



JOHN CHIANG
TREASURER
STATE OF CALIFORNIA

REQUEST FOR INFORMATION State Bank / Public Bank Feasibility Study NO. SA000024-17

INTRODUCTION

On November 8, 2016 California voters passed Proposition 64, legalizing the use of recreational cannabis. However, the use, possession and sale of cannabis remains a federal crime. The federal government still considers marijuana a Schedule I drug under the federal Controlled Substances Act. As a result, banks and other financial institutions generally refuse to provide services to cannabis businesses.

But the cannabis industry faces an enormous challenge. The clash between state and federal law threatens to cripple legal California cannabis businesses before they even get up and running. One of the main threats to legalization is that banks generally will not open accounts for cannabis businesses out of fear they will be penalized by their respective regulators under federal law.

OBJECTIVE OF THIS RFI

The overall goal of this Request for Information (RFI) is to collect information on methods, approaches and qualified consultants that might be useful to the Treasurer's Office goal of studying the various administrative and operational structures for organizing a public bank or state-backed financial institution to serve the cannabis industry. Information sought includes, but is not limited to, approaches to capitalization, governance and oversight, and connections to the federal payment system.

The RFI will be used to gauge potential interest from responders, and to gather responses to the questions in the "**INFORMATION BEING REQUESTED**" section of this RFI.

The Treasurer will use this information to determine whether to consider establishing additional parameters for a potential study of the feasibility of establishing a public bank or state-backed financial institution and may subsequently issue a Request for Proposal(s) (RFP) for the detailed feasibility study of such an organization.

KEY ACTION DATES (ANTICIPATED)

Release of this RFI	January 29, 2018
Last Day to Submit Questions on this RFI	February 16, 2018
Written Responses to Responders' Questions	February 23, 2018
Final Date to Submit a Response to this RFI	March 2, 2018

BACKGROUND

Lack of access to banking services that are taken for granted by other legal businesses—opening accounts, writing checks, accepting credit cards, transferring money—forces cannabis businesses to deal in large amounts of cash, which makes them targets for violent crime and puts the general public in danger.

The inability of cannabis operations to get banking services means that many of them may remain in the underground economy and will not become transparent, regulated, tax-paying businesses, as California voters intended when they passed Proposition 64.

To address this problem, State Treasurer John Chiang convened the Cannabis Banking Working Group (CBWG) in late 2016. The working group, made up of representatives from law enforcement, regulators, banks, taxing authorities, local government and the cannabis industry, was charged with finding practical and timely ways to address the state-federal challenge to banking services.

The CBWG held six public meetings around the state and heard from nearly 50 expert panelists. Based on the CBWG's findings, the Treasurer presently believes the best way to approach the cannabis banking problem is to think in terms of a series of steps, each of which involves greater access to banking services.

The starting point is the current situation, in which the cannabis industry operates predominantly in cash, with only sporadic banking access. The end point is federal legalization of cannabis or, if that is not achievable, legislation shielding financial institutions that serve the cannabis industry. This RFI deals with one of the possible points along the continuum.

In a November 2017 report of the findings and recommendations of the CBWG, entitled *Banking Access Strategies for Cannabis-Related Businesses*, the Treasurer recommended the following actions: (1) the implementation of safer, more effective, and scalable ways to handle the payment of taxes and fees in cash that minimize the risks to stakeholders; (2) the State of California and local governments should develop a data portal of compliance and regulatory data and make it available to financial institutions that bank cannabis businesses; (3) a feasibility study of a public bank or other state-backed financial institution that provides banking services to the cannabis industry should be conducted; and (4) a multistate consortium of state government representatives and other stakeholders should be established to pursue changes to federal law to remove the barriers to cannabis banking. A copy of that report is available [here](#). Responders are strongly encouraged to review the report before submitting questions or response to this RFI.

This RFI addresses only the third recommendation above, establishing the feasibility of a public bank or state-backed financial institution to offer banking services to cannabis businesses.

It is important for potential responders to note the orientation and focus of this initial inquiry. The concept of a public bank to serve unbanked or underbanked populations has been promoted and debated in California before, ending most recently (2011) in passage by the Legislature of a measure, AB750 (Hueso), that would have established a blue ribbon task force to examine whether California should establish a state bank. That measure was vetoed by Governor Brown in September 2011.

This RFI is intended to gather information about the most expeditious method of examining the efficacy or desirability of establishing a public bank or state-backed financial institution dedicated entirely, or predominately, to the cannabis industry in California. Discussions about such an institution with a business focus that is more broad or general are only helpful if the responder presents information about institutions with a broader focus that is necessary to understanding the narrower subject matter on cannabis banking this RFI is seeking.

Responders should focus on the factors required to determine the business case (as opposed to the legal requirements) of such an institution and the processes and challenges attendant to the creation of it will pose. Please be as specific as possible in this regard.

Areas to be covered in responses to this RFI include:

- a. A discussion of how the variants of possible governance structures applicable to public banks or state-backed financial institutions would be approached. This should be presented with sufficient specificity to enable non-technical persons to understand the unique roles played by directors and executive management in the American banking system, focusing especially on interaction with applicable regulators.
- b. A description of the manner in which the various options available to insure deposits in a public bank or state-backed financial institution should be studied, with an emphasis on how such insurance might affect regulatory oversight and enable or curtail lending practices.
- c. An evaluation, cataloging, and summary of the experiences from other states' efforts to create a public bank or state-backed financial institution.
- d. Compilation of a focused bibliography on the matters in (c), above to demonstrate a grasp of the scope of the information being requested.

DISCUSSION

The Treasurer is open to receiving a variety of ideas for how a study for exploring the feasibility of public bank or state-backed financial institution should be undertaken, but all ideas must be designed to demonstrate how such an institution would expand the availability of banking services to the cannabis industry.

INFORMATION BEING REQUESTED

Responders should submit information regarding **all** of the following:

Background/Experience of Responder

1. Provide a description of the types of services your organization provides that are relevant to the focus of this request and the particular expertise that your firm thinks is required to accomplish the objectives likely to be required in undertaking a study of a

public bank or state-backed financial institution dedicated to serving a specific industry.

2. Provide a description of the stakeholders and partners that you currently work with in the subject matter area.
3. Describe your organization's history of success or track record with any such studies, reports, feasibility analyses, etc. related to the topic of public banks and/or state-backed financial institutions.

Business Scope and Emphasis

4. In what specific activities designed to serve cannabis businesses should the contemplated public bank or state-backed financial institution engage, and in what activities should it refrain from engaging?
5. Why are those specific services important to the success of a public bank or state-backed financial institution and are deserving of study?
6. What are the unique challenges and opportunities posed by the limitation to cannabis-related businesses for a public bank or state-backed financial institution?
7. How are those challenges and opportunities different from, or similar to, public banks or state-backed financial institutions designed to serve broader populations?

Governance and Oversight

8. Describe the governance and oversight structures that you think should be studied, with a specific emphasis on the effectiveness (or lack thereof) in other state or local governments. Please note: If you choose to describe similar efforts in other nations, please describe why those examples are relevant to the banking and payment system in the United States.

Connections to the Nation's Banking and Payment Systems

9. Describe how the Treasurer should approach determining the feasibility of a public bank or state-backed financial institution connecting to national payment systems, such as the Federal Reserve's automated clearing house; point of sale terminals operated by private operators; the electronic payments network operated by the Clearing House Payments Company; the Clearing House Interbank Payment System (which allows for "netted" payments), and which is operated by financial institutions that use it; and, the Federal Reserve Wire Network (or, FedWire) operated by the Federal Reserve System.
10. Describe how the Treasurer should examine the feasibility of the public bank or state-backed financial institution obtaining access to other banks and financial institutions, using correspondent banking relationships, membership in the Federal Reserve System, and similar connections.

Good Faith Estimate of Costs

11. In very general terms, how much should the state expect to spend for a feasibility study of the type and character being described herein?
12. Is there a reasonable estimate for the costs of production and publication of such a report?

PROCUREMENT APPROACH

This Request for Information (RFI) is the first step in researching and developing possible work plans and proposals for establishment of a public bank or state-backed financial

institution. It is likely the Treasurer will issue an RFP whereby responders will propose a specific work plan and deliverables for a study that meets the requirements set forth in the Treasurer's report referred to earlier.

It is anticipated that any subsequent RFP for a comprehensive feasibility analysis, study and report would be released in the summer of 2018.

RESPONDING TO THIS RFI

The responder shall include a cover page to the response that identifies: the responder's name, address, and point of contact's information (name, telephone and fax number, and e-mail address).

All questions submitted in regards to this RFI shall be submitted in writing or by email to the contact listed below. Please do not contact others in the Treasurer's Office with questions pertaining to this RFI.

Upon opening of the responses, all documents submitted in response to this RFI will become the property of the State of California and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public. The State cannot prevent the disclosure of public documents. Responders are not required to submit a response to this RFI in order to participate in any future RFP issuances.

Questions about this RFI should be directed to:

Kim Stevens
kstevens@treasurer.ca.gov
State Treasurer's Office
915 Capitol Mall, Room 110
Sacramento, CA 95814

Written response to this RFI should be directed to:

Kim Stevens
kstevens@treasurer.ca.gov
State Treasurer's Office
915 Capitol Mall, Room 110
Sacramento, CA 95814

Note: *The cost for developing a response to this RFI is entirely the responder's responsibility and shall not be chargeable to the State of California. This does not constitute a solicitation for entering into any future agreement with the State of California.*