



County of Monterey

ADMINISTRATIVE OFFICE

Sonia M. De La Rosa

COUNTY ADMINISTRATIVE OFFICER

168 West Alisal St. 3rd Floor
Salinas, CA 93901
831 755 5115
cao-admin@co.monterey.ca.us

August 1, 2024

The Honorable Stephanie Hulsey
Judge of the Superior Court
c/o Office of the County Counsel
Attention: Sandra Ontiveros
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

RE: Response to 2023-2024 Monterey County Civil Grand Jury Report – *“Cannabis Tax Revenues: Highs and Lows”*

Honorable Judge Hulsey:

This correspondence serves as the County of Monterey Board of Supervisors (Board) response to the 2023-2024 Monterey County Civil Grand Jury Report titled *“Cannabis Tax Revenues: Highs and Lows.”*

As requested via letter dated May 3, 2024 from the Monterey County Civil Grand Jury, enclosed please find the Board’s response to Findings F1-F8 and Recommendations R1-R9 to the referenced FY 2023-2024 Report.

Please contact me if you have any questions or require additional information.

Sincerely,

DocuSigned by:

Nicholas E. Chiulos

D49097F09F41434...

Nicholas E. Chiulos

Chief Assistant County Administrative Officer

Enclosure



Please find below the Monterey County Board of Supervisors' ("Respondent") response to the 2023-24 Civil Grand Jury report entitled, **Cannabis Tax Revenues: Highs and Lows**

Findings

F1. Current revenues do not provide sufficient margins over expenses to fund community services at prior years' levels. Without operational changes, the Cannabis Program's sustainability is in jeopardy, and future funding for community services from this source will be minimal and/or unavailable.

Response to F1: The Respondent disagrees partially with the finding. It is true that 2022 cannabis tax revenues did not provide sufficient net revenues to fund community services at prior years' levels; which is why the Board of Supervisors directed operational changes to facilitate the program in a sustainable manner. The Respondent believes that it is speculative and premature to state that the sustainability of the Cannabis Program per se is in jeopardy and that further funding for community services will be minimal or unavailable. In fact, the recently released 2023 County of Monterey Crop & Livestock Report from the Agricultural Commissioner's Office reports a \$78 million increase in cannabis revenues, which indicates that the industry is stabilizing and recovering. It is believed that the program's sustainability is trending in a positive direction given the anticipated additional revenue and expanded square footage of cannabis production.

The Board of Supervisors has directed various operational changes to facilitate sustainability of the Program.

F2. The 2020 Cannabis Program Strategic Plan, intended to be updated every two years, was not revised until January 2024, causing delays in assessing key metrics and whether program goals are being met.

Response to F2: The Respondent agrees with the finding. The first Cannabis Strategic Plan was approved by the Board of Supervisors in 2018 and updated in 2020; however, an update was not provided in 2022. The next update will be presented to the Cannabis Committee in September 2024 and to the Board of Supervisors by December 31, 2024. A subsequent update is planned for 2026.

F3. Current tax rates have stabilized. Revenues for FY 2024-25 are projected to be consistent with prior years, contributing to the Program's sustainability if Program expenses are aligned with revenues.

Response to F3: The Respondent agrees with the finding. The Board of Supervisors is committed to ensuring that, as part of the annual County budget process, Cannabis Program expenses remain aligned with available Cannabis tax revenue.

F4. An internal audit of the Cannabis Program, recommended by the Citygate Report, was not completed, thus risking inefficient operating practices and the potential for inaccurate record keeping.

Response to F4: The Respondent disagrees partially with the finding. As part of the fiscal guidance, analysis and training provided to County departments by the Auditor-Controller (ACO), the ACO assessed the operating practices and record keeping of the Cannabis Program. This effort resulted in updates to the accounting structure and improved financial reporting/record keeping of the Cannabis Program and rendered an internal audit unnecessary.

F5. More than 50 cannabis businesses have closed or filed bankruptcy leaving the County with \$6M in unpaid taxes, resulting in reduced revenues for community services.

Response to F5: The Respondent agrees with the finding.

F6. A community survey indicated that a high priority for cannabis tax revenues should be allocated toward drug education and prevention. However, only a small fraction of the cannabis tax revenues has been allocated toward such programs. The lack of funding for these programs is inconsistent with community priorities and increases the potential for drug abuse and death.

Response to F6: The Respondent disagrees partially with the finding. In November 2016, Monterey County voters approved Measure Y as a general tax on commercial cannabis activities. Pursuant to State law, general tax revenues may be used at the discretion of the Board of Supervisors. State law requires that general tax revenues must be allocated annually as part of the County budget process.

In January 2018, the Board approved a community engagement process under the direction of the County Administrative Office. The goal of the process was to engage the public in each Supervisorial district to gain input on potential prioritization related to the use of cannabis tax revenue beyond administrative costs of the Cannabis Program. As part of this community engagement process, participants were informed that, as a general tax, the ultimate discretion regarding allocation of this revenue resided solely with the Board of Supervisors as part of the annual County budget process.

The Board of Supervisors has allocated \$1.5 million of cannabis tax revenue for staff and non-staff costs dedicated to public awareness and youth prevention since FY 2018-19. Additional funding sources have also become available to further drug education efforts within the County. For example, in the past several years the Health Department has conducted extensive messaging and drug education offering to communities to address the significant growth of Fentanyl use in our communities.

F7. Illicit activities are one of several major factors contributing to the reduction in funds available for community needs.

Response to F7: The Respondent agrees with the finding.

F8. Criminal/Civil penalties for most illicit business activities may be adjudicated as a misdemeanor by the District Attorney's office with less than a year probation and/or a fine of \$1,000 or less, resulting in an ineffective deterrent system.

Response to F8: The Respondent agrees with the finding.

Recommendations

R1. The Board of Supervisors (BOS) direct Cannabis Program staff to analyze ways to reduce expenses within the Cannabis operational system, supplementing best practices identified in the Citygate report recommendations to stabilize and grow the Cannabis Tax Assignment Fund by September 30, 2024.

Response to R1: The recommendation has been implemented. At the direction of the Board of Supervisors, there has been a 54% reduction in Cannabis Program operating costs since FY 2022-23. At the present time, operating costs of the Program are in balance with cannabis tax revenue projections. Program costs for FY 2024-25 are budgeted at \$3.4 million balanced with Cannabis Tax revenue estimated to be approximately \$3.4 million.

The Cannabis Program will continue to work with each participating department that receives cannabis tax revenue to evaluate the services required by the commercial cannabis industry and identify opportunities to reduce allocations and/or offset costs with non-tax revenues as recommended in the Citygate & Associates report. Outcomes from these discussions will be reported to the Board of Supervisors Cannabis Committee in September of 2024 and to the Board of Supervisors thereafter.

R2. Cannabis Program Manager complete a Strategic Plan every year and provide the BOS with status updates at each subcommittee meeting by January 31, 2025.

Response to R2: The recommendation will not be implemented because it is not warranted. The Cannabis Program will present a Strategic Plan status report to the Board of Supervisors Cannabis Committee in September 2024 and to the Board of Supervisors thereafter. The Cannabis Program will prepare an update to the Strategic Plan on a two-year cycle with the next full update in September 2026.

R3. The BOS support the growth and sustainability of the Cannabis industry by maintaining the current Program tax rates for the next two budget years by September 30, 2024.

Response to R3: The recommendation has been implemented. Cannabis tax rates were reduced by the Board of Supervisors on February 14, 2023 ([ORD 23-003](#)) to provide tax relief to cultivators who continue to experience depressed market pricing. The Board of Supervisors also authorized tax payment plans for cannabis taxes owed in FY 2021-22 and FY 2022-23 with an option to extend FY 2021-22 for repayment through March

2026. Over \$2 million has been collected from these payment plans and 80% of cultivators with payment plans remain in business. These cannabis tax relief measures have been successful in retaining cultivators while maintaining revenues to offset the cost of the Cannabis Program.

R4. The Office of the Auditor-Controller's Internal Audit Division (IAD) conduct an internal audit on the Cannabis Program in FY 2023-24 by January 31, 2025.

Response to R4: The recommendation will not be implemented because it is not warranted. The Auditor-Controller has limited resources and must prioritize internal audit efforts. Cannabis tax revenues are currently at a low level and, in the view of the Auditor-Controller, risk level is thereby reduced. In addition, fiscal oversight measures provided by the Auditor-Controller have alleviated the need for an internal audit at this time.

R5. The Office of the Auditor-Controller's Internal Audit Division (IAD) conduct an internal audit of cannabis businesses with tax deferral payment plan agreements, including those in tax delinquency by January 31, 2025.

Response to R5: This recommendation will not be implemented because it is not warranted. At this time, the balance to be collected on cannabis tax deferrals is \$226,783 as part of a three-year payment plan in use by ten operators within the County. As of June 24, 2024, the Treasurer-Tax Collector reported four delinquent operators with a total of \$104,548 in unpaid cannabis taxes. This information is being tracked/monitored by the Auditor-Controller rendering an internal audit unnecessary at this time.

R6. The Treasurer-Tax Collector Office develop a timely action plan for those growers in arrears and recommend to the BOS to consider phasing out further tax payment extensions by November 30, 2024.

Response to R6: The recommendation regarding development of an action plan for growers in arrears has been implemented. The Monterey County Treasurer-Tax Collector routinely records liens against operators with a delinquent cannabis tax balance each quarter and reports these delinquencies to the Cannabis Program for enforcement which can ultimately result in the revocation of the delinquent operator's business license.

The recommendation to consider phasing out tax payment extensions by November 2024 will not be implemented because it is not warranted. Board of Supervisors Resolution 23-172, adopted on May 2, 2023 ([File ID: 23-335](#)) provides an end date of March 31, 2026 for previously authorized conditional waiver of penalties.

R7. The Director of Public Health identify projects to assist with youth drug awareness/education/prevention and request funding from BOS as a priority allocation from the Cannabis Tax Assignment Fund (CTF) by September 30, 2024.

Response to R7: The recommendation has not yet been implemented but will be in the future. The Health Department will provide an update to the Board by December 30, 2024. The Deputy Director of Public Health will work with the Deputy Director of Health Services to identify a potential request for funding of youth drug

awareness/education/prevention as part of the Department's FY 2025-26 budget request.

R8. MCSO increase enforcement of the regulations regarding illicit activity by licensed and unlicensed growers by September 30, 2024.

Response to R8: The recommendation has been implemented. The Sheriff's Office has assigned two detectives to the County of Monterey Marijuana Eradication Team (COMMET). The Sheriff's Office has also provided cannabis enforcement training to 14 deputies to assist the detectives in eradication efforts aimed at illicit cannabis operations.

R9. The District Attorney's office in cooperation with the Cannabis Program and Sheriff/Coroner's office increase prosecutorial efforts of unlicensed and underreporting cannabis growers to the maximum extent of the law; by using existing resources, potential grant funding, and assistance from the Cannabis Administrative Prosecutor Program (CAPP) by December 31, 2024.

Response to R9: The recommendation requires further analysis. With regard to the feasibility of involvement of the State of California Cannabis Administrative Prosecutor Program, an analysis will be conducted by the Cannabis Program in conjunction with the District Attorney and the Sheriff's Office with a report provided to the BOS Cannabis Committee by December 31, 2024, and a report to the BOS thereafter.