Department determines that sufficient modifications cannot be made to raise enough applications to an acceptable level, the Department may re-issue the RFA or proceed with the number of licenses awarded.

The number of points after each heading is the maximum number of raw points that may be awarded for each of the corresponding components of the RFA. For each category, the applicant’s raw score will be based on the totality of the response to the corresponding RFA section.

Table 1

Table with 5 columns: Section, Description, P/F, Minimum Raw Score, Total Raw Score. Rows include Application Cover Sheet, Section 1: Identifiable Information (1A-1L).



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1M	Copies of Licenses from Business in Other Jurisdictions Cover Page	✓		
1N	Tax Payment Records Cover Page	✓		
1O	Disadvantaged Group Applicant	✓		
1P	Entity Identifier Legend	✓		
1Q	Trade Secret and Infrastructure Record Notification	✓		
Section 2: Non-Identifiable Information				
2A	Business Plan (maximum of 15 pages)		6 points	10 points
	Experience in Business			
	Business Model			
2B	Operations Plan (maximum of 30 pages)		18 points	30 points
	Experience in Agriculture/Cultivation			
	Cultivation Methods and Proposed Strains			
	Product Timeline and Production Schedule			
	Marijuana Cultivation Area Layout and Environment			
	Standard Operations Procedures			
	Staffing and Training			
2C	Quality Assurance Plan (maximum of 30 pages)		18 points	30 points
	Packaging and Labeling			
	Production Control			
	Inventory Control			
	Disposal and Waste Removal			
	Adverse Events and Recall Procedures			
	Record Keeping and Regulatory Compliance			
2D	Security Plan (maximum of 30 pages)		12 points	20 points
	Surveillance Technology and Physical Security			
	Transportation			
	Facility Plot Plan and Specifications			
	Emergency Notification Procedures			
2E	Financial Plan (maximum of 10 pages)		6 points	10 points
	Funding Analyses			
	Operating Expense Breakdown			



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Table 2

Category	Raw Score	Conversion Factor	Weighted Score	Percentage of Total Available Points
Business Plan	10.00	1.46	14.6	7.3%
Operations Plan	30.00	2.36	70.8	35.4%
Quality Assurance Plan	30.00	1.64	49.2	24.6%
Security Plan	20.00	2.00	40.0	20.0%
Financial Plan	10.00	2.54	25.4	12.7%
(Redaction Deduction, if applicable)	<i>(up to -10.00)</i>	2.00	<i>(up to -20.00)</i>	<i>(up to -10%)</i>
Total Possible Points	100		200	100%