



# CHIEF EQUITY OFFICER 2023 ACTIVITY REPORT

## Office of Business Opportunity

### *Division of Cannabis Regulation*

Article XIV, Section 2 of the Missouri Constitution requires the Missouri Department of Health and Senior Services to appoint a chief equity officer (CEO). The CEO oversees the Office of Business Opportunity (OBO) and is charged with the development and implementation of programs to inform the public of the opportunities available to those who meet the criteria for a microbusiness license.

The CEO is required to provide an initial report to the department no later than Jan. 1, 2024, and annually thereafter, of their and the department's activities in guaranteeing compliance with the applicant criteria set forth in Article XIV, Section 2.4(12). It further requires the department to provide the report to the legislature. The CEO is an integral part of ensuring the social and economic equity requirements passed by Missouri voters in Article XIV, Section 2 are fully realized.

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## Constitutional Deadlines

Pursuant to Article XIV Section 2.4(14), the department was required to appoint a chief equity officer within 60 days of the effective date of the new law. The law became effective on Dec. 8, 2022. Abigail Vivas began employment with the department on Feb. 1, 2023, as the first CEO in the Division of Cannabis Regulation (DCR).

Within 180 days of the effective date of Article XIV, Section 2, the department was required to make available to the public license application forms and application instructions for marijuana microbusiness facilities. The department met this requirement ahead of the deadline, posting the application form and instructions June 1, 2023.

Within 270 days, the department was required to start accepting applications for marijuana microbusiness facilities. The department met this requirement ahead of the deadline; the application period for the first round of microbusiness licenses began July 27, 2023, and closed Aug. 10, 2023.

The first group of microbusiness licenses were to be issued no later than 300 days after the effective date of Article XIV, Section 2. The department met this requirement ahead of the deadline; the first 48 microbusiness licenses were issued Oct. 2, 2023.

Within 60 days of the issuance of the licenses, the CEO was required to conduct a review of and certify that microbusiness licenses were awarded to eligible applicants. The CEO was required to publish the review for the public, containing aggregate data pertaining to the license eligibility criteria. This review was completed Dec. 1, 2023, and published on the department website Dec. 15, 2023, meeting the constitutional requirement.

*Table 1. Constitutional deadline requirements for the microbusiness program.*

| Constitutional Requirement                  | Deadline     | Date Completed | # of Days Early |
|---------------------------------------------|--------------|----------------|-----------------|
| Appoint Chief Equity Officer                | Feb. 8, 2023 | Feb. 1, 2023   | 7 days          |
| Application form and instructions available | Jun. 6, 2023 | Jun. 1, 2023   | 5 days          |
| Begin application acceptance                | Sep. 1, 2023 | Jul. 27, 2023  | 36 days         |
| Issue the first set of 48 licenses          | Oct. 4, 2023 | Oct. 2, 2023   | 2 days          |
| CEO eligibility review completed            | Dec. 1, 2023 | Dec. 1, 2023   | Deadline met    |
| CEO eligibility review results published    | No Date      | Dec. 15, 2023  | No deadline     |
| CEO report of CEO and department activities | Jan. 1, 2023 | Dec. 26, 2023  | 6 days          |

## Outreach

Article XIV, Section 2 requires the CEO to establish public education programming and targeted technical assistance programming dedicated to communities that have been impacted by marijuana prohibition. The CEO must provide these communities with information detailing the licensing process and inform individuals of the resources the office can provide to individuals and entities interested in participating in activity licensed under Article XIV.

Prior to the application period, the CEO conducted in-person outreach forums across the state and participated in additional events hosted by external stakeholders. All events were designed to provide potential applicants information on the application process, application requirements and eligibility criteria. The OBO hosted five webinars between July 14 - Aug. 7, 2023, to assist applicants with completing submissions through the online registry portal. A total of 131 individuals participated in the webinars.

The CEO has also responded to media inquiries and participated in interviews to publicize and provide microbusiness program information. Media opportunities were taken with news outlets across the state, including television, newspaper, radio and magazine.

## Resources Provided

The OBO launched the microbusiness section within Cannabis.Mo.Gov in June 2023 detailing the microbusiness licensing process and providing resources to potential applicants and the public. The website includes tools to assist individuals in determining eligibility for a microbusiness license and guidance for submission of a successful application.

### Eligibility tools included:

- Net worth calculation worksheet.
- Poverty level determination guidance.
- Documentation resources for veterans
- List of qualifying Missouri ZIP codes and census tracts for federal poverty level and unemployment.
- List of qualifying Missouri school districts by year.

### Application resources included:

- DCR Location Tool to assist applicants in determining the congressional district of their proposed facility location.
- Printable Application Checklist.
- Printable Microbusiness Application User Guide.
- Blueprint example.
- Ownership structure example.
- FAQs including general information eligibility, application process, lottery, fees and refunds.
- Guided video tutorials demonstrating how to complete an application, make corrections to a returned application, and how to request an application refund.

Table 2. Outreach Event Summary (as of Dec. 15, 2023)

| Event Type  | Pre-License Issuance | Post-License Issuance |
|-------------|----------------------|-----------------------|
| DCR         | 6                    | 0                     |
| External    | 4                    | 4                     |
| DCR Webinar | 5                    | 0                     |

The OBO also created a microbusiness informational brochure and developed a one-pager detailing microbusiness licenses.

## Applicant Survey

The OBO developed a microbusiness applicant survey to assess the level of satisfaction with the application process, as well as the information and support provided to the applicants.

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**The survey was sent to all applicants on Aug. 24, 2023, and 220 responses were received.**

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*Table 3. Summary of microbusiness applicant survey*

|                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                 |
|                                                                                                                                 |
| 43% of respondents heard about the microbusiness program from following adult use cannabis legislation.                         |
| 73% of respondents attended a DCR public outreach event.                                                                        |
| 91% of respondents found the information presented at an outreach event to be helpful.                                          |
| 99% of respondents surveyed visited the DCR website for microbusiness information prior to submitting their application.        |
| 67% of respondents found the information provided about completing the application in the online registry portal to be helpful. |

## Infrastructure and Processes

Article XIV, Section 2 established two new microbusiness license types: microbusiness dispensary and microbusiness wholesale. It further tasked the department with promulgating rules and emergency rules specific to the licensing, regulation and oversight of those facilities. The department published emergency rules that became effective Feb. 3, 2023. The final rules were published and effective on July 30, 2023, following the public comment period.

The department established standard operating procedures for the microbusiness program, including a lottery process required by Article XIV, Section 2, application review, minimum standards and eligibility verification, and CEO review.

### Additional activities:

- Established the OBO, consisting of the CEO and two additional team members:
  - Program specialist hired June 16, 2023.
  - Second position is in the process of being established.
- Developed and published the microbusiness application form and instructions.
- Developed new application types within the existing application software to accommodate microbusinesses for new applications and business update applications.
- Launched microbusiness section of Cannabis.Mo.Gov containing application guidance.
- Developed and published the microbusiness application refund form and instructions.
- The Facility Application Services unit was formed within DCR to assist in the processing of microbusiness applications.

## Application Acceptance

Pursuant 19 CSR 100-1.060, the department published on its website time periods during which it will accept applications and, when applicable, publish the number of licenses to be selected by lottery. The department began accepting the first round of applications July 27, 2023, using the online registry portal. The first application period closed Aug. 10, 2023, at which time the department verified applicants had

remitted the required application fee of \$1,500. In addition, the department's call center and general email inbox were open for questions and assistance throughout the application period.

Pursuant to 19 CSR 100-1.020(1)(A), the department granted a variance to the requirements in emergency rule 19 CSR 100-1.060(4) for the application documents needed to demonstrate microbusiness applicant eligibility. Proposed rules became effective July 30, 2023, which was three days into the application period. The rules allow more documentation types than were originally allowable under the emergency rules. The variance allowed applicants to demonstrate eligibility by submitting the documents listed in the emergency or proposed rules.

Pursuant to 19 CSR 100-1.020(1)(A), the department granted a variance to applicants seeking eligibility through the residency criteria that specified those living in ZIP codes or census tract areas with a historic rate of incarceration for marijuana-related offenses fifty percent (50%) higher than the rate for the entire state. Documentation would have to demonstrate an objective basis for concluding a ZIP code qualified under this standard, such as results of an independent study or an attestation from a state or local official. No applicants submitted documentation under this variance. Both variances were applicable during the July 27 - Aug. 10, 2023, application period only.

## Lottery

Per Article XIV, Section 2.4(1)(i), the department was required to establish a lottery selection process to select comprehensive facility licenses, certificate holders and marijuana microbusiness licensees, but not medical facility licensees converting to comprehensive licenses.

Missouri Lottery conducted the drawing for microbusiness licensees using the certified software *Missouri Lottery Promotional Draw System (PDS) RNG* to produce random results. Missouri Lottery provided a detailed explanation of the Source Code Compare results of the PDS RNG, as well as their procedures for the lottery drawing. Lottery test runs were conducted April 26, 2023, and Aug. 23, 2023.

To ensure the integrity of the random drawing, Missouri Lottery conducted the drawing without reference to the identities of the applicants. Pursuant to 19 CSR 100-1.060(6)(A)3, applications were assigned unique identifiers for the lottery drawing based on the Missouri Congressional District maps drawn and effective Dec. 6, 2018. The congressional district chosen in the application was verified by the Missouri Office of Geospatial Information using the proposed facility address provided. If an applicant's proposed facility address was not located within the applicant's claimed congressional district, the department used the congressional district where the applicant's proposed address was located.

All applicants entered in the drawing were listed in order and drawn from within their congressional district and license type categories. Random drawing results were posted to Cannabis.Mo.Gov as soon as they were available.

## Application Review

Prior to awarding licenses, the department reviewed the applications in the order in which they were drawn. Pursuant to 19 CSR 100-1.190, the department reviewed documents that were submitted with each top-drawn microbusiness application to verify that applicants met the application requirements and eligibility qualifications they claimed. The microbusiness application required applicants to list each individual with an ownership interest and the percent of ownership interest for each individual. The department compiled the names from all applications to ensure no individual was listed on more than one microbusiness application, and then compared the list to currently licensed entities to verify that no individual with an ownership interest in a microbusiness license is an owner of an existing medical, comprehensive, or another microbusiness facility license.

The department specifically looked for the required documentation listed in 19 CSR 100-1.060(4). If documentation was insufficient to demonstrate eligibility for microbusiness licensure, the department returned applications one time to allow applicants to supplement their applications with additional documentation. Once applications were resubmitted, the department reviewed all documentation

provided with the application to determine whether it was sufficient to demonstrate applicants met eligibility criteria.

If a top-drawn applicant did not meet application requirements, the application was denied and the next application from the drawing list was reviewed. Four applications were denied for failure to meet application requirements and a denial notice containing the reasons for the denial was issued to the applicants. Pursuant to 19 CSR 100-1.020(4), any denied applicant had the opportunity to seek review of the denial by filing a petition with the Missouri Administrative Hearing Commission within 30 days of the date the notice of denial was sent.

The department issued the minimum number of microbusiness licenses required per Article XIV, Section 2.4(13): two dispensary licenses and four wholesale licenses per congressional district. Once licenses are issued to the microbusiness, the designated contact had 24 hours to return an acceptance of the license. All 48 issued licenses were accepted by the applicants.

### ***Disqualifying Felony Offense***

19 CSR 100-1.060(3)(K) requires that individuals subject to analysis for a disqualifying felony offense submit fingerprints within 2 weeks after the application submission date for a state and federal fingerprint-based criminal background check. Missouri law (195.817 RSMo) authorizes DCR to review state and federal criminal background records for individuals subject to the analysis of a disqualifying felony offense. The law went in effect Aug. 28, 2023, after the application period for microbusiness licenses ended; however, DCR is not authorized to access federal criminal background information using this new law until approved to do so by the Federal Bureau of Investigation (FBI). DCR granted a variance for the July 27-Aug. 10, 2023, application period and anticipated receiving final approval from the FBI in Fall 2023. To date, DCR has not received FBI approval. Once received, DCR will provide licensees with further instructions on submission of fingerprints.

### ***Minimum Standards and Eligibility Verification (MSE)***

After licensure, all microbusiness licensees proceed through a verification process to ensure compliance with minimum standards for licensure, and that all licenses are majority owned and operated by eligible individuals. After the issuance of a microbusiness license, the department reviewed all documents and information provided to determine if additional supporting documentation was required of the licensee to confirm compliance with 19 CSR 100-1 and Article XIV. The department reached out to the designated contact for additional supporting documentation or information necessary for verification. Where necessary, additional documents were requested after the initial request, including reaching out to the designated contact or owners. Licensees were assigned a business license services specialist for direct communication that afforded the licensee an avenue for time-sensitive questions and ensure timely responses to information requests. Additionally, the specialists reached out to licensees by phone throughout the verification process to ensure licensees had a clear understanding of any requests, rules, expectations and deadlines.

During the MSE period, the department became aware of microbusiness licenses posted for sale and subsequently issued guidance Oct. 10, 2023, to remind licensees that a change of ownership of a microbusiness license may be subject to DCR review and approval prior to taking effect. Licensees and potential purchasers are required to complete the necessary steps outlined in 19 CSR 100-1.100(2) prior to transferring a license or making certain changes to ownership. License transfers and changes to ownership are completed through a business change application and may only be submitted after DCR issues its letter verifying the licensee passed MSE Review. Further, changes to ownership amounting to fifty percent (50%) or more may only be submitted after the licensee's facility has received approval to operate pursuant to 19 CSR 100-1.100(2)(C). Additionally, the department reiterated that microbusiness licenses must continue to be majority owned and operated by individuals who meet at least one of the eligibility qualifications outlined by 19 CSR 100-1.190(1)(B). Microbusiness licensees submitting a business change application involving a change to ownership must also include eligibility documentation for any new individual whose voting or financial interest will contribute to majority ownership. Unauthorized changes to ownership may result in penalties, including fines, suspension or revocation.

### **Chief Equity Officer Eligibility Review**

Per Article XIV Section 2.4(13), within 60 days of the issuance of microbusiness licenses, the CEO shall conduct a review of and certify that microbusiness licenses were awarded to eligible applicants. The review included verification of the following requirements for each licensee pursuant to Article XIV, Section 2.4(12):

- An entity may apply to the department for and obtain only one license to operate a marijuana microbusiness facility.
- An entity may not be an owner of more than one marijuana microbusiness facility license.
- An owner of a marijuana microbusiness facility may not also be an owner of another licensed marijuana facility or medical facility regulated under Article XIV.
- Microbusiness licenses shall be majority owned by individuals who each meet at least one of the eligibility criteria.

The CEO reviewed eligibility for the 48 issued microbusiness licenses. Majority owners are required to submit documents demonstrating eligibility for microbusiness facility ownership as outlined in 19 CSR 100-1.060(4)B. The review by the CEO included eligibility criteria documentation submitted during the application, as well as documentation requested during post-licensure MSE verification. The documents were reviewed to ensure they met the requirements outlined in 19 CSR 100-1.060(4)B and were sufficient to demonstrate eligibility for the criteria chosen. For individuals that chose more than one eligibility criteria, all criteria chosen were reviewed.

The review was completed Dec. 1, 2023, and the results are available at Cannabis.Mo.Gov. The report includes which eligibility criteria were claimed among the microbusiness licensees in the application process, as well as the number of applicants whose eligibility was certified and those whose eligibility was not certified.

#### **Review summary:**

- The CEO certified eligibility for 30 microbusiness wholesale licenses and seven microbusiness dispensary licenses.
- The CEO identified indications of ineligibility for two microbusiness wholesale licenses and nine microbusiness dispensary licenses.

Issues resulting in ineligibility included failure to provide adequate documentation to verify the majority owner met the eligibility criteria chosen at application, a disqualifying felony offense, and failure to provide documentation that the facility would be operated by eligible individuals as required pursuant to Section 2.4(12) of Article XIV.

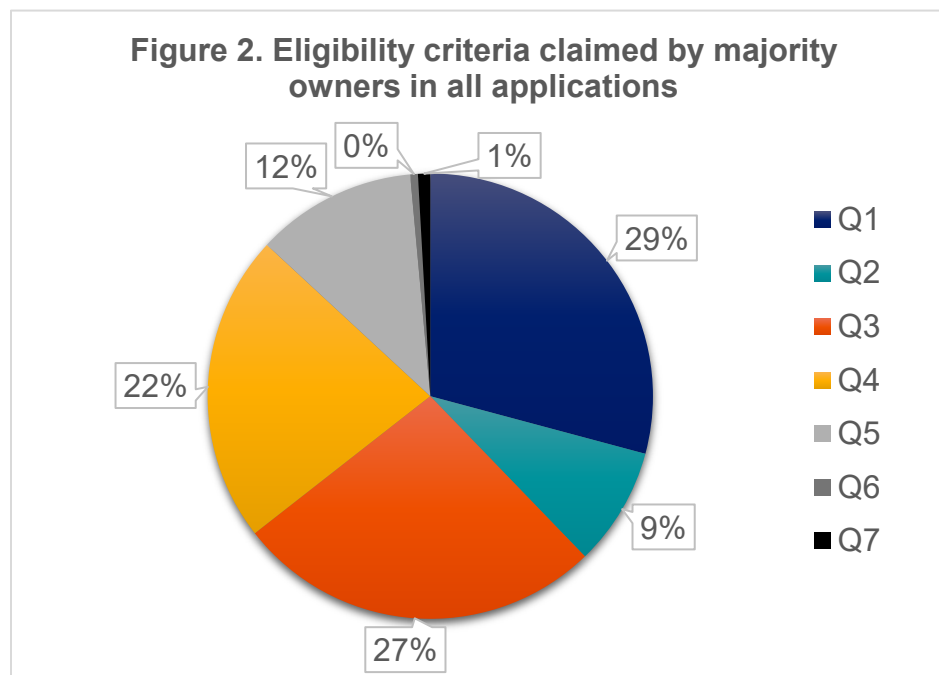
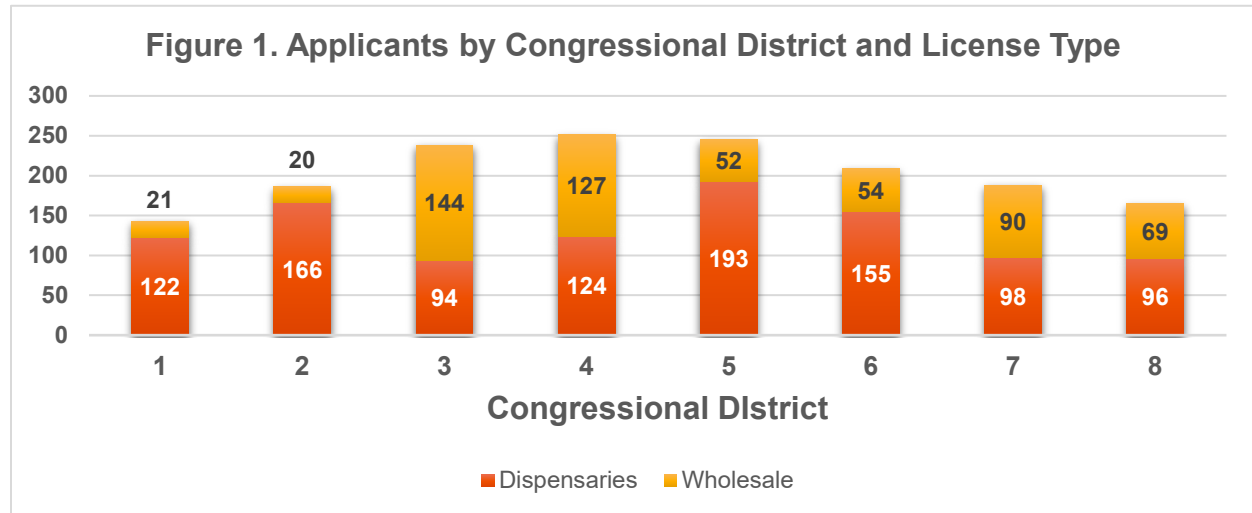
The 11 licenses that were not certified as eligible are subject to revocation. Notices of pending revocation were sent to these licensees and provided a 30-day response period, in accordance with Article XIV and 19 CSR 100-1, during which licensees may submit records or information demonstrating why the license should not be revoked. All revoked licenses will be added to the available licenses awarded in the next application period.



## Applicant Data

The aggregate data provided in this section is relevant to all applications received in the July 27-August 10, 2023, application period. For data specific to microbusiness licensees, please review the CEO Eligibility Review Results available at Cannabis.Mo.Gov.

Applications were accepted for the two types of microbusiness licenses: dispensary and wholesale. A microbusiness dispensary facility is licensed to engage in the process of dispensing marijuana product for medical or adult use. A microbusiness wholesale facility is licensed to engage in the process of cultivating and/or manufacturing marijuana product for medical or adult use. The Department received a total of 1,625 applications, with roughly two times the number of applications for dispensary licenses as for wholesale licenses.



Microbusiness licenses are required to be majority owned by individuals who each meet at least one of the eligibility criteria outlined in Article XIV, Section 2.4(12). Applicants were allowed to claim more than one eligibility criteria at application; however, it was not required. Figure 2 shows the eligibility criteria claimed by majority owners for all applications.

Refer to table 4 for eligibility criteria descriptions.



**Figure 3. Eligibility criteria claimed by congressional district**

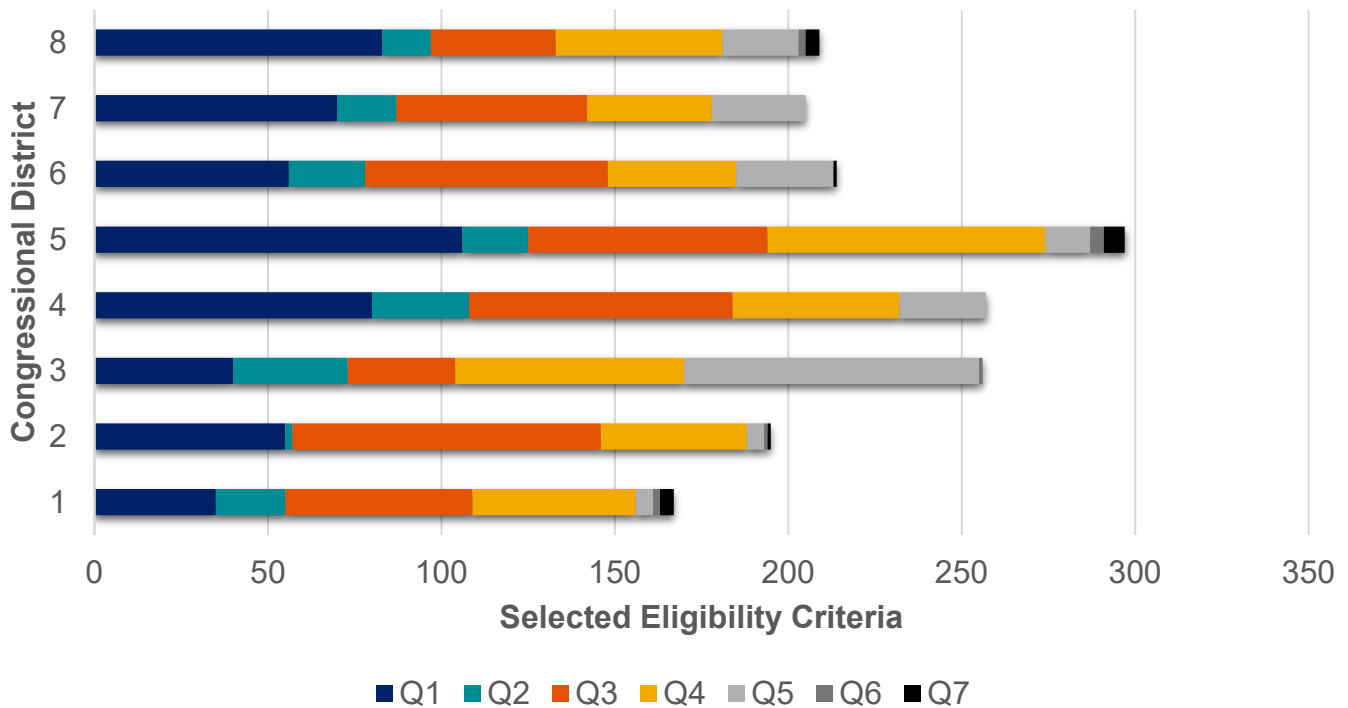


Figure 3 shows the eligibility criteria claimed by majority owners in each congressional district for all applications.

*Table 4. Eligibility criteria for majority owners pursuant to Article XIV.*

| Q1 | Applicants claiming a net worth of less than two hundred fifty thousand dollars (\$250,000) and low income.                                                                                                                                          |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Q2 | Applicants claiming a service-connected disability.                                                                                                                                                                                                  |
| Q3 | Applicants claiming an arrest, prosecution, or conviction for a non-violent marijuana offense.                                                                                                                                                       |
| Q4 | Applicants claiming residency in a ZIP code or census tract area where either thirty percent (30%) or more of the population lives below the federal poverty level or the rate of unemployment is fifty percent (50%) higher than the state average. |
| Q5 | Applicants claiming residency in a ZIP code or census tract area where the historic rate of incarceration for marijuana-related offenses is fifty percent (50%) higher than the rate for the entire state.                                           |
| Q6 | Applicants claiming graduation from a school district that was unaccredited, or had a similar successor designation, at the time of graduation.                                                                                                      |
| Q7 | Applicants claiming residency in a ZIP code containing an unaccredited school district, or similar successor designation for three (3) of the past five (5) years.                                                                                   |

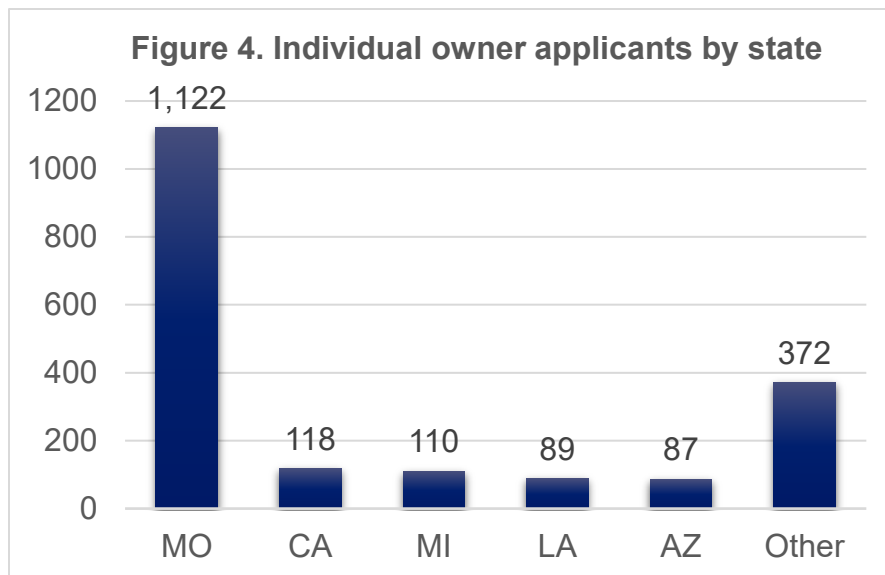


Figure 4 shows the distribution by state for individuals identified as owners within applications. The “other” column includes states with 43 or fewer owners appearing in any application. Per Article XIV, Section 2.2(21), owner is defined as an individual who has a financial (other than a security interest, lien, or encumbrance) or voting interest in 10% or greater of a marijuana facility. By law, applicants were permitted to have owners from different states within one application.

Applicants were required to provide a designated contact within their application to serve as the authorized point of contact for all department communications regarding the application and license. The designated contact is not required to be an individual in the ownership structure. Licensees may use an attorney, consultant or other responsible individual as a designated contact.

**Designated contacts for all applications include:**

- 729 designated contacts submitted 1,625 applications
  - 683 designated contacts only submitted one application (42% of applications)
  - 46 different designated contacts submitted 942 applications (58% of applications)
    - One designated contact submitted 437 applications (27% of applications)
    - One designated contact submitted 152 applications (9% of applications)
    - One designated contact submitted 104 applications (6% of applications)

At time of application, applicants were only required to provide a *proposed* facility location, establishing a lower barrier of entry for applicants than requiring them to possess and control a facility location. As locations were only proposed locations, using the same proposed address among different applicants was not against the rules. Pursuant to 19 CSR 100-1.030(3), licensees will be required to demonstrate that the proposed location meets the requirements of the rule, including sharing space with other licensees. Changes to location or requests to share space can be accomplished through a business change request.

Of the 1,625 applications submitted, there were 579 unique facility locations listed. Of those, 439 locations only appeared on one application, and 140 locations appeared on more than one application (duplicates). Duplicate facility locations were submitted on 1,186 applications, or 73% of all applications submitted. One location appeared on 104 submitted applications, and seven additional locations appeared on more than 50 applications.

*Table 5. Synopsis of proposed facility locations*

| Number of applications | Proposed facility locations                                            |
|------------------------|------------------------------------------------------------------------|
| 579                    | Different or unique facility locations listed across all applications  |
| 1186                   | Facility locations that appeared on multiple applications (duplicates) |
| 439                    | Facility location only appeared on one individual application          |

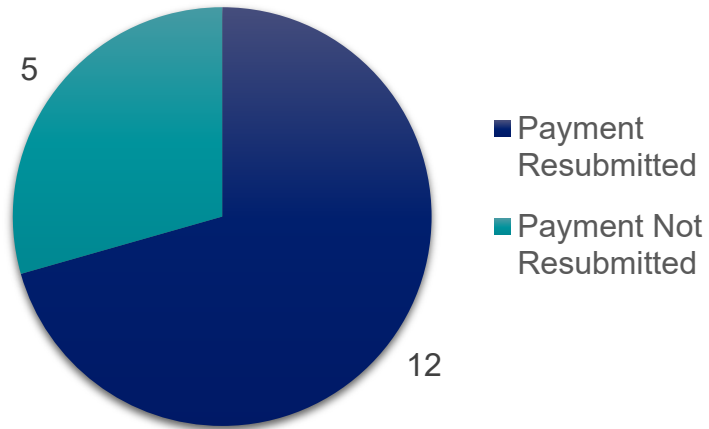
## Fees and Refunds

Pursuant to 19 CSR 100-1.060(6)(A)1, all timely applications submitted with an application fee during an application period will be entered into the lottery. Untimely applications or applications without an application fee will be denied.

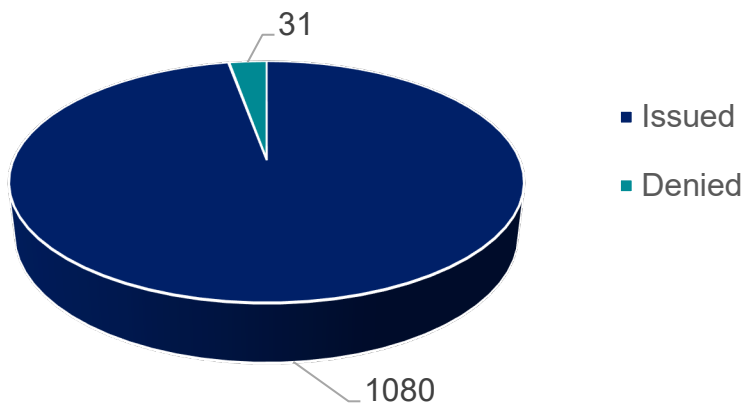
Applicants whose initial payments could not be completed were notified and given a deadline to remit payment a second time. Only five applicants failed to remit an application fee after notification of incomplete payment.

Pursuant to Article XIV, Section 2.4(12) and 19 CSR 100-1.060(2)(C)2, qualifying applicants not chosen by lottery are eligible for a refund if the applicant certifies it met the criteria to apply for a license and has no pending or future litigation. Applicants that were denied for failing to meet application requirements are not eligible for a refund. Applicants appealing the denial of an application are not eligible for a refund until the appeal has been resolved or dismissed.

**Figure 5. Returned payments**



**Figure 6. Refund requests as of Dec. 21, 2023**



Refunds must be requested by submitting the Microbusiness Application Refund Request form that was posted to Cannabis.Mo.Gov on Nov. 1, 2023, with a tutorial video to assist applicants in providing their request to the department. The department began accepting refund requests Nov. 2, 2023. Per CSR 19 CSR 100-1.060(2)(C)2, applicants have until April 2, 2024, to request a refund.

## **Future Microbusiness Rounds**

Licenses issued Oct. 2, 2023, were the first of three separate rounds of microbusiness licenses to be awarded, per Article XIV, Section 2. The department is required to issue a minimum of 144 licenses; 48 dispensary and 96 wholesale licenses evenly dispersed among Missouri's eight congressional districts.

The OBO will host a variety of education and outreach events leading up to each application period. All current information regarding outreach events, application resources and microbusiness licensing may be found at Cannabis.Mo.Gov.

The application period for the second round is tentatively set to begin towards the end of March 2024, with licenses being issued in July. Per Article XIV, Section 2, the third round of licenses may not be issued prior to March 2025.

Respectfully Submitted,

*Abigail Vivas,*

Chief Equity Officer  
Office of Business Opportunity  
Division of Cannabis Regulation  
Missouri Department of Health and Senior Services