

Medical Marijuana Licensing Performance Audit

July 2013

Office of the Auditor
Audit Services Division
City and County of Denver



Dennis J. Gallagher
Auditor

The Auditor of the City and County of Denver is independently elected by the citizens of Denver. He is responsible for examining and evaluating the operations of City agencies for the purpose of ensuring the proper and efficient use of City resources and providing other audit services and information to City Council, the Mayor and the public to improve all aspects of Denver's government. He also chairs the City's Audit Committee.

The Audit Committee is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities of the integrity of the City's finances and operations, including the integrity of the City's financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of City operations, thereby enhancing citizen confidence and avoiding any appearance of a conflict of interest.

Audit Committee

Dennis Gallagher, Chair
Maurice Goodgaine
Leslie Mitchell
Rudolfo Payan

Robert Bishop
Jeffrey Hart
Timothy O'Brien, Vice-Chair

Audit Staff

John Carlson, Deputy Director, JD, MBA, CIA, CRMA
Chris Wedor, Internal Audit Supervisor, MBA
Nancy Howe, Lead Internal Auditor, MPA, CRMA
Manijeh Taherynia, Senior Internal Auditor, CPA, CFE, CRMA
Katja Freeman, Senior Internal Auditor, MA, MELP

You can obtain copies of this report by contacting us at:



Office of the Auditor

201 West Colfax Avenue, Department 705 ♦ Denver CO, 80202

(720) 913-5000 ♦ Fax (720) 913-5247

Or download and view an electronic copy by visiting our website at:

www.denvergov.org/auditor



City and County of Denver

201 West Colfax Avenue, Department 705 • Denver, Colorado 80202 • 720-913-5000 •
FAX 720-913-5247 • www.denvergov.org/auditor

Dennis J. Gallagher

Auditor

July 18, 2013

Mr. Tom Downey, Director
Department of Excise and Licenses
City and County of Denver

Dear Mr. Downey:

Attached is our performance audit of the City's medical marijuana licensing process. The purpose of the audit was to assess the policies and practices of the Department of Excise and Licenses' (Department's) medical marijuana operations focusing on the associated processes and controls and their efficiency and effectiveness. This audit also included reviewing recommendations for follow-up from our August 2010 Department of Excise and Licenses Performance Audit.

I would first like to commend you and your team for their complete cooperation and openness during this audit. You and your team provided my audit team with full access to information and systems allowing for a timely audit. His cooperation is extremely appreciated.

With that said, our audit team found that the Department lacks an integrated control framework for licensing medical marijuana businesses. This lack of sound controls governing a business process that generates significant revenue is of grave concern to me. It is my sincere hope that you and your team will dedicate a good faith effort in addressing the issues identified through this report. This becomes even more important as Colorado enters a new era as it begins the regulation of lawful retail marijuana operations.

If you have any questions, please call Kip Memmott, Director of Audit Services, at 720-913-5000.

Sincerely,

Dennis J. Gallagher
Auditor

cc: Honorable Michael Hancock, Mayor
Honorable Members of City Council
Members of Audit Committee

To promote open, accountable, efficient and effective government by performing impartial reviews and other audit services that provide objective and useful information to improve decision making by management and the people. We will monitor and report on recommendations and progress towards their implementation.

Ms. Cary Kennedy, Deputy Mayor, Chief Financial Officer
Ms. Janice Sinden, Chief of Staff
Ms. Stephanie O'Malley, Deputy Chief of Staff
Ms. Beth Machann, Controller
Mr. Doug Friednash, City Attorney
Ms. Janna Young, City Council Executive Staff Director
Mr. L. Michael Henry, Staff Director, Board of Ethics
Ms. Judy Steele, Deputy Director, Department of Excise and Licenses

*To promote open, accountable, efficient and effective government by performing impartial reviews and other audit services that provide objective and useful information to improve decision making by management and the people.
We will monitor and report on recommendations and progress towards their implementation.*



City and County of Denver

201 West Colfax Avenue, Department 705 • Denver, Colorado 80202 • 720-913-5000
FAX 720-913-5247 • www.denvergov.org/auditor

Dennis J. Gallagher
Auditor

AUDITOR'S REPORT

We have completed an audit of the City's medical marijuana licensing process. The purpose of the audit was to assess the effectiveness and efficiency of the Department of Excise and Licenses' (Department's) medical marijuana licensing practices. This audit also included reviewing recommendations for follow-up from our August 2010 Department of Excise and Licenses Performance Audit.

This performance audit is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, *General Powers and Duties of Auditor*, and was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit found that the Department's medical marijuana licensing practices are inefficient and ineffective subjecting the City to high risk in a number of areas mentioned in this enclosed report.

I would like to commend and thank Mr. Downey and his team for the full cooperation and openness during this engagement. His team provided timely data and access to all information systems allowing the audit team to complete their work in a timely manner

Audit Services Division

Kip Memmott, MA, CGAP, CRMA
Director of Audit Services

To promote open, accountable, efficient and effective government by performing impartial reviews and other audit services that provide objective and useful information to improve decision making by management and the people. We will monitor and report on recommendations and progress towards their implementation.

REPORT HIGHLIGHTS



Medical Marijuana Licensing Performance Audit July 2013

The audit reviewed the City's medical marijuana licensing process, as administered by the Department of Excise and Licenses, including evaluating internal controls.

Background

In 2000, Colorado voters approved constitutional Amendment 20, which legalized the medical use of marijuana by patients suffering from certain debilitating medical conditions. After the amendment took effect in July 2001, medical marijuana dispensaries began opening, but it was not until 2010 that the state legislature passed the Colorado Medical Marijuana Code to regulate the industry.

Under a system of dual licensure, medical marijuana businesses must obtain a state and local license. The Department of Excise and Licenses handles the City's medical marijuana program and all related application, licensing, and renewal processes. The Denver Revised Municipal Code allows the City to collect application fees, license fees, and City sales tax from medical marijuana businesses.

Purpose

The purpose of the audit was to assess the policies and practices of the Department of Excise and Licenses' medical marijuana licensing operations focusing on the associated processes and controls and their efficiency and effectiveness.

Highlights

The audit found that the Department of Excise and Licenses (Department) does not have a basic control framework in place for effective governance of the City's medical marijuana program. Seven key issues emerged from the audit findings:

1. The City's medical marijuana records and data are incomplete, inaccurate, and at times inaccessible
2. The Department lacks formal policies and procedures to govern the medical marijuana business licensure process
3. The coordination between the City and the state for dual medical marijuana licensure has been poor
4. Deadlines are either not established or not enforced for key steps in the medical marijuana licensure process
5. The medical marijuana licensure process lacks management oversight, adequate staffing, and proper segregation of duties
6. The medical marijuana licensure fee was established arbitrarily
7. Key information has not been kept up-to-date as medical marijuana policies have evolved

The Department's lack of follow-up on license applications, and in conjunction with State law, has allowed some medical marijuana businesses to operate in the City without a valid City license. Further, the Department does not know how many medical marijuana businesses are operating in Denver. Since recreational marijuana will be legal in the state effective January 2014 as a result of Amendment 64, it is critical that the City develop and implement a robust system for regulating marijuana-related businesses before the current problems are exacerbated by a new surge of recreational marijuana license applications.

TABLE OF CONTENTS



EXECUTIVE SUMMARY	1
The City's Medical Marijuana Licensing Practices are Inefficient and Ineffective	1
INTRODUCTION & BACKGROUND	5
SCOPE	9
OBJECTIVES	9
METHODOLOGY	9
FINDING	11
The City's Medical Marijuana Licensing Practices are Inefficient and Ineffective	11
RECOMMENDATIONS	31
APPENDIX A	33
Medical Marijuana Application and Licensing Process	33
AGENCY RESPONSE	34

EXECUTIVE SUMMARY

The City's Medical Marijuana Licensing Practices are Inefficient and Ineffective

In 2000, Colorado voters approved Amendment 20, a constitutional amendment that legalized the medical use of marijuana. Amendment 20 removed state-level criminal penalties for the possession, use, or cultivation of medical marijuana by patients suffering from certain debilitating medical conditions. After the amendment took effect in July 2001, medical marijuana dispensaries began to open to serve patients and their primary caregivers. It was not until 2010 that the General Assembly passed the Colorado Medical Marijuana Code to regulate the industry. Under this code, medical marijuana businesses in Colorado are required to obtain both state and local licenses, although the law allows local governments to ban the establishment of medical marijuana businesses in their jurisdictions. The City and County of Denver did not elect to ban medical marijuana establishments.

Under the code, medical marijuana businesses must first obtain a license from the local licensing authority that governs the jurisdiction where the business is located and then obtain a license from the state. The City's Department of Excise and Licenses (Department) serves as the City's licensing authority for medical marijuana and is responsible for administering related application, licensing, and renewal processes. The Denver Revised Municipal Code (D.R.M.C.) allows the City to collect application fees, license fees, and City sales tax from medical marijuana businesses.

Governance of the City's Medical Marijuana Program

The main objective of our audit was to determine whether the process and controls governing medical marijuana licensing in the City are efficient and effective. Based on our review, we have determined that the Department does not have a basic control framework in place for the effective governance of the City's medical marijuana program. The root cause of the ineffective governance is based on the intentional decisions made by Department management faced with many competing priorities. When the Department came under new management in 2011, they made a deliberate policy decision to prioritize the overall needs of the Department. Many of the issues discussed in this report are the result of these decisions. Despite the fact that the Department has been aware of many of the problems with the medical marijuana program for at least three years, management has taken few or no steps to address them due to certain limiting factors, departmental constraints, staffing issues, and intentionally holding off on addressing known problems for specific department strategic reasons. This reluctance to address known problems is concerning because it suggests that the Department has not made it a high priority to address ongoing problems; some of which were identified in previous audit reports by the Auditor's Office.

Significant Issues Identified with the City's Medical Marijuana Program

The medical marijuana licensure process comprises three steps: application, licensing, and renewal. After evaluating this process linearly, seven distinct issues emerged, all of which have negative implications for the City and its citizenry.

The City's medical marijuana records and data are incomplete, inaccurate, unsecure, and at times inaccessible – During our review of the City's medical marijuana records and data, we determined that the information, both in paper files and stored electronically, is often incomplete, inaccurate, and difficult to access. Paper files are often incomplete, not date stamped upon receipt, inconsistent with the information stored in the Department's database, and not stored securely. Regarding the electronic data, we found that two different data systems are used to record application and license fee payment information, and these two systems do not interface for reconciliation purposes. System limitations prohibit a user from viewing all payments made by a medical marijuana business over the life of the business; the system only shows the most recent payment made. Finally, application status codes do not appear to be accurate or regularly updated.

As a result of these conditions, the Department cannot readily ensure that all required payments were made to the City by medical marijuana businesses. Further, without an accurate database, the Department cannot determine the up-to-date status of the City's medical marijuana business licenses and associated applications.

Lack of policies and procedures for licensure process – The Department lacks formal policies and procedures to govern the medical marijuana business licensure process. Quality control reviewers have no criteria by which to determine what renders an application incomplete or what supporting documentation is acceptable. After reviewing application materials, they do not document their conclusions regarding why applications are accepted or rejected. The license renewal process is even more informal. Licensees seeking renewal do not have to submit a new application; they merely verbally inform Department staff whether or not there have been any changes to the premises and are not subject to re-inspection to substantiate their claims.

Without scrutinizing licensees with formal criteria and proof of compliance, the City risks licensing or renewing medical marijuana businesses that are not in compliance with City requirements. It is also important for the City to be informed of changes to a medical marijuana business not only to ensure continued compliance with rules, but for substantive health and safety reasons.

Poor coordination between the City and the State – Although medical marijuana businesses are subject to a dual licensure requirement, the coordination between the City and the state has been poor. State rules require local approval prior to granting the state license. However, the Local Verification Form (LVF) that was developed to ensure this requirement is met is not used for this purpose. The City's completion of the LVF only confirms that the business has submitted a complete application and supporting documentation; it does not confirm that the applicant has been approved for licensure with the City. Further, the data maintained by the City and the state yield different

numbers of medical marijuana businesses operating in the City and County of Denver. The state's data indicates that there are 676 while the City's data indicates that there are 739. The fact that the state issues a one-year license while the City issues a two-year license further exacerbates poor coordination issues.

These discrepancies, which have not been reconciled, indicate that a number of businesses may be licensed with the City or the state but not with both. Although the LVF should provide a control over disparate information, it likely complicates matters further. Because the LVF is not being used as intended, the state could conceivably issue a license to a business entity that is subsequently denied licensure by the City. Under such a scenario, the business would be operating within the City with no mechanism in place to detect the erroneous licensure.

Deadlines are either not established or not enforced for key steps in the process –

Deadlines associated with the City's medical marijuana licensing process have not been established for some key steps in the process. Further, where deadlines have been established, they are not enforced. For example, applicants are required to undergo inspections for fire safety, zoning, environmental, and other regulatory matters. However, the City has not established a deadline by which an applicant must have all inspections completed. Further, the City has not set any sort of internal deadline by which it will follow up with businesses when their licenses have expired. Similarly, the City does not follow up with licensees to collect the second half of the fee for their two-year license.

As long as a medical marijuana business with a state license has submitted an application to the City before the state mandated deadline of July 1, 2010, it is allowed to operate indefinitely without a City license; it therefore has no incentive to schedule City inspections expediently. This condition not only allows applicants to operate without undergoing inspections, it allows them to defer paying the license fees associated with renewing their license. By not imposing deadlines, internally or externally, the City is also missing opportunities for timely revenue generation.

The licensure process completely lacks management oversight, adequate staffing resources and a proper segregation of duties – After the state began to require dual licensure for medical marijuana businesses and the City established a licensure program, only one person was assigned to perform all related activities.

The general workload volume, administration, and concern for internal controls with regard to medical marijuana operations is greater than what can reasonably be managed by one person. The failure to dedicate more resources to serving the hundreds of medical marijuana licensees operating in the City and County of Denver significantly inhibits the timely processing of MM license applications and renewals. Further, the City would lose a tremendous amount of institutional knowledge should this person leave the City.

The single employee who is dedicated to the medical marijuana program is responsible for making licensing decisions and fee adjustments, which are not subject to the oversight or scrutiny of a manager. Additionally, the Department does not reconcile the revenue collected for medical marijuana licenses to license-related activity recorded in the Department's data system.

Although another City department is involved in the collection of fee payments, this segregation of duties is so limited that auditors cannot reasonably say that sufficient controls are in place to ensure proper fee collection and reconciliation. This control weakness also significantly increases the risk for fraud and places the employee performing these activities in a very untenable and unfair position.

The medical marijuana licensure fee was established arbitrarily – The City did not establish any justifiable criteria to set the license fee. Rather, the license fee was established solely based on which type of City liquor license had the highest fee. At the time, that fee was for a cabaret license, which was \$3,000. No analysis was done to determine how much it would cost administratively to license medical marijuana businesses and the Department has not undertaken such analysis since then.

As a result, the Department does not know the extent to which the MM license fees cover the costs of administering the MM licensing function. Effectively, the license fee could either be too high or too low. As with other types of business licenses issued by the Department, the fee should reflect a reasonable balance between the costs to the city for administering the program and the needs of the business community from an equity and economic development perspective.

Key information has not been kept up to date as medical marijuana policies have evolved – Medical marijuana business applicants and licensees may experience difficulty finding up-to-date information about the licensure process in the City. We found conflicting information on the City's website regarding which documents are required for an application. Further, there is a form available for download off the website for a business license type that became invalid in 2012. Internally, not all forms are up-to-date either. For example, the template used as the inspection report of medical marijuana business premises was designed for dispensaries, which are now obsolete. Since the three new license types have slightly different requirements, the current template contains items that are no longer required.

Outdated, inaccurate information reduces the efficiency with which the City can serve license applicants, both initially and during the process. Further, the lack of clear, consistent and accurate information can negatively impact the city's public perception from a customer service perspective.

Implications Looking Forward

As evidenced by these substantive issue areas, the Department's current lack of follow-up on license applications, and in conjunction with State law, have allowed some medical marijuana businesses to operate in the City without a valid City license. The City does not know how many medical marijuana establishments are operating in Denver. Compounding the seriousness of these is the fact that Colorado voters recently adopted Amendment 64, legalizing the use of recreational marijuana in the state. It is therefore critical that the City develop and implement a robust system for regulating marijuana-related businesses before the current problems are exacerbated by a new surge of license applications for recreational use.

INTRODUCTION & BACKGROUND

The Department of Excise and Licenses

The City and County of Denver Charter establishes the Department of Excise and Licenses (Department).¹ The Department issues all licenses in accordance with City ordinances except for sales tax, motor vehicle, and building development licenses.² The objective of the Department is to evaluate the qualifications of all applicants and determine which licenses should be issued, renewed, or suspended according to the applicable law. The Department also collects license fees, conducts hearings to decide whether municipal codes have been violated, and serves as the City's licensing authority for:

- Business Licenses
- Cab Driver Licenses
- Liquor Licenses
- Medical Marijuana Licenses
- Merchant Guard Licenses
- Restaurant Licenses

The following briefly describes the major operating units within the Department:

Administration – Within the Department, Administration carries out key activities such as policy development and direction, establishment of Department goals and objectives, purchasing, contract management, public education and media relations, and financial management, including budgeting and accounting. Administration also reviews violations and disputes related to business and liquor licenses and issues final decisions on all licensing matters.

Licensing Program – The goal of the Department's Licensing Program is to process and perform final action on all pertinent applications, licenses, and renewals. It also handles the processing of all applications for liquor, special events, and cabaret licenses. All public hearings relative to the Department are scheduled and assigned hearing officers through the Licensing Program.

Code Enforcement Program – The Department's Code Enforcement Program inspects businesses to ensure compliance with City ordinances, investigates complaints, and administers ordinances related to commercial and residential security alarms. The Code Enforcement Program also issues fines and administrative citations to individuals and businesses that are not in compliance with City ordinances.

¹ Denver Charter, Subtitle B, Article II, Part 7.

² Sales tax licenses are administered by the Treasury Division; motor vehicle licensing is processed by the Office of the Clerk and Recorder; and building development licensure is administered by Community Planning and Development.

Colorado's Medical Marijuana Regulatory History

In 2000, Colorado voters approved Amendment 20, a constitutional amendment that legalized the medical use of marijuana for patients diagnosed with certain debilitating medical conditions. Although voters passed Amendment 20 in 2000, the General Assembly did not establish a comprehensive regulatory framework for medical marijuana for nearly a decade based in part on concerns about how a state system would operate under federal law.

Amendment 20 did not contemplate the possible existence of dispensaries but rather focused on requirements for patients to grow and cultivate medical marijuana themselves or obtain it from individuals called primary caregivers. In response to the subsequent surge of medical marijuana dispensary businesses within the state, the General Assembly passed the Colorado Medical Marijuana Code in 2010.³ The act established a system of statewide regulations governing the production and sale of marijuana for medical use. Federal law does not recognize the lawful use of marijuana for any purpose. Nonetheless, eighteen states and the District of Columbia have passed state laws legalizing the use of medical marijuana.

To strengthen the legal framework for Colorado's medical marijuana regulatory system, the General Assembly enacted a series of medical marijuana-related laws starting in 2001. The state Departments of Revenue and Public Health share responsibility for implementing the provisions of these laws. The most comprehensive legislation was passed during the 2010 legislative session.⁴

The state's Medical Marijuana Enforcement Division (MMED) is responsible for regulating and licensing businesses that cultivate, manufacture, distribute, and sell medical marijuana in Colorado. As of October 2012, medical marijuana businesses are categorized as follows:

- **Medical Marijuana Center.** A center, or MMC, formerly referred to as a Dispensary, is a retail business that sells patients medical marijuana or products infused with medical marijuana, such as edible products, ointments, pills, and tinctures. State statute also allows centers to sell up to six immature medical marijuana plants to patients.⁵ In addition, a center can sell immature plants to a primary caregiver, another center, or a medical marijuana-infused products manufacturer.⁶
- **Grow Operation.** A grow operation also known as an Optional Premises Cultivation Operation or OPC is a facility that grows and cultivates medical marijuana plants. A grow operation may be physically located adjacent to the

³ House Bill 10-1284.

⁴ House Bill 10-1284 and Senate Bill 10-109.

⁵ C.R.S. § 12-43.3-402 (3).

⁶ In the City and County of Denver, a Medical Marijuana Dispensary (MMD) was the only MM license before the state passed its regulations.

center with which it is affiliated or it may be in a different location and operate independently from the affiliated center.

- **Medical Marijuana-Infused Products.** A Medical Marijuana-Infused Products (MIPs) manufacturer is a business that manufactures products infused with marijuana, such as food or pills, which allow patients to consume marijuana other than by smoking it.

Medical marijuana businesses in Colorado are subject to a dual licensing process. State statute requires businesses first to obtain a license from the local authority that governs the jurisdiction where the business is located and then to obtain a license from the state.⁷ This means a business must first obtain a license from the City it operates within and then obtain their operating license from the State. State statute also allows applicants to request that MMED conduct a concurrent review of the state license application at the same time that the local authority is reviewing the local application.⁸ A flow chart showing the steps in the local licensing process for medical marijuana establishments in the City is contained in *Appendix A* of this report.

Accela Data Information System

The Department is in the process of deploying a new data information system, Accela, which is a web-based application designed to provide automated workflow for the Department's licensing and permitting processes. Accela will centrally maintain all licensing information related to a specific business regardless of the status of the license as it works its way through the process. According to Department personnel, Accela will have several significant features that will drastically improve the Department's licensing processes.

- Accela will interface with Community Planning and Development's enterprise cashiering system, which will allow live updates in Accela as license payments are made.
- Documents required for a business license will be scanned into Accela and become a part of the permit file in Accela. This will reduce the Department's need to maintain paper files.
- Multiple agencies will be able to view the status of a pending license. For example, if the Denver Police Department checks a bar for violation of selling liquor to an underage person, they will be able to easily check the status of the bar's liquor license in Accela. Similarly, the Treasury Division will be able to check pending business licenses to determine if a business is subject to sales, use, and other applicable municipal taxes and related licenses.
- An Accela add-on called Accela Mobile Office will allow access to the system for users working in the field. City inspectors, including the Department's, will be receiving laptop tablets to access Accela Mobile Office and record and track

⁷ C.R.S. § 12-43.3-310 (2).

⁸ C.R.S. § 12-43.3-302 (5) (a).

their inspection activities electronically. Other agencies may also access Accela through this application.

However, as of June 2013, there are significant delays in the implementation of Accela with no target date for final implementation.

Medical Marijuana-Generated Revenue

The Denver Revised Municipal Code (D.R.M.C.) allows the City to collect application fees, license fees, and City sales tax from medical marijuana businesses.

For the opportunity to own and operate a medical marijuana business in the City and County of Denver, licensees must pay these fees and taxes. The revenue generated from medical marijuana is substantial and provides a steady revenue source for the City. Table 1 summarizes the revenue generated from medical marijuana for the years 2010 through 2013.

**Table 1
City Revenue Generated from Medical Marijuana**

Revenue Source	Year				Totals by Revenue Type
	2010	2011	2012	2013	
Sales Tax Licenses*	\$31,740	N/A	\$12,745	N/A	\$44,485
MM Sales Tax Remitted to City	\$1,801,591	\$2,796,500	\$4,659,167	***	\$9,257,258
MM Business Licenses**	\$2,340,312	\$1,195,765	\$2,628,202	\$654,327	\$6,818,606
Totals by Year	\$4,173,643	\$3,992,265	\$7,300,114	\$654,327	\$16,120,349

*City sales tax licenses are valid for a two-year period beginning with even numbered years. These fees must be paid in advance, so the total reported in 2010 represents the period 2010-2011, and the total reported in 2012 represents the period 2012-2013.

**MM business license revenue totals include MM license application fees, which cannot be separated from application fees for other types of licenses.

SCOPE

This audit assessed policies and practices of the Department's medical marijuana operations focusing on the associated processes and controls and their efficiency and effectiveness. The audit also included reviewing recommendations for follow-up from our August 2010 Department of Excise and Licenses Performance Audit.

OBJECTIVES

The objectives of this audit were to:

- Determine whether the process and controls governing the medical marijuana licensing process are efficient and effective
- Review the medical marijuana process for excessive control risks
- Assess whether the Department is complying with state and local governance requirements as it relates to medical marijuana
- Analyze the medical marijuana application process for efficiency and compliance
- Evaluate cash handling procedures related to the medical marijuana licensing process
- Assess the Department's policies and controls as they relate to medical marijuana

METHODOLOGY

Audit methodologies included, but were not limited to:

- Reviewing policies and practices of the Department with regard to medical marijuana
- Interviewing Department staff to obtain an understanding of the medical marijuana licensing process and associated controls
- Reviewing related audits, both previous Audit Services Division audits and audits conducted by other organizations
- Analyzing all medical marijuana-related electronic data for compliance and efficiencies
- Examining all medical marijuana-related paper files for compliance
- Evaluating medical marijuana practices against any relevant standards
- Testing various controls for compliance with current requirements and regulations
- As described below, the team used a general accepted framework as a core criterion for testing the Department's internal control environment

Internal Control Framework as a Method of Risk Management

The Committee of Sponsoring Organizations of the Treadway Commission (COSO) is a joint initiative of the five private sector organizations dedicated to providing leadership through the development of frameworks and guidance on risk management, internal control, and fraud deterrence.⁹ Although COSO's guidance is directed at the private sector to allow all private organizations to compare to one another equally and objectively, the framework principles can be applied to any organization looking to establish a sound control framework.

COSO's first *Internal Control-Integrated Framework (Framework)* was first published in 1992 and is recognized as leading guidance for designing, implementing, and conducting internal control and assessing its effectiveness. The updated 2013 *Framework* is expected to help organizations design and implement internal controls in light of many changes in business and operating environments since the issuance of the original *Framework*, broaden the application of internal control in addressing operations and reporting objectives, and clarify the requirements for determining what constitutes effective internal control. Figure 1 depicts an example control framework and the rationale for the proper function of the framework.

Figure 1
Example of a Control Framework



Source: www.coso.org

⁹ See www.coso.org.

FINDING

The City’s Medical Marijuana Licensing Practices are Inefficient and Ineffective

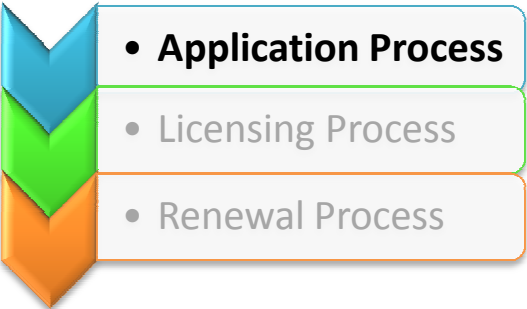
The Department of Excise and Licenses (Department) should develop and implement a sound governance and regulatory framework for its medical marijuana (MM) licensing process to ensure that its controls are properly functioning and that the Department can provide up-to-date information to key stakeholders. Currently, the MM licensing process poses significant risks to the City due to the absence of any control framework. Additionally, in light of the recent passage of Amendment 64, which legalizes recreational use of marijuana in Colorado, a control framework for MM should be established and fully operational before new regulations and licenses are issued for recreational marijuana use to avoid similar control weaknesses and related risks.

The root cause of the ineffective governance is based on the intentional decisions made by Department management faced with many competing priorities. When the Department came under new management in 2011, they made a deliberate policy decision to prioritize the overall needs of the Department. Many of the issues discussed in this report are the result of these decisions. Despite the fact that the Department has been aware of many of the problems with the medical marijuana program for at least three years, management has taken few or no steps to address them due to certain limiting factors, departmental constraints, staffing issues and intentionally holding off on addressing known problems for specific department strategic reasons. This reluctance to address known problems is concerning because it suggests that the Department has not made it a high priority to address ongoing problems, some of which were identified in previous audit reports by the Auditor’s Office.

Despite the weaknesses identified, the audit team is not stipulating that there have been any instances of wrong doing or fraud in any processes mentioned in this report. Rather, we cannot provide reasonable assurance to the contrary due to the lack of controls, monitoring activities, and a basic internal control framework for the processes related to the City’s MM licensing operations. We have identified weaknesses resulting from the lack of an internal control framework in the three distinct areas of the process: application process, licensing process, and renewal process.

Medical Marijuana License Application Process

During the MM business licensure application process, there are a number of steps involved where applicants interface with City personnel who gather important information and collect fees. Steps in the



process include applicants submitting applications and supporting documentation to the Department, Department staff completing an application checklist, the applicant making a license fee payment, and Department staff entering data into a database. The individual steps in the process are depicted in greater detail in Appendix A.

Based on the Department's lack of internal controls around the MM program, we observed a number of weaknesses in the license application process that affect both the Department's ability to operate using accurate, reliable information and its ability to provide high quality customer service to external stakeholders, including business license applicants. First, we found that many steps in the process are performed by one person, who is not being provided with a level of oversight appropriate for the associated licensing activities and decisions. Second, applicants are not being provided with the highest possible level of customer service from the City. Specifically, the fee that MM licensees must pay was established without any sort of cost analysis to determine the proper amount, and information on the Department's website regarding the MM licensure process is incomplete, inconsistent, and at times outdated. Third, the program's records and data are incomplete, inaccurate, and at times inaccessible. Instituting a proper internal control framework would help the Department remedy these challenges.

The Licensure Process Completely Lacks Management Oversight, Adequate Staffing Resources and a Proper Segregation of Duties– MM licensure processes are handled almost exclusively by one individual, and there is very limited oversight of this person's work and decisions. This staff member has been involved from the beginning of MM licensing and willingly took on the responsibilities associated with processing MM license applications in addition to other work duties. Over time, as Department staff turned over, this employee has become the MM subject matter expert. We found this employee to be very knowledgeable and capable. However, there are no documented policies and procedures related to licensing processes handled by this individual.

Despite the staff member's demonstrated willingness and experience, the general workload volume and administration with regard to MM operations is greater than what can reasonably be managed by one person. Licensing Technicians in the Department are unable to assist in processing MM business licenses because the Department has not provided cross-training and appropriate staffing resources. This lack of resources may inhibit the timely processing of MM license applications, increasing the time that applicants must wait to begin operating. An even greater risk is posed by the fact that licensing decisions are made by this individual, and decisions and supporting documentation are not reviewed or signed off by Department management to ensure that only qualified businesses are granted an MM license. Further, because no cross-training has been provided, if the staff member responsible for MM application processing were to leave the City, the Department would lose a tremendous amount of institutional knowledge.

Some Department Website Information is Inconsistent, Incomplete, and Outdated – MM business license applicants submit their applications and the required supporting documents in person to the Department’s front counter. Aside from any inquiries made in person or by phone, the Department website is the main source of information about the application and licensing process, where applicants would seek regulatory updates, links to the applicable sections of the Denver Revised Municipal Code, types of licenses granted, an application and other forms, fee types and amounts, and a list of required documents. After reviewing the MM sections on the Department’s website, the audit team determined that it lacks thorough, consistent, complete, and up-to-date information to guide applicants. For example, the subsection titled “Required Documents” under “Applying for a New License” states that depending on the license type, different documents may be required and directs applicants to revisit the website for updated information and the required documents. However, a document titled “MME Licensing Procedures,” available on the same webpage, provides a list of the required documents.¹⁰ This list does not specify the type of license for which each document is required. In addition, it does not contain the three additional documents that are required for medical marijuana centers (MMC), which are a sales tax license, surety bond, and affidavit of lawful presence.

The Department’s website lacks up-to-date information for customers seeking information on medical marijuana licensure

Additionally, our review found that a form titled “MME Modification of Premises” available through a hyperlink on the Department’s website is outdated. This form was designed for MM dispensaries, an MM business license type that became invalid effective July 1, 2012, when MM dispensaries were replaced by MM centers.¹¹ The form is required from any MM business to communicate changes, modifications, or alterations to the business premises defined in the rules.¹²

Further, there is no formal method established to document compliance with the requirement that landlords approve the use of leased properties for MM business operations. Both City and state rules require an applicant to obtain the landlord’s consent when seeking to operate an MM business at a leased property and to submit proof of such consent with the application packet. Our testing of a sample of application files showed that there is no consistency in how the required consent is documented. In three instances, the adequacy of the consents appeared questionable due to inconsistent document compliance outline by the Department.

¹⁰ MME stands for medical marijuana establishment consisting of any type of MM business including MMC, OPC, and MIP.

¹¹ D.R.M.C., §24-503 (b).

¹² D.R.M.C., §24-512 provides that any modification of the premises shall be governed by the standards and procedures set forth in the state rules and any regulations adopted pursuant thereto. Colorado Medical Marijuana Enforcement Division Rules, §16-115, holds that any alteration or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license is subject to prior written consent of the local and state licensing authorities.

Without clear, consistent, and up-to-date information, MM applicants cannot easily navigate the MM application process, and the Department is at risk of collecting inaccurate and incomplete information from applicants. Accordingly, the Department should update its website and ensure the content and the forms provided to applicants are consistent, complete, and updated. Further, the Department should develop a formal method for collecting landlord consent from applicants seeking to operate on leased properties. Use of the formal method should be mandated unless a leasing contract contains a designated area for documentation of the landlord's consent and is properly executed.

Not all Applications Have Date Stamps – Although the Department does not have formalized and written MM application procedures, Department personnel indicated that they stamp MM applications with the date and time received. To confirm the reliability of this activity, the audit team reviewed a sample of MM application files. Of the forty-one files, nineteen (46 percent) applications were not date stamped. Additionally, the date stamp is not consistently used as the application date. A date stamp is the most accurate record of when the application was received by the Department. Accordingly, the Department should consistently date stamp each MM application and use this date as the application date to be entered into the system. Date stamping provides assurance to the arrival date of the application for administrative purposes.

License Fee Amount Was Set with No Cost Analysis – Department management reported that when the City implemented the MM licensing process, the amount of the license fee was established based on the type of liquor license with the highest fee. In other words, the highest liquor license fee at the time was for a cabaret license, which was \$3,000, and the City arbitrarily used that amount to set the MM license fee.¹³ The Department was not asked to and did not conduct any analysis at the time to determine the costs

No cost analysis of medical marijuana licenses was completed. Rather, it was arbitrarily established based on the highest liquor license fee

associated with licensing MM businesses and has not undertaken such analysis since then. As a result, the Department does not know the extent to which the MM license fees cover the costs of administering the MM licensing function.

If the costs of licensing MM businesses are not covered by the licensing fees, then the City's taxpayers are essentially subsidizing the City's activities undertaken to license

MM businesses. Although City code does not require that the Department cover the costs of the City's MM licensing function, doing so might provide taxpayers with more assurance that the City has developed a robust regulatory program regarding MM, and that MM businesses are bearing the costs of the program. Conversely, if the fee amount exceeds costs for administering the program, the city is at risk of being perceived as inequitably using an unjustified high fee to raise revenues for other non-related purposes.

¹³ A Cabaret license is a type of liquor license a business can obtain in the City and County of Denver.

As a result, we recommend that the Department conduct an analysis to determine the cost of the MM licensing function and ensure that MM license fees are adequate to cover the costs associated with running the program. In addition to the costs borne by the Department, this analysis should include the costs absorbed by other City agencies, such as the costs associated with inspections conducted by other City agencies as part of the licensing process.

Weaknesses in the Payment Process Make Oversight and Reconciliation Critical – Audit work identified several weaknesses in the MM license fee payment process. First, two different data systems are used to record payment information, and those two systems do not interface. Additionally, audit work revealed very limited segregation of duties and oversight related to the payment of MM license-related fees. Finally, we determined that the Department does not reconcile the revenue collected for MM licenses to license-related activity recorded in the Department's "Production" data system, such as number of licenses issued and changes made to existing applications and licenses that require a fee payment.¹⁴ This issue was noted in our Department of Excise and Licenses Performance Audit released in August 2010 related to other types of licenses.

There is very limited segregation of duties and oversight related to the payment of MM license-related

When the City's MM licensing process was first established, Department personnel directly collected MM license payments, which were primarily made in cash. The Department discontinued this practice, and applicants are now directed to the City's Community Planning and Development cashier to pay applicable fees. Having an entity external to the Department collect license payments enhances segregation of duties. This segregation could be sufficient if the cashier's data system interfaced with Production because fee payments recorded by the cashier would automatically feed into Production. However, the cashier's data system does not interface with Production, so payment information must be manually recorded by Department staff. The same staff also has the ability to issue licenses.

After verifying that all MM license application documents are provided, Department staff prints two copies of a voucher. The applicant takes both copies with his or her payment to the cashier. Upon payment, the cashier keeps one copy and the applicant returns to the Department with the other copy of the voucher validated by the cash register as proof of payment. The applicant shows this copy of the voucher to Department staff, who then enters the payment and receipt number into Production. The Department does not keep this copy of the voucher; the applicant takes it as the receipt of payment. However, the cashier returns the other copy of the voucher to the Department at the end of each day for placement in the applicant's paper file.

The vouchers returned from the cashier could help verify an applicant's payment, but such reconciliation is not performed. Department management does perform some

¹⁴ The Department's Production system consists of an Oracle® database that was customized for the Department's general licensing needs in March 2004.

reconciliation activities but they involve comparing data from the cashier, which is fed into PeopleSoft and data from a PeopleSoft report. This means the reconciliation utilizes the same data source, rendering it useless.

Our testing showed that of the forty-one files we reviewed, eleven (27 percent) lacked proof of all payments. In some files, we found copies of vouchers that were not stamped by the cashier. Vouchers merely show the payment due; without the cashier's stamp, they do not provide proof of payment. As a result, there is no assurance that the payment was actually made. Because marijuana is still illegal at the federal level, the federal government does not allow MM businesses to have a bank account.¹⁵ Department staff reported that some MM businesses pay with a check, but MM is still largely a cash-based business. Regardless of the method with which applicants pay the

Audit testing found that 27% of MM files that were reviewed lacked any proof of payment.

cashier, the Department should have a procedure in place to document that fees are consistently paid to the cashier.

More specifically, because of insufficient segregation and the lack of an interface between the two systems, it is critical that the Department provide oversight review of

these steps in the licensing process. For example, Department management could use proof of payment from the cashier to verify that all payments are made and accurately recorded in the Department's data system. Without review, reconciliation, or other compensating controls—all of which would be present in an internal control framework—the Department runs a risk that:

- Licenses could be issued without payment of the fees due
- Application and license fees could be waived inappropriately
- Application and license fee dollars could be diverted or stolen
- In addition to issues identified with fee payments, we also found problems with fee refunds. License fees are refundable upon the applicant's written request, should an application be denied, for example. In such an instance, the applicant can reclaim the \$3,000 license fee.¹⁶ Audit inquiries showed that the refunded amount is not recorded in the Department's system. Rather, Department personnel note the refund in the remarks box, or notes section, of the applicant's record in the Department's "Production" data system.¹⁷ Information contained in the remarks sections of MM records cannot be queried and thus information regarding refunds cannot be systematically reviewed. This inhibits the Department's ability to reconcile refund information to ensure all refunds that were paid were appropriate.

¹⁵ Federal law prohibits banking institutions from providing banking services to business that operate business deemed illegal with regard to illegal substances.

¹⁶ The application fee of \$2,000 is nonrefundable.

¹⁷ Department personnel list all application and licensing activities related to an MM business in a free-hand comment box titled "Remarks" in Production.

Data in the Department's Database is Unreliable – The Department's database, referred to as "Production," consists of an Oracle® database that was customized for the Department's general licensing needs in March 2004, and is also used for MM business licensing. Audit review of Production data and inquiries of Department personnel indicated that due to the issues described below, MM business data in the Production system is incomplete and unreliable. Further, the Department is expecting a new data system, Accela, will provide a panacea to the issues pertaining to all Excise and Licenses data. As it stands, the current data would not assist the Department if the current data is migrated into Accela.

Production Allows User to View Only the Most Recent Payments Made on a License – To obtain and maintain an MM license, a business must generally make multiple payments through the life of the business. Specifically, after paying the initial application and licensing fees, an MM business applicant will at a minimum be required to pay license renewal fees. Furthermore, certain events such as modifications and alterations of the business premises, transfer of ownership, and location changes are subject to additional fees. Audit review of Production data showed that Department personnel list all application and licensing activities related to an MM business in a free-hand comment box titled "the Remarks section in the system. However, only the payment information related to the most recent payment including amount paid and cashier receipt number can be viewed in Production. Also, any report generated from the system only shows this payment. As an example, auditors reviewed the notes in the aforementioned comment box for an MM business.¹⁸ The notes showed that the business first applied for a medical marijuana dispensary (MMD) license in early 2010.¹⁹ In accordance with the City rules, a \$2,000 application fee and a \$3,000 license fee was due at the time of application.²⁰ The notes also indicated a subsequent transfer of ownership. This event would require payment in the amount of \$100, according to the City rules.²¹ Based on the same notes, the business later applied for a medical marijuana center (MMC) license.²² The Department issued the business an MMC license valid for three months and later for another six months, which required payments of \$750 and \$1,500 in licensing fees, respectively.²³ The last activity noted for the aforementioned MMC was renewal of the MMC license for two years. This license renewal required a payment in the amount of \$3,000 to obtain a two-year license.²⁴ Although all of the aforementioned fees were due and presumably paid by the MMC in question, the only payment information that can be viewed in Production is \$3,000 relating to the most recent license renewal.

¹⁸ For clarity, some of the activities noted in the comment box are excluded from the example provided.

¹⁹ Prior to development of the first set of state rules in 2010, the City only granted MMD licenses in accordance with the provisions of D.R.M.C. Chapter 24, Article XI.

²⁰ D.R.M.C., §32-93.

²¹ *Ibid.*

²² D.R.M.C., §24-503 (b) contains provisions related to final expiration date for MMD licenses as June 30, 2012.

²³ The Department initially issued many new MMC licenses for partial years. According to Department personnel, this was because the Department was waiting to receive a state license so it could match the expiration date of the City license with the expiration date on the state license. Therefore, the Department only charged one fourth of the license fees of \$3,000, equaling \$750 for a three-month license and half of the \$3,000 equaling \$1,500 for a six-month license.

²⁴ In accordance with D.R.M.C., §24-513, the Department allows a licensee to pay \$3,000 annual fees when a two-year license is issued, and remit the balance on or before the anniversary of one year after the license issuance date.

Personnel from the City's Technology Services Department, who are in charge of maintaining Production, informed our team that all historical payment data is stored in the system. However, based on the general business needs defined by the Department prior to the MM licensing program, the system was customized to allow users to only view the most recent payment made for a license.

Payment information is an important component of the Department's control over the MM licensing processes. However, based on MM business information currently viewable in Production, or review of the reports generated from the system, the Department cannot readily ensure that all required payments were made by an MM business. The Department should request assistance from Technology Services to make historical payment data available in the system user interface, or develop queries that allow the generation of a report that would capture all historical payments.

Department Personnel Can Adjust Licensing Fees without Second-level Review and Approval – Audit review of data in Production revealed that Department personnel at times adjust and prorate MM licensing fees, mainly to reissue a City MM license such that the expiration date of the City license aligns with the expiration date of the state license for a business. For example, when the state issues a one-year license with an expiration date of December 31, 2013 for an MMC that already has a City business license valid through March 31, 2013, the Department will reissue a new City two-year business license for the business in question with an expiration date of December 31, 2014.²⁵ However, in such a case, Department personnel will only assess licensing fees for the period April 1, 2013, through December 31, 2014, in effect giving the business credit for the first three months in 2013 for which the business already paid licensing fees when the previous City license was issued.

According to Technology Services personnel, all required fees had been initially programmed into the system based on City rules, which prohibited fee adjustments without a higher level review and approval. However, based on a Department decision, this approval requirement was removed from the system.

The Department should consider resuming this oversight requirement because review and approval of a calculated fee adjustment provide a critical control to ensure that fee adjustments are calculated properly and accurately.

Medical Marijuana Application Status Codes in Production Are Not Accurate – Production provides for fifteen status codes for the Department's general licensing needs that can be also utilized for MM licensing. These codes include, but are not limited to, "N" for new, "C" for current, "X" for Deny, "A" for archive, "H" for hold, "V" for revoke, "I" for inactive, and "R" for renew. However, personnel processing MM applications and entering licensing information into the system only use "N," "C," and "A," and in many instances these three codes used do not reflect the accurate status of the application. For example, auditors identified an MMD application that was first filed in early 2010. The latest licensing activity recorded in the comment box indicated that the license was renewed for six months on October 17, 2011; such an application should have expired in

²⁵ D.R.M.C., §24-513 provides for a two-year City MM business license.

April 2012. However, the license status code in Production showed “N” for new, rather than having been updated with an appropriate code such as “I” for inactive.

Without accurate status codes in the system, the Department cannot determine the up-to-date status of the City’s MM business licenses and associated applications. Additionally, if an application was denied or a license was revoked, usage of the proper status code enables the Department to know if an applicant makes another attempt to file a business license application.

The Department should ensure that all MM business records in the system are assigned accurate and up-to-date status codes. Moreover, the Department could work with Technology Services to create additional application status codes in the system if needed based on the unique MM business licensing processes.

Department Paper Files Are Not Complete or Consistent with Production Records – Audit inquires of Department personnel and a review of a sample of the files and their corresponding records in the system showed several weaknesses in the maintenance and management of the paper files.²⁶

- Department personnel were unable to locate seven of the forty-eight files (15 percent) requested by the audit team.
- Some required documents were missing from the forty-one files available for the audit team’s review. Table 2 summarizes the list of these missing documents.

Table 2
Missing Documents from Sample Files

Missing Items	No. of Instances	Percentage of 41 Reviewed Files
Copy of current and previous City licenses	12	29%
Some proofs of payments	11	27%
Completed Department inspection report	8	20%
Copy of application	3	7%
Inspection card	2	5%
Notification of application denial	1	2%

- The audit inquiries and observations showed that files are stored in an unlocked area. Additionally, a large number of files that are kept at personnel work areas for daily business are not secured after close of daily business. This is important because all files contain sensitive personal information such as social security numbers and dates of birth of applicants and business officers. Some of the files also contain results of individual criminal background checks.

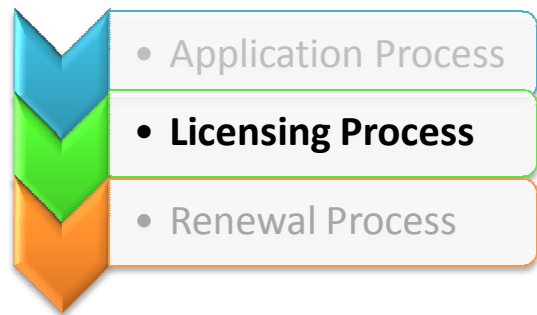
²⁶ Department’s paper file management was also an audit finding reported by the Auditor’s Office performance audit of the Department of Excise and Licenses issued on August 19, 2010. See page 7 of this report at http://www.denvergov.org/Portals/741/documents/Audits2010/2010%20Audit--Excise_ & Licenses_08-19-10.pdf.

- We noted that a check in the amount of \$750, dated November 2012, was kept in a file attached to an MMC application completed by an applicant. The file contained no explanation with regard to the reason for keeping this check in the file.
- Only nine of the forty-one files (22 percent) were placed in order inside the file folders and secured with clamps. The rest of the applications and supporting documents reviewed were loosely inserted in their file folders. Thirteen of the applications and supporting documents (32 percent) were not in any designated folders.

Issues with the Department's file management practices was also a finding in the report of the previous performance audit of the Department, issued in August 2010. The Department should take immediate action to organize all MM-related files and maintain them in a secure manner.

Medical Marijuana Licensing Process

During the MM licensing process, the City takes a number of measures, which are intended to ensure that applicants are prepared to operate according to City rules governing MM businesses. These steps include a review of application packets, inspections of the business premises, and coordination with the state licensing authority before licenses will be delivered to the applicant. The steps of the licensing process are laid out in greater detail in Appendix A.



The Department's lack of an internal control framework has reduced the effectiveness of the established steps integrated into the licensing process. Specifically, the QC process lacks sufficient documentation and oversight. Further, the City's inspections of MM business premises take an unreasonable amount of time and may contribute to the operation of unlicensed MM businesses in the City without any action taken by the Department. Finally, the tool that is currently being used by the state and the City to coordinate dual MM licensure is ineffective and may allow some MM businesses to operate with only a City or state license, but not both.

Quality Control Process Lacks Guidelines, Documentation, and Review – The Department has established a QC step in the MM licensing process, performed upon the Department's receipt of the complete application package and payment of associated fees. The purpose of the QC step is to ensure that each section of the application has been completely filled out and that the required supporting documents are valid and sufficient, such as by verifying that required permits are valid.

When the Department first began licensing MM businesses; management was closely involved in the application process. These processes were subsequently transitioned to the staff member currently responsible for handling all MM license applications. To assist with processing MM license applications, the Department created the QC step and assigned it to a Management Analyst who is a lawyer by training and works primarily with the liquor licensing hearings process. Over time, the QC step was delegated to legal fellows working for the Department in an intern capacity.

There are no developed criteria that guide the QC process when reviewing an application and documentation

Our testing identified several weaknesses in the QC step. First, the Department has not developed criteria regarding the QC review, such as what renders an application incomplete or what supporting documentation is acceptable. QC reviewers complete a copy of the same checklist that Department staff complete when an applicant initially submits their application. As a result, documentation of the QC step is limited. Although QC reviewers check off items on the checklist, they do not document their conclusions regarding their review, nor do they sign or initial the checklist upon completion of the review, which would identify the person responsible for the review. If a QC reviewer needed to ask any clarifying questions of the applicant, resolution of the issue and by who are not documented. Finally, there is no review of QC reviewers' work, either by the Management Analyst or by other staff familiar with MM license requirements.

The supporting documents submitted with the MM license application are intended to provide assurance that the applicant meets the licensing requirements. It is imperative that Department develop processes to ensure that this is the case and to support its licensing decisions.

Inspection Deadlines Have Not Been Established – Before a new MM business may begin operating, it must pass a number of City inspections. However, audit work found that the Department does not have a deadline for completing the required City inspections. This potentially adds length to the time applicants are already waiting for their applications to be processed and allows some MM businesses to operate for an extended period of time without a valid City license, resulting in loss of licensing revenue and increased risks related to public health and safety.

Both City and state laws and rules grandfathered-in MM businesses that were already operating by allowing them to continue to operate until their licenses were approved or denied. Specifically, the laws prohibit operating an MM business without valid state and local licenses *unless* the business has submitted an application for a license.

As part of the licensing process, inspections by the following four City agencies are required.

- Denver Fire – conducts facility safety inspections
- Community Planning and Development – reviews time, place, manner, and zoning issues
- Environmental Health – performs an environmental review

- Excise and Licenses – reviews application package and processes license

Applicants are responsible for scheduling these inspections with the various agencies. Department staff reported that these inspections can take a long time to complete and that applicants have expressed frustration in reaching inspectors at the various agencies to schedule inspections. Some City MM license applications have been in process for an extended period of time. Our test of a sample of MM business files determined the average cycle time from application to licensure was 255 days for applications filed

Without inspection deadlines, an application can remain unprocessed for an extended period of time in the database

before July 1, 2010 (the deadline to apply for a City MMD license), and also 255 days after that date. During this time, MM businesses that submitted an application for licensure could operate legally without a City license. The cycle time for the entire sample ranged from 44 days to 834 days.

Our review of a sample of MM application files determined that the average cycle time from issuance of the inspection card (IC), allowing an applicant to initiate the inspections process, to completion of all inspections required by the IC was 151 calendar days for applications filed before July 1, 2010, and 173 calendar days for applications filed after that date.²⁷ These cycle times are significant and, as shown in Table 3, account for a significant percentage of the total licensure cycle time. However Table 3 also shows that inspections are not the only barrier to timely completion of the licensing process.

**Table 3
Percentage of Cycle Time Attributable to Inspections**

Date of Application	Cycle Time - Application to License	Cycle Time - Issuance to Completion of IC	Percentage of Cycle Time for Inspections
Before July 1, 2010	255	151	59%
After July 1, 2010	255	173	68%

Most importantly, as long as an MM business has submitted an application to the City by the state mandated deadline of July 1, 2010, it is allowed to operate indefinitely without a license; it therefore has no incentive to schedule inspections expediently. This condition not only allows applicants to operate without undergoing inspections, it allows them to defer paying the license fees associated with renewing their license. Currently, the Department does not follow up on applications that are pending inspections.

The lack of deadlines for completing inspections exacerbates the problem of long cycle times for granting or denying MM licenses and increases the risk that unqualified MM businesses are operating in the community.

Inspection Reports Lack Clarity and Consistency – The audit team reviewed a sample of Inspection Reports and determined that the purpose of some inspection items on the inspection report template is not clear and that inspectors do not mark their inspection

²⁷ Upon completion of each City inspection, the inspector signs and dates a one-page document called an Inspection Card.

results consistently.²⁸ For example, “valid zoning permit,” “valid alarm system permit,” and licensee in possession/control of (MM) premise” are listed as inspection items, but proof of these items is among the required documents to be submitted with the application. Therefore, inspecting for these items is duplicative of a previous Department activity. Further, we noted that some inspectors marked these items as not applicable or “N/A,” whereas others marked them “yes” or “no.”

Additionally, the Inspection Report template was designed for medical marijuana dispensaries, which are now obsolete. Since the three new license types have slightly different requirements, the current template contains items that are no longer required.

To ensure that City inspectors are consistently inspecting to current rules, we recommend that the Department update the Inspection Report template and establish guidelines for completing it. A different Inspection Report can be developed for each MM license type, or one form that distinguishes between the requirements and includes the license type can be used.

This is related to an issue we noted in our 2010 audit of the Department of Excise and Licenses for other types of licenses. Specifically, this audit recommended recording and tracking inspection information. For the current audit, we recommend that the Department update the Inspection Report to ensure that reviews are consistent between inspectors and that inspection results are recorded in a consistent manner. This improved method of tracking will provide the Department with more useful information to support licensing decisions.

Even if the Inspection Report template is updated and used consistently between inspectors, it will not address the absence of Department follow-up on in-process applications or the lack of licensing deadlines. Both of these issues contribute to lengthy cycle times. For example, audit review of 41 sample files determined that for six applications (15 percent), the inspection cards issued to the applicants between August 2012 and December, 2012, have not yet been returned to the Department. Since the Department does not follow up on these applications, it is possible that these businesses have been operating uninspected and unlicensed for six months.

The Purpose of the Local Verification Form is Unclear and May Confuse Licensing Decisions – State Rules require local approval of an MM license application or a local license as a condition of granting the state license.²⁹ However, the form that was developed to ensure this requirement is met is not used for this purpose.

To address the requirement of local license approval prior to issuing a state license, in mid-2012, the state developed a form called a local verification form (LVF). The state’s Medical Marijuana Enforcement Division (MMED) populates an LVF with information about the MM business applying for a state license and sends it to the appropriate local licensing authority. The local licensing authority is to complete the form regarding approval of the local license application and return it to MMED. Specifically, the section of the LVF to be completed by the local licensing authority is titled “Report and Approval

²⁸ The Department inspectors complete a one page document called an “Inspection Report” to document their inspection.

²⁹ C.R.S. § 12-43.3-305 (2).

of Local Licensing Authority.” However, Department personnel informed auditors that based on a verbal understanding between the Department and MMED, the Department’s completion of the form only confirms that the business has submitted a complete application and supporting documentation; it does not confirm that the applicant has been approved for licensure with the City. To provide this confirmation, the Department completes the part of the form confirming that the City has adopted rules regarding MM licensing, leaving the “Report and Approval of Local Licensing Authority” section blank. Department personnel and the Director sign and date the form before returning it to MMED.

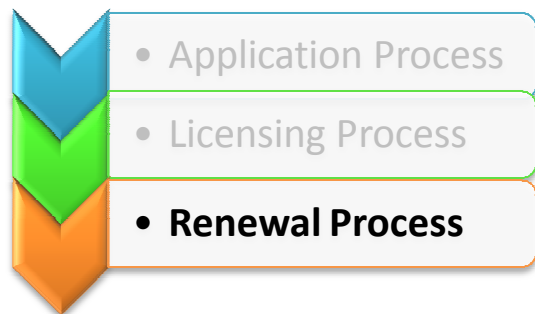
The current design of the LVF is clearly meant to verify whether a local license was approved or denied. If the Department’s only criterion for completion of the LVF is receipt of an application and required documents, the risk exists that some applicants may fail the subsequent City inspections and be denied a City MM license when the LVF for the business has already been submitted to the state. If the state uses the LVF as proof of the local authority’s approval of an MM application, as the form’s current layout indicates, it may approve an MM license when such a license was subsequently denied by a local licensing authority.

Furthermore, we found that the LVFs are not kept in their respective businesses’ paper files and they are not recorded in Production. Therefore, we question how the Department can determine whether the state has sent an LVF for a business. Additionally, we found duplicate LVFs in the folder where all LVFs are filed, indicating that there may be confusion at the City or state level about whether the state has sent the City the form, or whether the City has returned it to the state.

To address the issues related to the LVF step in the licensing process, the Department should work with MMED to clarify the purpose of the LVF to avoid inconsistency in MM business licensing decisions based on completion of these forms. Additionally, the Department should keep the copy of all completed LVFs in their associated business application files and make a note of them in the pertinent business record in Production.

License Renewal

Audit work found that MM license renewal processes need significant enhancement. First, the Department has not developed formal processes for renewing MM licenses, even as some licenses have been renewed. Second, the Department does not require a renewal application or conduct an inspection to support its MM license renewal decisions, and does not follow up with licensees to ensure that they pursue MM license renewal. Finally, the City’s Medical Marijuana Code grants a two-year MM license renewal while allowing MM businesses to pay for only one year at a time.



The Department Lacks Policies and Procedures for MM License Renewal Decisions – Audit work revealed that the Department does not have policies and procedures for MM license renewal. We found that this deficiency is more than a lack of documentation; Department personnel reported that renewal is a verbal process with no written guidance. Specifically, when an MM business comes to the Department to renew its MM license, Department staff asks whether there have been any changes to the business, such as changes to ownership or to the business name. The licensee self-reports this information with no proof to substantiate their answers. If the licensee reports no changes, Department staff directs them to the CPD cashier to pay the license fees and issues a renewed license.

It is important for the City to be informed of changes to an MM business not only to ensure continued compliance with rules, but for substantive health and safety reasons. For example, although not related to a license renewal, a fire at a grow facility in May of 2013 illustrates the importance of the City being aware of changes made to a business premises. In this instance, a Denver Fire Department crew responded to a fire and shut off electrical power to the business. After moving in to extinguish the fire, they found that the power had been inappropriately left on. One firefighter stated that some owners make changes to their electrical systems without obtaining updated permits. This situation highlights the importance of informing the City of changes to MM premises.

We also found that the Department does not require licensees to complete an application to renew their MM licenses, and that license renewals are not subject to a re-inspection of the MM business premises. If the licensee verbally reports changes to the business, Department staff asks them to complete another copy of the original license application. However, if they report no changes, no application is completed. There are several weaknesses associated with this practice. First, the Department does not have clear criteria to guide the renewal process. Second, it does not have documentation to support license renewal decisions for those applicants that report no changes. Third, using information obtained from license renewal applications would help the Department inspect and monitor MM businesses more strategically. Finally, the licensee's signature on a renewal application would force them to attest to what they report to the Department. Inspecting MM businesses seeking renewal of an MM license would add an additional layer of support for the Department's MM licensing decisions.

The Department Lacks Follow-Up of MM Businesses with an Expired License – Our team observed that the Department does not follow up with establishments when their licenses have expired. D.R.M.C. defers governance of MM license renewal to state rules.³⁰ The state rules require that the state licensing authority send notification to the MM licensee ninety days prior to the expiration date of an existing license, and require the licensee to apply for the renewal of an existing license to the local licensing authority not less than forty-five days prior to the expiration date.³¹ These requirements provide adequate guidance to MM businesses regarding renewal of their license. However, if the licensee does not pursue license renewal yet continues to operate, it is operating illegally, yet the Department does not follow up with the business to hold it accountable.

³⁰ D.R.M.C., §24-513.

³¹ C.R.S. § 12-43.3-311.

Audit review of 41 sample files showed 13 cases (32 percent) where the last issued City license had expired with no evidence of further renewal. The state rules allow local licensing authorities to refuse to accept an application for license renewal after the date of expiration. An exception can be made for licenses that are not more than ninety days expired, at which time the licensee can file a late renewal application upon the payment of a nonrefundable late application fee of \$500 to the local licensing authority. In such cases, the rules allow the licensee to continue to operate until both the state and local licensing authorities have taken final action to approve or deny the licensee's late renewal application. However, even if a business falls into this category—in other words, their license is not more than ninety days expired, they have completed an application and paid the late application fee, but no final decision has been made by either the state or the City—the Department does not follow up with the state regarding a final renewal decision.

Department staff reported that they are starting to obtain email addresses from applicants and would like to use these to send notification via email that renewal is due. However, the Department has not yet begun to do this, nor has it established a procedure for implementing this process. Delayed renewals result in late fees issued to licensees, in addition to a requirement that the licensee must start at the beginning of the application process if their license is expired for more than ninety days. Sending MM businesses email notification of the impending expiration of their MM license would be an inexpensive way to improve customer service. However, the Department should also develop policies and procedures for tracking license expiration dates and following up with MM businesses that fail to renew their license in a timely manner. This proactive approach would help ensure that MM businesses operating in the community have a current license.

Disparities between City and State Data, Processes, and Rules

Discrepancies Between City and State Data Make it Difficult to Ascertain the Number of Denver Medical Marijuana Businesses – MM business data maintained by the City and the state differs and are not compared or reconciled. Specifically, audit review of MM business data generated on April 19, 2013, by combining data from the state MMED and the Department system showed the following information.

- The City's system contains 739 MM business records while the state's data contains records for 676 MM businesses in the City and County of Denver.
- The City and the state databases use different conventions for coding MM business types including center, optional cultivation premises, and medical marijuana-infused products manufacturer. Specifically, the state has three types of MM centers called "Center- Type 1" through "Center- Type 3" whereas the City only uses "MMC" to denote an MM center. Further, the state uses "Infused

Discrepancies with City data make it difficult to know how many MM business operate in the City and County of Denver

Product Manufacturer” while the City uses “MIP” and “Optional Premises” versus “OPC”.

- The two databases also note business names differently. For example, the state dataset contains business trade names or “doing business as” names in addition to the licensee name (which primarily indicates the formal business name) whereas the City’s database only contains the formal business name. Additionally, the City’s version of the formal business name may or may not match the formal business name contained in the state database for the same MM business.

Auditors compared the data from the City and the state databases based on the business street address, which was the only data field between the two datasets that could be matched. Using the business street address field, some street addresses exactly matched between both datasets while others only qualified as possible matches. Additionally, a number of addresses existed in one dataset but not in the other.³² Table 4 shows the numbers of MM business data in one dataset with an exact match or no match in the other dataset.

**Table 4
Results of State and City Data Match Based on Street Addresses**

Number of State MM Business Records with Matching Address in City Data	606	Number of State MM Business Records with No Matching Address in City Data	65
Number of City MM Business Records with Matching Address in State Data	590	Number of City MM Business Records with No Matching Address in State Data	134

Without further research, the numbers resulting from our analysis indicate that a number of businesses had records with both jurisdictions and some had registered with only one jurisdiction and not the other. The audit team will share the results of the analysis with the Department. However, the Department should conduct additional data analysis and research to identify complete matches and differences between the two datasets. Specifically, for the cases where the City data has exact matching addresses in the state data, the Department should perform data analysis and research to answer many additional questions including, but not limited to, three situations.

- The Department should analyze the data for business type to determine whether the exactly matched addresses are the same type of MM business with both the City and state. For example, if a street address in the state data corresponds with an MM center the matching address in the City’s data should also be a center.

³² Based on this matching method, exact match only occurs when the spelling of street name and street type are consistent in both datasets. For example if the street name is misspelled in one dataset, no match is found. However, a street address as 244 Main Street in one dataset is shown as a partial or potential match with 244 Main, or 244 Main Ave.

- When street address and business type both match, the Department should next determine whether the status of applications with both jurisdictions is consistent. For example, the Department could seek out cases in the datasets where a business is denied by one jurisdiction but not by the other. The Department could also look for cases where the City license has expired but the state license is still valid.
- Another valuable exercise would be determining whether the business name matches or is reasonably close between the two datasets.

In addition to making reconciliations between the two datasets, the Department should try to ascertain the reasons for the differences between the City's and the state's dataset, especially regarding addresses that exist in one dataset but not the other. Specifically, the Department should analyze and research the sixty-five business addresses in the state's dataset that did not have a match in the City's dataset to determine the reasons. In this research the Department should take at least three steps.

- Checking for consistency in street-name spelling in both datasets. We observed one of the state records not found in the City data was because the street name had been misspelled in the state data.
- Checking to ensure that the street addresses not included in the City's dataset are actually City and County of Denver addresses, rather than belonging to another jurisdiction
- Assigning Department inspectors to perform street checks to determine if the businesses not found in the City's dataset are operating without a City license or application

City and State Licensing Periods Are Inconsistent and City Allows Businesses to Renew MM Licenses for Two Years While Paying in One-Year Increments –

The City has adopted a rule that can result in an MM business operating with a valid two-year City license regardless of whether or not the full license fee is paid in a timely manner. This rule appears related to a discrepancy between the City's and the state's license periods. Specifically, the state issues a one-year license for MM businesses whereas the City grants a two-year license. According to audit inquiries of Department management and the Assistant City Attorney assigned to the Department, when the City developed the first set of MM business licensing rules, it adopted a one-year licensing term. Subsequent state

regulations did not specify a state license term. In the absence of direction from state rules, MMED adopted a two-year licensing term as a policy. The City followed the state's decision by amending the licensure period from one to two years. Subsequently, the state MMED changed the state licensing term to one year but the City chose to retain a two-year licensure period.

The City allows for two year MM business licenses, but can choose to pay on yearly basis causing confusion to businesses and for City record-keeping

The City's Code requires that MM licenses "shall be valid for a period of two (2) years from the date of issuance."³³ However, the Code also allows MM establishments to pay for only one year of the license renewal. If it chooses to pay for one year, the licensee must pay for the second year before the one-year anniversary of the two-year license. We identified several weaknesses with this policy. First, because the business has a valid two-year license in hand, it can be confusing to MM license holders, who may not understand why they have to pay a fee in the middle of the license period, and it removes the incentive for these licensees to pay the second half of the license fee in a timely manner. Further, with the payment processing weaknesses and lack of reconciliation discussed earlier in this report, the Department has limited ability to ensure the renewal and late fees discussed in the previous section are paid.

To better align City and state MM licenses and help ensure license fees are paid timely, the Department should request that City Council review and possibly revise the City rules pertaining to two-year licensing, or make changes to the current City rules to require complete payment of licensing fees before a two-year license is issued.

Issues Identified Have Several Negative Effects and Pose Substantive Risks to the City

Of all the items identified, several issues are of particular concern. First, there are MM establishments in the City, especially OPCs and MIPs, that are operating without a valid City license. The licensing process is intended to provide assurance that MM establishments are qualified and operating safely. The system has not served this function if certain applications or businesses are able to operate without a valid license.

Second, the Department does not know how many MM establishments are operating in Denver, and the City cannot provide a reliable map of MM businesses. For a variety of reasons discussed in this report, there has been confusion about whether a business is "licensed" when the application is still in process. Department personnel can check individual businesses to determine if the business has applied but are not licensed, but they cannot run a report showing the accurate status of every MM business in the City and County of Denver.

Finally, although most MM businesses operating without a valid MM license have likely applied for a license that has not been issued yet, the City does not know which have and which have not. Those that have not result in lost revenue to the City. Specifically, MM businesses that have neglected to apply are not paying application and licensing fees due the City, may not have a sales tax license, and may not be submitting sales taxes due to the City.

Department staff reported that the City is "saturated" with MM businesses, meaning that due to the restrictions on where MM businesses can be located, there are very few if any available locations left to house a new MM business. If this is the case, the risks associated with many of the MM business-related issues identified in this report are reduced because of the reduced likelihood of getting new MM license applications. However, these issues

³³ D.R.M.C., §24-513(a).

are even more important to consider as the City looks forward. Marijuana-related businesses are not only a new phenomenon; they are here to stay, especially with the adoption of Colorado's Amendment 64 legalizing the use of recreational marijuana. It is therefore critical that the City develop and implement a robust system for regulating marijuana-related businesses.

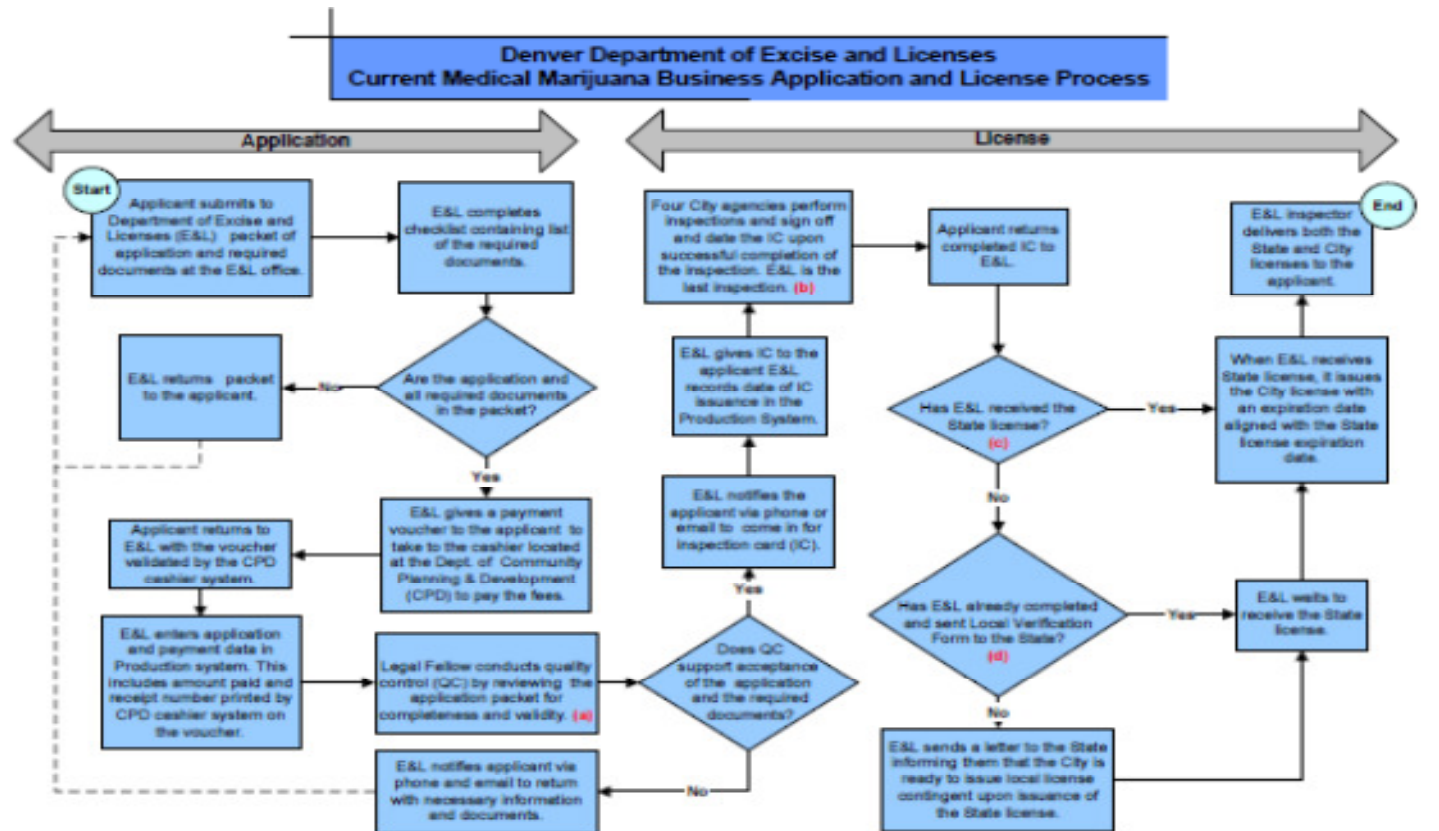
RECOMMENDATIONS

1. **Internal Controls** – The Department of Excise and Licenses should develop a framework of internal controls to ensure proper monitoring of processes and controls, which should include:
 - 1.1 Developing and implementing medical marijuana policies and procedures to document processes and controls.
 - 1.2 Providing cross training on the medical marijuana licensing process so all Licensing Technicians can process medical marijuana applications.
 - 1.3 Establishing a process for following up on outstanding medical marijuana applications.
 - 1.4 Establishing deadlines for completing the application process, specifically with regard to inspections.
 - 1.5 Amending and updating the inspection report template for each specific license type.
 - 1.6 Ensuring quality control review has defined criteria and is adequately documented with outcomes.
2. **Segregation of Duties** – The Department of Excise and Licenses should establish segregation of duties in the Medical Marijuana Program to strengthen internal controls, specifically in the areas of cash handling and data entry.
3. **Staffing** – The Department of Excise and Licenses should develop a plan to request an increase in staff support for the Medical Marijuana Program to enhance the efficiency of the process and strengthen internal controls.
4. **Cost Analysis** – The Department of Excise and Licenses should conduct a cost analysis to determine if the medical marijuana license fees are appropriate and adequate, proposing any changes to City Council for consideration.
5. **Outstanding Applications** – The Department of Excise and Licenses should review outstanding medical marijuana applications and follow up with applicants to request completion of outstanding inspections or other steps required for full City licensure.
6. **Application Data** – The Department of Excise and Licenses should review and amend, for accuracy, the electronic medical marijuana license data as recorded in the Department's Production information system so that medical marijuana data transferred to Accela will be useful.
7. **Paper Files** – The Department of Excise and Licenses should ensure that medical marijuana paper files are complete and filed correctly, including date stamping on all applications.
8. **Data Safeguarding** – The Department of Excise and Licenses should ensure that all sensitive medical marijuana information contained in paper and digital files is secure and that controls are in place to monitor the safeguarding of this information.

9. **PeopleSoft Reconciliation** – The Department of Excise and Licenses should develop and implement a method of reconciling all medical marijuana application and license payment information recorded in the Department's Production information system with payment information recorded in the City's PeopleSoft information system.
10. **Customer Service** – The Department of Excise and Licenses should ensure that the Department's website is updated with the most current medical marijuana information and forms.
11. **State and City Data Integration** – The Department of Excise and Licenses should develop and implement a system to compare the state of Colorado's medical marijuana license registry to the City's registry and reconcile any differences.
12. **License Length** – The Department of Excise and Licenses should recommend to City Council that Council amend the City's two-year medical marijuana license duration to match the state's one-year medical marijuana license duration for consistency.
13. **License Renewal Fees** – The Department of Excise and Licenses should recommend to City Council that Council amend the Denver Revised Municipal Code to authorize the Department to collect the full amount of medical marijuana license renewal fees at the time of renewal.
14. **Local Verification Form** – The Department of Excise and Licenses should enlist the help of the City Attorney's Office to clarify the state's purpose for using the local verification form and work with the state to revise the form if necessary to serve the intended purpose.
15. **Inspection Process** – The Department of Excise and Licenses should work with the City agencies that are involved in the medical marijuana inspection process to identify opportunities for increased efficiency in the inspection process to improve the overall medical marijuana application process cycle time.

APPENDIX A

Medical Marijuana Application and Licensing Process



(a) The Legal Fellows program consists of one E&L staff member who has a law degree and several law students working through an E&L internship program.
 (b) The City agencies that conduct inspections are the Department of Environmental Health, the Denver Fire Department, the Department of Community Planning and Development, and the Department of Excise and Licenses.
 (c) D.R.M.C. Section 24-503 requires both City and State licenses for any medical marijuana business operating in Denver on and after July 1, 2011, or the business can continue to operate provided it has applied to both City and state licenses by the deadlines set forth in the rules.
 (d) C.R.S. §12-43.3-305 prohibits the State from issuance a state license until the local licensing authority has approved the application and issued a local license. The State of Colorado Medical Marijuana Enforcement Division (MMED) has developed a local verification form to be completed by the City E&L and sent to MMED.
 This Process flow depicts a high-level overview of the current medical marijuana application and licensing process. It does not capture additional complexity presented by a statewide moratorium that has since been lifted.



AGENCY RESPONSE



CITY AND COUNTY OF DENVER

DEPARTMENT OF EXCISE AND LICENSES

OFFICE OF THE DIRECTOR
201 West Colfax Avenue, # 206
Denver, Colorado 80202

July 3, 2013

Auditor Dennis J. Gallagher
Chair, Audit Committee
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Re: Medical Marijuana Licensing Audit

Dear Auditor Gallagher:

Thank you for the opportunity to add our statement to the audit of Medical Marijuana licensing in the Department of Excise and Licenses.

As a threshold matter, I must compliment your audit team. They were professional and highly communicative. Because of their attitudes and personalities, it was natural for a relationship of cooperation and trust to develop during what can be a very awkward process. Because of your team's approach, it was easy for us to genuinely view the auditing process as it should be. Our theory is that an audit should be welcomed as an asset for improvement, rather than dreading the constructive criticism. Your office clearly exemplified that on your behalf.

In that spirit, here are the broad delineations of our replies, which are detailed in our formal Audit Response:

First, we accept the audit findings. We have been as open as possible, including laying out the probable areas of concern from our first Audit Intake meeting. Your team found what we expected them to find, and it is important that the public know what those failures are, and that we acknowledge them.

Second, we accept the audit recommendations. Every one of our responses to the Audit Recommendations is "Agree," with an expected completion date and responsible staff member. We are proud that many of them are already in process. I must compliment your team again on a specific matter. Our database has been a difficult issue, and one of your team members has already helped us with the start of a workable solution.

Third, I am accountable. I have led the Department since July 18, 2011, and I am responsible for what has occurred and not occurred. I, alone, made the decisions about how to prioritize very limited staff and resources, and my decisions are, and should be, subject to public scrutiny. I appreciate your staff trying to soften the blows by using words like "senior staff" or "management" as the decision-maker, but it is not necessary. I must specifically siphon away any potential responsibility from our

department's Deputy Director, Judy Steele. For example, she repeatedly raised the issue of the failures of our Medical Marijuana database. I agreed with her, but I could not justify making it a technology priority over other urgent matters impacting all of the work in our office, not just Medical Marijuana. I am responsible.


While we agree with everything in the Audit Report, it is important to explain the context. These are not excuses, but merely explanations.

The Excise and Licenses staff was cut by 20% before the inception of the Medical Marijuana licensing structures due to budget cuts, including cutting the inspector corps 1/3, from six to four. City Medical Marijuana regulations started in 2009, with the licenses being issued in 2010. No additional resources were afforded to the Department. Coming into the Department in 2011, I recognized that we needed significant cross-training on Medical Marijuana, but I also recognized that we needed to make a great deal of organizational and staffing changes. Therefore, broad cross-training would be wasteful until the changes were completed. Throughout the Audit Report, you will find areas like this and the database where I had to make difficult decisions to balance fixing the Medical Marijuana licensing process against our extremely limited resources. In short, the deficiencies expressed in the Audit Report are not the result of being unaware or not appreciating the importance of the issues. Rather, they resulted from the decisions I made in prioritizing resources.

Finally, the Audit Report will be very difficult for our team. They have worked incredibly hard through many staffing changes, and we have had great success. We are quite proud of winning Westword's Best of Denver Award for Customer Service and other substantively-based accolades. I have explained to our folks that an audit such as this usually does not give perspective. Rather, it gives a snapshot. It does not include where things were, how they have improved or what challenges were faced. It only states where things are as of the time of the audit. The analogy I have often used is of a new teacher who takes over a tough class, which is two grade levels behind. She works incredibly hard, and by the end of the year, the class is only one grade level behind. Although she advanced the class two grade levels in one year, an audit may simply find that her class is a year behind, rather than including where she started and what great improvement she made.

We accept the Audit Report fully, and appreciate the roadmap it provides us to move forward. Please contact me if you have any questions. Thank you.

Sincerely,


Tom Downey
Director, Department of Excise and Licenses



CITY AND COUNTY OF DENVER

DEPARTMENT OF EXCISE AND LICENSES
 OFFICE OF DIRECTOR
 201 West Colfax Avenue, Dept. 206
 Denver, Colorado 80202

July 3, 2013

Mr. Kip R. Memmott, MA, CGAP, CRMA
 Director of Audit Services
 Office of the Auditor
 City and County of Denver
 201 West Colfax Avenue, Dept. 705
 Denver, Colorado 80202

Dear Mr. Memmott:

The Office of the Auditor has conducted a performance audit of Medical Marijuana Licensing.

This memorandum provides a written response for each reportable condition noted in the Auditor's Report final draft that was sent to us on June 13, 2013. This response complies with Section 20-276 (b) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1

The City's Medical Marijuana Licensing Practices are Inefficient and Ineffective

RECOMMENDATION 1

The Department of Excise and Licenses should develop a framework of internal controls to ensure proper monitoring of processes and controls, which should include:

- 1.1 Developing and implementing medical marijuana policies and procedures to document processes and controls.
- 1.2 Providing cross training on the medical marijuana licensing process so all Licensing Technicians can process medical marijuana applications.
- 1.3 Establishing a process for following up on outstanding medical marijuana applications.
- 1.4 Establishing deadlines for completing the application process, specifically with regard to inspections.
- 1.5 Amending and updating the inspection report template for each specific license type.
- 1.6 Ensuring quality control review has defined criteria and is adequately documented with outcomes.

Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for
---------------------------------------	---	--

	(Generally expected within 60 to 90 days)	implementation
Agree	September 24, 2013	Licensing: Larry Stevenson (720) 865-2753 Inspections: Judy Steele (720) 865-2765

Narrative for Recommendation 1

Agree, the Department of Excise and Licenses is in the process of developing internal controls to ensure proper monitoring of Medical Marijuana processes and controls. Including, developing and implementing written policies and procedures, cross training all Licensing Technicians to process applications, establishing follow-up processes for quality control purposes, deadlines for completing applications including inspections and amending and updating the inspection report for each specific license type. Cross training for all staff in the Department has been scheduled for July 10, 2013. Additional training sessions will be provided to train new staff and to provide additional training for current staff as necessary.

RECOMMENDATION 2		
The Department of Excise and Licenses should establish segregation of duties in the Medical Marijuana Program to strengthen internal controls, specifically in the areas of cash handling and data entry.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	September 24, 2013	Larry Stevenson (720) 865-2753

Narrative for Recommendation 2

Agree, the Department of Excise and Licenses is establishing segregation of duties in the medical marijuana Program to strengthen controls and ensure various staff members are included in the processing of an application from application intake to the issuance of a license.

RECOMMENDATION 3		
The Department of Excise and Licenses should develop a plan to request an increase in staff support for the Medical Marijuana Program to enhance the efficiency of the process and strengthen internal controls.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	July 22, 2013	Judy Steele (720) 865-2765 Tom Downey (720) 865-2763

Narrative for Recommendation 3

Agree, the Department of Excise and Licenses will develop a plan to request an increase in staff support to enhance the efficiency of the medical marijuana process and strengthen internal controls within the process.

RECOMMENDATION 4		
The Department of Excise and Licenses should conduct a cost analysis to determine if the medical marijuana license fees are appropriate and adequate, proposing any changes to City Council for consideration.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	July 28, 2013	Judy Steele (720) 865-2765

Narrative for Recommendation 4

Agree, the Department of Excise and Licenses has partnered with the Budget and Management Office and conducted a cost analysis to determine the resource costs associated with the medical marijuana licensing process and we will propose any changes to City Council as appropriate and adequate to adjust the license fees.

RECOMMENDATION 5		
The Department of Excise and Licenses should review outstanding medical marijuana applications and follow up with applicants to request completion of outstanding inspections or other steps required for full City licensure.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	September 24, 2013	Larry Stevenson (720) 865-2753

Narrative for Recommendation 5

Agree, the Department of Excise and Licenses will review outstanding medical marijuana applications and develop a process to follow up with applicants to request completion of outstanding inspections or other steps required for full City licensure. The process along with the applicant's response will be documented and added to the applicant's file.

RECOMMENDATION 6		
The Department of Excise and Licenses should review and amend, for accuracy, the electronic medical marijuana license data as recorded in the Department's Production information system so that medical marijuana data transferred to Accela will be useful.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	September 26, 2013	Judy Steele

		(720) 865-2765 Larry Stevenson (720) 865-2753
--	--	---

Narrative for Recommendation 6

Agree, the Department of Excise and Licenses will review and amend, for accuracy, the electronic medical marijuana license data as recorded in the Department's Production information system so the data transferred to Accela will be useful.

RECOMMENDATION 7

The Department of Excise and Licenses should ensure that medical marijuana paper files are complete and filed correctly, including date stamping on all applications.

Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	August 30, 2013	Larry Stevenson (720) 865-2753

Narrative for Recommendation 7

Agree, the Department of Excise and Licenses will ensure that medical marijuana paper files are complete and filed correctly, including date stamping each application received.

RECOMMENDATION 8

The Department of Excise and Licenses should ensure that all sensitive medical marijuana information contained in paper and digital files is secure and that controls are in place to monitor the safeguarding of this information.

Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	October 4, 2013	Larry Stevenson (720) 865-2753

Narrative for Recommendation 8

Agreed, the Department of Excise and Licenses is working to ensure that all sensitive medical marijuana information contained in paper and digital files is secure and that controls are in place to monitor the safeguarding of the information.

RECOMMENDATION 9

The Department of Excise and Licenses should develop and implement a method of reconciling all medical marijuana application and license payment information recorded in the Department's Production information system with payment information recorded in the City's PeopleSoft information system.

Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for
---------------------------------------	---	--

	(Generally expected within 60 to 90 days)	implementation
Agree	October 4, 2013	Judy Steele (720) 865-2765

Narrative for Recommendation 9

Agree, the Department of Excise and Licenses is developing and will implement a method of reconciling all medical marijuana application and license payment information recorded in the Department's Production information system with payment information recorded in the City's PeopleSoft information system.

RECOMMENDATION 10		
The Department of Excise and Licenses should ensure that the Department's website is updated with the most current medical marijuana information and forms.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	August 2, 2013	Judy Steele (720) 865-2765

Narrative for Recommendation 10

Agree, the Department of Excise and Licenses will ensure that the Department's Web site is updated with the most current medical marijuana information and forms.

RECOMMENDATION 11		
The Department of Excise and Licenses should develop and implement a system to compare the state of Colorado's medical marijuana license registry to the City's registry and reconcile any differences.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	October 4, 2013	Judy Steele (720) 865-2765

Narrative for Recommendation 11

Agree, the Department of Excise and Licenses will develop and implement a system to compare the state of Colorado's medical marijuana license registry to the City's registry and reconcile any differences.

RECOMMENDATION 12		
The Department of Excise and Licenses should recommend to City Council that Council amend the City's two-year medical marijuana license duration to match the state's one-year medical marijuana license duration for consistency.		
Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for

	(Generally expected within 60 to 90 days)	implementation
Agree	September 30, 2013	Tom Downey (720) 865-2763

Narrative for Recommendation 12

Agree, the Department of Excise and Licenses will recommend to City Council that Council amend the City's two-year medical marijuana license duration to match the state's one-year medical marijuana license duration for consistency.

RECOMMENDATION 13

The Department of Excise and Licenses should recommend to City Council that Council amend the Denver Revised Municipal Code to authorize the Department to collect the full amount of medical marijuana license renewal fees at the time of renewal.

Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	September 30, 2013	Tom Downey (720) 865-2763

Narrative for Recommendation 13

Agree, the Department of Excise and Licenses will recommend to City Council that Council amend the Denver Revised Municipal Code to authorize the Department to collect the full amount of medical marijuana license renewal fees at the time of renewal.

RECOMMENDATION 14

The Department of Excise and Licenses should enlist the help of the City Attorney's Office to clarify the state's purpose for using the local verification form and work with the state to revise the form if necessary to serve the intended purpose.

Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	September 30, 2013	Tom Downey (720) 865-2763

Narrative for Recommendation 14

Agree, the Department of Excise and Licenses will enlist the help of the City Attorney's Office to clarify the state's purpose for using the local verification form and work with the state to revise the form if necessary to serve the intended purpose.

RECOMMENDATION 15

The Department of Excise and Licenses should work with the City agencies that are involved in the medical marijuana inspection process to identify opportunities for increased efficiency in the inspection process to improve the overall medical marijuana application process cycle time.

Agree or Disagree with	Target date to complete	Name and phone number of
-------------------------------	--------------------------------	---------------------------------

Recommendation	implementation activities (Generally expected within 60 to 90 days)	specific point of contact for implementation
Agree	September 30, 2013	Judy Steele (720) 865-2765 Tom Downey (720) 865-2763

Narrative for Recommendation 15

Agree, the Department of Excise and Licenses will work with the City agencies that are involved in the medical marijuana inspection process to identify opportunities for increased efficiency in the inspection process to improve the overall medical marijuana application process cycle time.

Please contact Tom Downey at 720-865-2763 or Judy Steele at 720-865-2765 with any questions.

Sincerely,

Tom Downey
Director, Excise and Licenses

cc: Judy Steele
Larry Stevenson