

Medical Marijuana Control Program

December 14, 2017





Introduction

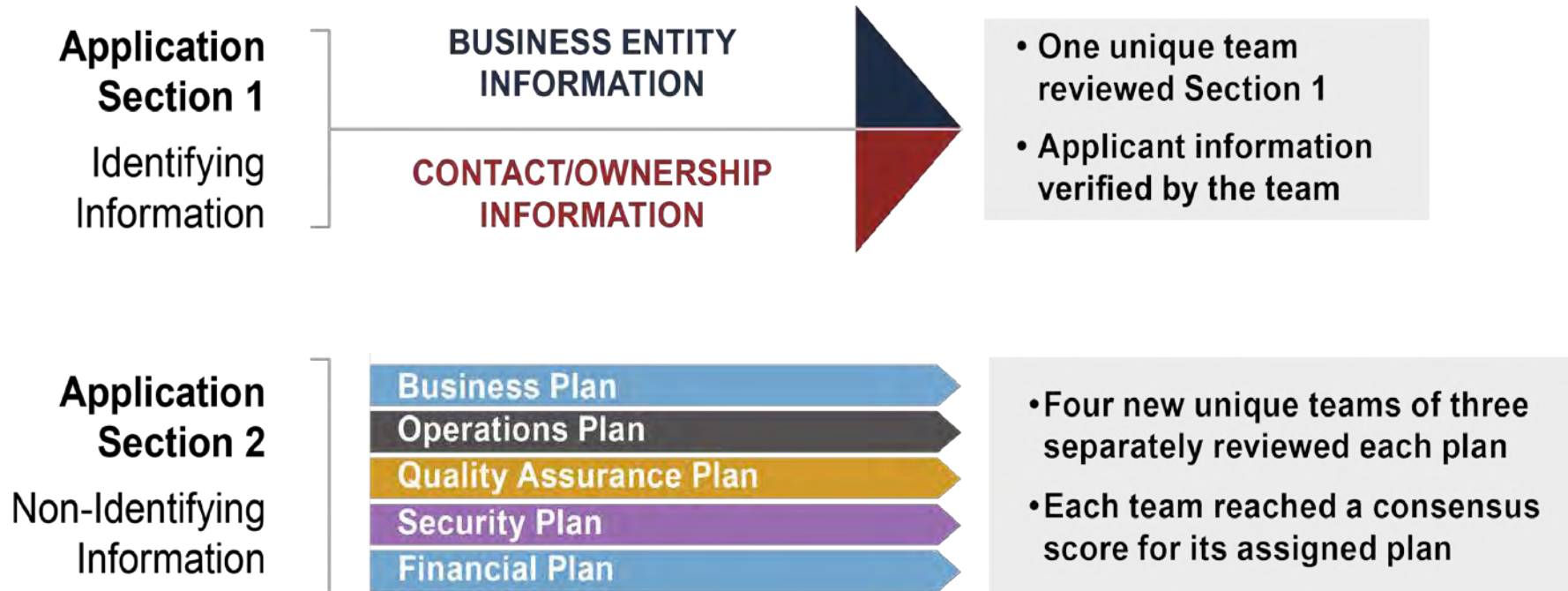
Ohio Department of Commerce Director Jacqueline T. Williams

- ▶ Process and Vision
- ▶ Research and Background
- ▶ Program Implementation
- ▶ Next Steps



Application Layout and Overview

Cultivator Application





Cultivator Application Development Objectives

- ▶ **Subject Matter Expertise** - Legal challenges in other states and conversations with regulators in those states identified the need for reviewers knowledgeable in the subject matter.
 - ▶ In total, 25 individuals contributed to the cultivator application scoring process. Only 3 were non-state employees.
 - ▶ The consultants utilized during the scoring process were limited to the areas focusing on cultivation within the operations plan and quality assurance plan (cultivation layout, grow orientation, Standard Operating Procedures, etc.)
 - ▶ Consultants were placed on scoring teams led by a state employee.
- ▶ Medical marijuana is a new, emerging industry where there is a level of interconnectedness between operators in the various states, including regulatory and industry consultants.



Cultivator Application Development Objectives

- ▶ **Avoidance of Conflicts** - The Department was aware of the potential for conflicts, so the following controls were implemented:
 - ▶ The RFP process to secure the consultants required self-disclosure of existing relationships with individuals/businesses looking to apply in Ohio.
 - ▶ One consultant was removed entirely from the scoring process due to a potential conflict that was voluntarily disclosed by the consultant, per the agreement.
 - ▶ The Personal Services Agreement with every consultant included language that required the consultant to disclose conflicts to the Department, should they arise.
 - ▶ No other conflicts were disclosed to the Department related to the scoring process.
 - ▶ 22 of the 25 individuals involved in the scoring process were state employees with no involvement in the industry, removing the potential for a conflict.
 - ▶ The Department designed a blind, impartial review process that isolated identifiable information and precluded such information from the section of the application that received a score.
 - ▶ The final score was tallied during a consensus call, making it very difficult for one person to unduly influence an applicant's score. ⁵



Cultivator Application Development Objectives

- ▶ **Provisional Licensee Verification and Compliance** - A provisional licensee award is not approval to begin cultivating medical marijuana.
 - ▶ Licensees have up to nine months to perform the following:
 - ▶ Demonstrate compliance with all statute and rule requirements;
 - ▶ Execute the conditions in their application; and
 - ▶ Pass all necessary inspections, including the pre-operation inspection resulting in the issuance of a Certificate of Operation.
 - ▶ Applicants not awarded a license are entitled to an administrative hearing under the 119 process to review and challenge the Department's findings in their application.



Cultivator Application Development Objectives

- ▶ **Provisional Licensee Verification and Compliance** - As this presentation will demonstrate, the Department is very confident in the process it used to hire subject-matter experts and score applications in a fair, neutral, and consistent manner.
- ▶ To further strengthen the process's integrity, the Department is working with the Attorney General to retain an independent, third-party expert to assist with the review of any additional, new information or allegations that come to light regarding the application process.
 - ▶ Issues or concerns with a particular applicant's application or the process will be handled during the applicant's administrative hearing.
 - ▶ Allegations or concerns by interested parties will be handled by the independent, third-party expert.
- ▶ The Department will retain authority to make final decisions with regard to the results of any findings from a third party.



Cultivator Application Overview

- ▶ Application review team
- ▶ Development of the application and the scoring documents
- ▶ Scoring process
- ▶ Post-award



Application Review Team

- ▶ Commerce issued RFI COM2017-ADM001 on March 10, 2017, to assess the market for subject-matter experts that could assist in the scoring process.
 - ▶ We received two responses to the RFI.
- ▶ In response, Commerce issued RFP COM2017-ADM003 to secure experts with experience in the medical marijuana industry.
 - ▶ The Department reviewed, awarded, and received Controlling Board authority to utilize 3 of the 4 responders to the RFP.
 - ▶ At that time, the Department was made aware of a potential conflict with one of the consultants and removed that consultant from the scoring process.
- ▶ Two of the three consultants approved at Controlling Board (3 individuals) did not disclose any conflicts at that time and were used during the cultivator scoring process.
- ▶ Other than the three individual consultants identified above, the composition of the application review teams were all state employees.



Cultivator Application Development

▶ Cultivator Application

- ▶ The MMCP team drafted and finalized the Level I and Level II cultivator applications, based on applications used in other states and conversations with those regulators.
- ▶ The MMCP team also received feedback from its consultants used during the rule writing process to make any changes necessary.
- ▶ The MMCP learned it was critical to separate the identifiable information from the non-identifiable information in the application.



Cultivator Application Development

- ▶ The cultivator application was divided into two sections to preserve the independence of reviewers:
 - ▶ Section 1: Identifiable information
 - ▶ Section 2: Non-identifiable information
- ▶ Full applications accessible only by a limited number of Commerce employees, none of whom scored Section 2.
- ▶ Section 2 reviewers were provided with the Section 2 plan they were responsible for reviewing via a portal using application #s to mask the identifiable information.



Scoring Documentation Development

▶ Scoring Documents

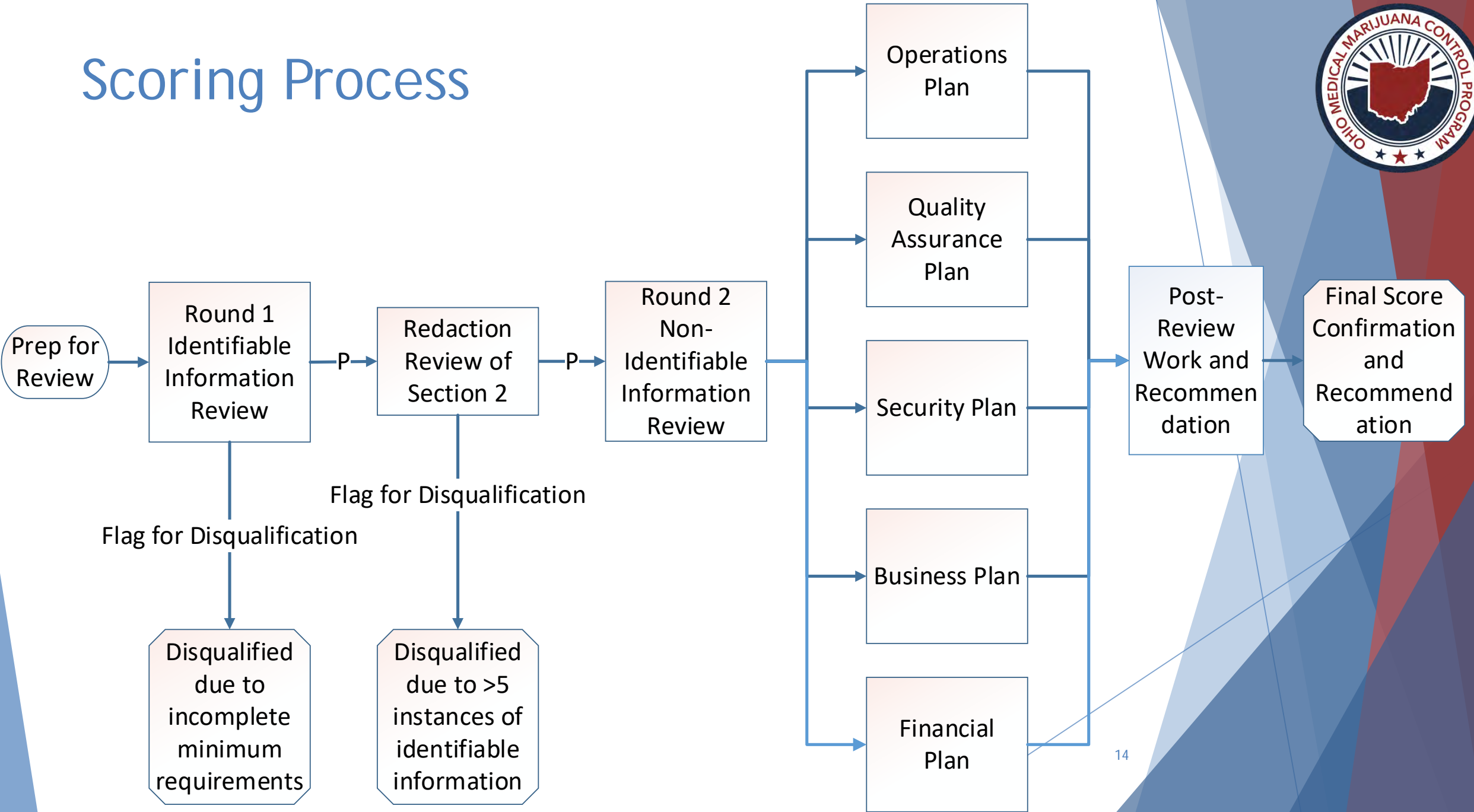
- ▶ The Department drafted the initial scoring documents based on the statute and rule requirements for each plan in Section 2.
- ▶ Consultant feedback provided additional recommendations to the Department, but the MMCP team made the final call on every item that was included.
 - ▶ June 2017
 - ▶ Initial development and feedback sessions began.
 - ▶ Process communicated to review and edit scoring documents.
 - ▶ Department received and considered feedback provided by subject matter experts.
 - ▶ July 2017
 - ▶ Department finalized all scoring documents and distributed to plan teams before any Section 2 plans were distributed to the evaluation teams.



Scoring Process Overview

- ▶ Preparation
- ▶ Section 1
- ▶ Redaction
- ▶ Section 2
- ▶ Final Review
- ▶ Announcement

Scoring Process





Scoring Process - Preparation

- ▶ Electronic copies of files were scanned for viruses and downloaded.
- ▶ Preparation team created individual accounts for all 20+ reviewers in a secure website portal.
 - ▶ Reviewers could only access the documents made available to them in the website file portal by the preparation team.
 - ▶ The preparation team separated Section 1 and Section 2, as well as the different plans under Section 2.



Scoring Process - Section 1

- ▶ Section 1 included forms and information which contained identifiable information (names, addresses, state and federal business ID numbers, zoning permit information, other business licenses, etc.).
- ▶ Three reviewers independently examined forms in Section 1 and flagged areas to be discussed during the final review.
 - ▶ 646 separate notes during Round 1 were identified.
 - ▶ 294 for Level II, 342 for Level I.
 - ▶ Flagged items ranged from clerical matters to potential statute/rule violations.
- ▶ To accomplish efficiency and fairness in process, all applications were scored.



Scoring Process - Redaction

- ▶ Team of six individuals reviewed Section 2 to ensure all identifiable information was either omitted or redacted, as requested in the instructions.
 - ▶ Points deducted for specific categories of identifiable information listed in the instructions.
 - ▶ A maximum deduction of 10 points (5 instances) was permitted.
 - ▶ More than 5 instances = disqualification.
 - ▶ Other redactions may have occurred that didn't receive a corresponding point deduction.



Scoring Process - Redaction

- ▶ If information was redacted, a final, redacted copy of Section 2 was uploaded to the Section 2 teams.
- ▶ Redaction team results:
 - ▶ Level II: 18 applications missed a total of 164 instances of identifiable information.
 - ▶ Highest on a single application was 80 items.
 - ▶ Seven applications exceeded minimum redaction limit; all had multiple issues.
 - ▶ Level I: 8 applications missed a total of 13 instances of identifiable information.
 - ▶ Highest on a single application was 3 instances.
 - ▶ No application exceeded the minimum redaction limit.



Scoring Process - Section 2

- ▶ Section 2 of the cultivator application included the following five plans:
 - ▶ Business Plan;
 - ▶ Operations Plan;
 - ▶ Quality Assurance Plan;
 - ▶ Security Plan; and
 - ▶ Financial Plan.
- ▶ Each Section 2 team consisted of three reviewers with necessary subject matter expertise, with one team reviewing the Business and Financial Plans.
- ▶ Reviewers received plans via a secure portal using application #s to mask the identifiable information.



Scoring Process - Section 2

- ▶ For every plan in every application, reviewers were instructed to do the following:
 - ▶ Utilize a scoring rubric developed by the Department, with feedback from the reviewers, to promote consistent grading;
 - ▶ Review an applicant's plan and make an independent determination as to which criteria were demonstrated;
 - ▶ Attend a consensus call with the plan team and reach consensus on all criteria in the applicant's plan, making it impossible for one person to unduly influence the resulting score; and
 - ▶ Upload a scoring breakdown for the applicant's plan via the secure portal.
- ▶ Scoring teams were instructed to review **ONLY** the information provided and **NOT** conduct outside research.



Scoring Process - Section 2

- ▶ The scores were calculated using a two-step process.
 - ▶ Step 1
 - ▶ An applicant must have achieved the minimum overall score of 60 points out of the 100 points available, AND
 - ▶ An applicant must have achieved the minimum score for each plan in Section 2.
 - ▶ Applicant needed 60% of the points available under each plan.
 - ▶ Step 2
 - ▶ A conversion factor was applied to the raw score in each plan to calculate the final weighted score.



Scoring Process - Section 2

Category	Minimum Score (Step 1)	Maximum Score (Step 1)	Conversion Factor	Final Weighted Score
Business Plan	6	10	1.46	14.6
Operations Plan	18	30	2.36	70.8
Quality Assurance Plan	18	30	1.64	49.2
Security Plan	12	20	2.00	40.0
Financial Plan	6	10	2.54	25.4
Total Possible Points		100		200



Scoring Process - Section 2

Scoring	Qualified	Qualification Rate	Disqualified	Disqualification Rate
Redaction Review	178	96%	7	4%
Operations Plan	102	55%	83	45%
QA Plan	106	57%	79	43%
Business Plan	139	75%	46	25%
Financial Plan	143	77%	42	23%
Security Plan	86	46%	99	54%
Minimum Points	101	55%	84	45%
OVERALL	54	29%	131	71%



Scoring Process – Final Review

- ▶ Once the overall scores were compiled and finalized, the Department verified numerous requirements under statute and rule for the top scoring applicants. These included:
 - ▶ Disqualifying offense;
 - ▶ Tax compliance;
 - ▶ Adherence to 500-foot rule;
 - ▶ Financial interest;
 - ▶ Financial responsibility; and
 - ▶ Economically disadvantaged group status.



Scoring Process - Announcement





Post Award – Notifications of Hearing

- ▶ A Notice of Hearing (NOH) is sent to every applicant that was not awarded a provisional license notifying them of the result and the opportunity to request a hearing.
- ▶ The applicant has 30 days from the mailing of the NOH to send notice to the Department requesting a hearing.
- ▶ The Department will promptly establish the hearing date.
- ▶ Once the hearing is conducted, the Director will issue a final order based on the hearing officer's Report and Recommendation.
- ▶ If the order is adverse to the applicant, they have 15 days to appeal to the Court of Common Pleas.



Process Findings

- ▶ A scoring process developed around the same foundational principles that have guided the Program since its inception.
- ▶ A scoring process designed around subject matter experts equipped with the knowledge and experience necessary to evaluate and score the different plans in the application.
- ▶ A scoring process that was comprehensive, fair, and impartial, which was accomplished by a blind process wherein no reviewer on a scoring team provided more than one-third of a consensus vote towards a portion of the application's score.



Questions?