

Speaker 1 ([00:16](#)):

Hello, and welcome to the higher enlightenment podcast brought to you by hire you cannabis consulting, your seed to sale cannabis business solutions team, and the creators of the innovative cannabis consulting business solution system. Higher enlightenment today's episode, the Illinois debacle with guest host tests. Yancey. So let's get started.

Speaker 2 ([00:41](#)):

Yeah, we're going to be talking about the Illinois. So if everyone can just go around really quickly and say your name and your title, and maybe what you do for higher yields CEO here at higher yields consulting. Hi everyone. My name is Marissa Cortez and I am the director of compliance here at higher yields consulting. Hey folks, I'm Deon Carroll and I am the engineer for higher yields. Hi, I'm Emily Steelman. I'm the senior technical writer here at higher yields. Um, my name is Mercedes and I'm the government relations coordinator here with higher yield. So can you tell us what's happening in Illinois in regards to their most recent cannabis licensing round? Just to give a little bit of background on Illinois adult use market, they legalize adult use sales in January, 2020. So currently existing medical license holders were able to apply through an early approval process to obtain their adult use license prior to everybody else who had to go through a very stringent and long application round.

Speaker 2 ([01:48](#)):

So from there, I mean, Illinois has absolutely been breaking records. I mean, in September alone, they've reached almost \$68 million in sales. So around this time, last year, they opened up their application process for dispensary licenses, to entities who did not at that time hold medical cannabis licenses in the state of Illinois, there were 75 licenses that were supposed to be awarded in May of 2020. Obviously now here we are in October of 2020, and there are still no licenses that have been awarded. And there is honestly no end in sight for this. Illinois has been tied up in litigation since early September when they initially announced that there would be 21 total entities entered into a lottery to win the 75 licenses. Now, all in all, there were over 4,000 applications submitted, and I want to say there was, um, a little over 700 entities total that applied for these licenses.

Speaker 2 ([02:50](#)):

So immediately following the announcement that there were going to be 21 entities entered into this lottery. It was supposed to occur in late September. Many, many applicants jumped on board with suing the state because there were so many discrepancies found with the scoring that occurred with the third party, that one, yeah, no bid contract with the state of Illinois to score these applications. And now they weren't only hired to score applications for display. They were also hired for the cultivation or craft group infuser and transportation round in Illinois that occurred maybe two to three months following the application round for dispensary's. Those licenses were supposed to be awarded in July of 2020. That that's been delayed indefinitely. There's there's absolutely no even talk about that at this point, because they're so tied up with these, with these dispensary licenses that were supposed to be awarded back.

Speaker 2 ([03:45](#)):

Give me now KPMG one on this no bid contract with the Illinois department of financial and professional regulation for \$4.2 million. Additionally, on top of that, they want to no bid contract, I guess I shouldn't say one that they got an open contract for \$2.5 million. On top of that 4.2 with the Illinois department of agriculture to score the applications for craft Grover infuser and transporter licenses. So they are

currently tied up in litigation now, not only with the applicants that were not able to get entered into this law, but on top of it, the 21 and entities that were entered into the lottery are now also suing the state. Um, they are citing that it's up to Logan makers to change this law going forward, but it's not up to the governor to change the law. After the fact. Now they're citing this because when all this happened at the beginning of September and these applicants initially sued the governor, as well as, um, additional state officials within the department of financial and professional regulation, the governor's solution to all of this was to change the application process.

Speaker 2 ([04:58](#)):

It says after the fact, um, and allow these other applicants that weren't, that did not get entered into. So this ladder lottery, you get the chance to get entered into this lottery, to be notified if any deficiencies in their applications and given 10 additional days to correct them problem. Now, these letters of deficiency were also sent out to a lot of these applicants, um, gosh, months ago at this point, but there was just a lot of inconsistency and a lot of efficiencies within this, or I should say discrepancies within this process because, you know, even just with one entity, one entity that submitted 20 applications, most of these applications are okay, identical. Um, if not, all of them are completely identical, obviously, except for the location factor. And there was so much inconsistency even just in this, you know, there would be applications that one had a perfect score in the same company and then another one didn't, but they were literally identical applications.

Speaker 2 ([06:01](#)):

So some of these people got deficiency letters, some of them didn't, like I said, there was just a lot of inconsistency. So this isn't the solution that the governor came up with. Um, and this is also what prompted all three, three in particular applicants that were awarded places in this lottery to now Sue the governor and state officials as well. So Illinois is in hot water right now, and they are most likely going to be tied up in litigation for, for quite a while. And this one. Sure, thanks, Marissa. What States have had similar issues to Illinois and were there issues for the same reason or reasons?

Speaker 3 ([06:40](#)):

Okay. Um, yeah, there have been States in the past. I think every, every time there's an application round in a competitive state, there's going to be lawsuits after, you know, people are awarded their licenses, but it tends to happen whenever the state isn't, in my opinion, isn't really understanding how to grade appropriately, whether it's internally and then they've got, um, what I would consider some bias issues or some maybe foul play where they are state level employees are being paid off or they're connected to some of the winners. And then when States actually outsource the grading and they go to third party companies, I think there tends to be an again, if they do it incorrectly, there tends to be. And we saw this in Missouri, some lawsuits that occur because there's some bias there in Missouri, there was an outsource grading to two companies that are in the cannabis industry.

Speaker 3 ([07:36](#)):

So there was consulting companies that knew of these groups. I think there was potential for some, maybe pay to play type of activities going on there. Um, so that every competitive state there is, there are lawsuits after around closes and, and licenses are handed out, but Illinois is particularly messy because they were really optimistic about their social equity program and how it would help people. And in this instance, it really didn't help anybody at all. So Illinois was expected to set the standard for social equity applicants, and they really just failed them completely. So I think that's why this one's a

little bit unique in, and their attempts at recovering the process and fixing it, I think are also starting to kind of trip them up too. So it's going to be interesting to see what happens in Illinois. I think it's a little bit, uh, a little bit unique than any other state that we've seen to this point.

Speaker 2 ([08:32](#)):

Does anybody else have something they want to add on to that as well, or? Nope. I mean, I, I completely agree with Emily. We, we see lawsuits as she said in every single competitive state so far, but this one is unique because of the fact that they were supposed to be the pioneers. They were really supposed to revolutionize this social equity program process and the application process. And, you know, a year ago I was being interviewed for a blog where I was speaking the praises of Illinois and what they've, what they've planned and how this app process is going and how this is going to set the stage for the rest of these emerging States that are looking to legalize cannabis and regulate and license and entire cannabis market. So it was, it's just, I don't know how much of a shock it is, but we just did not anticipate that it would go this route.

Speaker 2 ([09:26](#)):

And it does not look like any licenses are going to be awarded anytime soon. I mean, in New Jersey who had a similar but different situation, um, similar in the fact that they are tied up in litigation due to their application process, it's been a year now since they were supposed to award licenses and there's still no end in sight for these lawsuits and, uh, licenses that are supposed to be awarded. So all in all, what I'm trying to say is that this could be a very lengthy drawn out process for Illinois, especially because of the fact that losses are coming to them from both directions right now, not only are the applicants that did not make it into what was supposed to be the lottery, um, are suing the state. Now the applicants that did make it into the lottery are suing the state as well. So this is going to be a very interesting, um, interesting situation to continue to watch unfold. Definitely. So what decision has the state come to at this point?

Speaker 4 ([10:28](#)):

Well, they're still tied up and in litigation and, um, they did decide to go ahead basically and let these applicants redo. Um, but now they're getting sued by the other applicants who originally won at the beginning of, of this, um, whole thing. So it's kind of like the people who didn't win, sued them and went into, um, trying to, trying to get their, their side heard. But now the other side who those 21 applicants who did when technically to be in that lottery are now also kind of searing the suing Illinois for the same, same issue of saying, you know, it's not legal, what you did there, which I mean, technically it's not, but it also wasn't legal what they did at the beginning to kind of cause themselves to get into this entire mess.

Speaker 3 ([11:24](#)):

W I think what is also interesting as far as decisions that have been made by the state is that Illinois, from what I've seen as the first state and from what I've experienced, it's the first state to actually step back before they actually award licenses and offer some sort of, uh, attempt to rectify what they were doing incorrectly. And I have yet to see that in a competitive state, and I've seen these lawsuits happen after every round in competitive States. So I think it, it was interesting that governor Pritzker the assembly, they stopped everything and said, okay, what did we do wrong? We hear you, we're trying to rectify the situation. How do we do that? They've listened to what people said. They saw the lawsuits coming in from the people who didn't get into the lottery. And so two in an attempt to avoid the

lawsuits, but still, uh, roll out a fair and equitable program there, their thought was let's stop everything and have everybody reapply because there were certainly in inconsistencies and the third-party grading.

Speaker 3 ([12:29](#)):

So that's interesting because generally in other States they'll award the licenses they'll move forward. And then there's an appeal process on the state level. In, in Illinois, they were filing lawsuits. So in these other States, you kind of have this small windows, usually like 10 days to file an appeal. And it was part of the regulatory framework for licensing. So in these other States, you would have that 10 day window, you'd be scrambling to find an attorney. Most people miss their shot. They didn't get an opportunity to, to refute or dispute why, um, they didn't get the license and why it wasn't fairly graded. So this was an interesting move by the state. I think it then opened them up to lawsuits. Like we, you know, a couple of people had been saying already, it opened them up to lawsuits on the other side from the lottery winners. So I think they're going to have to, um, take that hit, but I thought that was an interesting step by the state because it was them pretty much admitting fault in, in, in, in a way. So it, um, of course opened them up to these lawsuits that some members of the team here predicted the lottery winners would Sue, but it wasn't, it was almost a refreshing thing to see that governor Pritzker listened and actually wanted to offer a new opportunity. Um, so that's, that's really all I wanted to add to that. Thank you

Speaker 5 ([13:53](#)):

Assembly. So what can other States with newly emerging cannabis markets take away from the issues Illinois experience when creating cannabis, social equity programs?

Speaker 4 ([14:05](#)):

I was just going to say one of the big things is going to be transparency. I just kind of echoed across all of these States that have had this competitive application process on the States that have ended up in litigation, um, including Illinois. I mean, a large part of it is due to their lack of transparency. Um, a lot of these social equity applicants didn't receive their scores back, um, like they were supposed to, um, they did not receive their, um, deductions back, like they were supposed to, to kind of show them like this is where you're missing items. Um, you know, your floor plan, maybe isn't completely correct. You know, if you can redo this, we will get all the points on that application. And that was written into the law and they just weren't doing that. Um, there wasn't transparency on the part of, you know, KPMG, who they were, why they won the contract, why it wasn't no big contract, um, where their cannabis experience lied, uh, and in areas of that nature.

Speaker 4 ([15:10](#)):

Um, another thing I think that a lot of other States should kind of realize is that, um, hiring a consulting firm that has these interests in mind, that has people on their team that is going to, um, understand social equity, um, and be able to assist you in making these laws is going to be really important. Um, because it's not just about the application process when it comes to social equity, it's also, you know, providing these people with, um, minority investors that are going to align with their goals, because they're going to continue to need money throughout, throughout their time as business owners. It's not just like, Oh, here we'll help you get the application. And then what tends to happen as these businesses get bought out, um, after a little while anyways, because they didn't have, you know, the training or, um, the money that they needed.

Speaker 4 ([16:01](#)):

So it's, you know, helping to assist these people and other aspects of education, um, such as maintaining ownership, generating revenue, um, leverage inventory costs and purchasing power via economies of scale and becoming cashflow positive. And then also to help them defend against predatory practices that strip control of their future profits, um, I think is going to be really important for other States kind of when they're thinking about creating these programs, um, to not just think about it as, okay, how do we get these people to win on an application? Because then we have the issue of, you know, kind of some people using, you know, a token person to get on that application as well. Um, and at that point they're not actually helping, um, minority business owners. It's still, you know, a group of wealthy people that have chosen someone to be on the application to get the points for the social equity program. So there has to be things put in place that are going to prohibit practices like that from happening as well. So I think it's really important that if you're gonna, you know, create the social equity program, it needs to be done right. And having some assistance to do that with people who are experienced in the industry and in the realm of, of social equity and minority business owners is going to be really important.

Speaker 3 ([17:24](#)):

I totally agree with that. And just to add to it, the trend that I've seen when States outsource their grading us to speaking to what Mercedes said, they often outsource them to groups that don't have cannabis experience, but they're generally auditors they're financial auditors. So they understand how to go through complex documents and audit in a, in a very objective way. But the challenge social equity applicants is that it's not just numerical. It's not just data heavy, and it's not objective. There are people that have to be able to decipher between the groups that have just pulled a token, as Mercedes said, a token applicant or individual onto their application to check that box of social equity versus the applicants who are actually social equity and individuals who are from the state who have been disempowered, who've been disenfranchised through prior cannabis laws. And to make that distinction, you can't just go down a rubric and parse out different applications based on different scores.

Speaker 3 ([18:29](#)):

So that's one unique thing that a consulting company in the cannabis industry can bring because like higher yields, what we do is we understand the social equity landscape we've understood and learned the trends of what these States are trying to do and how it's not being rolled out in the best way. So, one thing that we can do is help States navigate their grading so that they can actually understand who they're giving these licenses to. And part of that starts with the, the, the very first step of breaking down what their, uh, their business structure is and their operating structure. Maybe they get 51% to a social equity individual to check that social equity box. But what does their operating plan say? Cause the operating agreement is what is going to dictate how much control that person actually has. So I, I believe truly that States do not consider that they don't even think about it.

Speaker 3 ([19:20](#)):

It's not on their, their minds at that point. They think they've, they've outlined a great regulatory structure for social equity applicants, but when it comes down to it, they outsource the grading and it completely unravels everything they'd done in the regulatory framework to help social equity applicants. So finding a consulting company in the cannabis industry that actually understands the nuances of how a social equity equity applicant is trying to apply what the difference is between a genuine applicant, social equity applicant, and a token social equity applicant, I think is important. It's

something that we've mastered. So that would probably be the biggest piece of advice that I would have.

Speaker 2 ([19:59](#)):

I absolutely agree with everything Mercedes and I'm Elisa. And just to build on what Emily was saying about KPMG a little bit further, and this is, it gets a little bit farther away from the social equity portion of it and more, more so the application in scoring side of things, but KPMG made a lot of mistakes. You know, they are an auditing company there. They should be used to auditing a lot of, you know, a lot of data, a lot of documentation. However, there was no state oversight whatsoever. The state had zero auditing process to ensure that KPMG had the skills and knowledge that was necessary to grade this large volume of applications, you know, 4,000 plus applications, but 700 applicants, 700 and change Atkins. You have to think about it this way. A lot of these applications they're going to duplicates

Speaker 3 ([20:48](#)):

And there was such a large discrepancy. I mean, you have to have the essentially same applications. One would end up with a perfect score and one would not. Why is that? You know what I mean? And that's, I, I, I recommend highly that other States stay very closely involved in the process even with, um, even if they appoint a third party to score these applications. You know, the public has not yet been made privy as to why KPMG was even awarded a no-bid application, which definitely makes a lot of us believe that there was some sort of, um, corruption involved with this. Sure. Can you guys give us a brief definition on what a no bid contract is? Sure. One a, um, generally speaking, when a state opens up or has an opportunity for a contract that is over a certain amount of money awarded, uh, they have to put it up for bid or put it on their procurement website.

Speaker 3 ([21:49](#)):

Generally, when something goes up on a procurement website, you have the opportunity to apply, submit your bid and prove why you're the best person to win that, that contract. Usually it comes down to how fast you can turn something around. Obviously if you meet the services that they provide, but also what your cost is to do that. So when KPMG one, it was a no-bid contract. So they were just awarded this contract, presumably without anything being on the Illinois website to, to grade, or they just gave it to them. I don't know the details of how that happened, but it it's interesting to see that kind of come to surface because that's that, to me, raises red flags on, um, maybe some issues of maybe someone knowing someone in the state level, which again, raises the bias issue, which is what States are supposed to avoid and that's right for a lawsuit.

Speaker 3 ([22:46](#)):

So if the state had done it the other way, where they had, they put this on the website for bids, and then a bunch of people applied for that contract, then they would've been able to say, here's why we chose KPMG. Here's what they put forward. We chose them because they met these nine requirements and these other groups failed in this way. So they'd have some evidentiary proof to say, here's why we chose them. And they don't have many of that. So it certainly raises some red flags. And I also became aware of the fact that one of the lottery winners and individual, and one of those teams works for KPMG. Now, KPMG responded and said, they're far enough away and distance that it doesn't cause an issue. And there was no discrepancy there, but still even in regulations, when, when States roll out their cannabis programs, they don't permit anyone on the state level. And generally don't even allow family members of employees on the state levels to apply for cannabis operating licenses. So KPMG should

have had that same, uh, same requirement, but they didn't. And so that raises just another flag. That's just another kind of, uh, arrow in the quiver to, to fight against this whole licensing scheme. So it's going to be interesting to see what happens for sure. Sure. Do you guys have any other points you'd like to make on how social equity applicants are being affected besides not receiving a license? Um,

Speaker 2 ([24:20](#)):

Um, yeah, I'd like to kind of weigh in there. Well kind of, I suppose, uh, just breaking it down a bit, you have a product that's now being turned into a commodity that was, that's also being regulated by the state that was used to disenfranchise certain communities as Emily had stated before. And I suppose when I'm thinking about it, it's just kind of, it almost seems like more of the same, um, where you don't necessarily have faith in the government per seedings, um, to, I suppose, right. These wrongs and that's what the social equity program was supposed to be. And you've got a lot of these constituents that already have either investments or contingent investments. Um, just basically out there waiting on the line, waiting for an application to come through. And I mean, whether they were a lottery winner or not, um, or yeah, up for the lottery or not, um, basically they're still waiting there.

Speaker 2 ([25:26](#)):

Everyone's still waiting. So there's a kind of, a lot of money that individuals are, uh, basically have on the line as well as the fact that it may not have a lot of faith in the system going forward. Um, due to the fact that, yeah, they're the, you may have individuals that are tied to the auditing company tied to the state and other wealthy beneficiaries that, um, aren't actually social equitable, real social equity applicants. So it almost seems like, um, the state, it just allowed them to put on a ruse instead of actually, um, looking out for their constituents. So even though they are, um, I suppose taking certain measures in order to right these wrongs, if you want to put it, um, it's still puts a large, large space within the timeline, um, for these people to actually start their businesses and become profitable. Absolutely.

Speaker 3 ([26:30](#)):

And I mean, just that there are people who have spent their entire life savings just to apply for a license for dispensary license in Illinois, you know, spent tens of thousands of dollars on rent and have taken out loans.

Speaker 2 ([26:44](#)):

I mean, the list is endless and that, that harms them greatly, you know, and they obviously they knew going into this, that there was a chance that they were not going to get this license and that they, they would be spending their money for ultimately, um, I guess for lack of a better word, nothing, but at the end of the day, to know that this was not a fair process and that is attributing to the fact as to why they're ending up with nothing. I mean, that's, that's absolutely, that's, that's terrible that that's not a route that any state should go or should be desiring to go, um, in this capacity. And even just to build on a little bit further what Deon and Emily had been saying about these people that are these applicants that were let into this, this lottery that was supposed to happen.

Speaker 2 ([27:32](#)):

I mean, on top of it, there was a former intendant of the Chicago police department that was on one of the 21 applicants that was entered into that lottery Illinois operators, you know, multiple people from lobbyist groups. Um, there was also a democratic committee men. There's just a lot of people that, I mean, it's very, it's, it's hard not to raise an eyebrow when you think about it and, and think, and

automatically go to corruption. When you see a lot of these people who did make it into the lottery and a lot of them that didn't, and again, revisiting the point that I made earlier, there was multiple instances and we heard this directly from true social equity applicants directly from applicants that did not get into this lottery, where they saw instances of a perfect application that was entered into the lottery and then a duplicate application that somehow did not receive a perfect score and was not entered. And it's just to see the variance there and the discrepancies in this. I mean, it's just so many red flags, so many red flags, Illinois is in hot water over this one. All right. Thank you guys so much. So how do you think that higher yields consulting can help these social equity applicants?

Speaker 6 ([28:46](#)):

So one of the ways that higher yields can help some of the on successful social equity applicants is through our pivot program. And what that is is, you know, we, we, we have a pretty big net globally, um, as well as domestically, just here in the U S uh, progressive and conservative States. And while some States like Illinois are very competitive, like versus saying, you know, 4,000 applications being submitted only 75 licenses were going to be approved or handed out. Um, you already hadn't had the odds stacked against you, especially when you're competing against these large multi-state operators, where if you go to places like Massachusetts or Colorado, um, some places in California where it's, it's competitive at the local level, but not as nearly as competitive as it can be at the state level, um, or like Oklahoma, where, you know, they're, they're very, very progressive handing out licenses.

Speaker 6 ([29:42](#)):

Now you're going to run into a lot more saturation as far as competition. Um, a lot of times you're not going to be quite the level of licensure and compliance requirements that you're going to have in a state like New York or Florida, or, or Illinois, like we've been talking about. Um, but they create really great opportunities for social equity applicants to, to kind of get in the game, you know, and to get started and to start getting their experience rather than spending a lot of money to put a raffle ticket and into this big raffle and to have these issues that, that kind of come out of what we've seen in a lot of different States in New Jersey and Missouri and Illinois. Um, and, you know, rather than taking that chance, putting that money towards something, you know, will be successful. It has a higher likelihood of being successful in an area that maybe has a better opportunity.

Speaker 6 ([30:32](#)):

And then even using that expertise or those licenses to help you compete, or be more attractive to state law States that have competitive programs when you go to apply in those areas, because then you actually have that hands-on experience. And that's what we see with a lot of social equity applicants were kind of small operators. They, they just don't have the experience or the track record of compliance and process and procedure and, um, you know, paying taxes and really understanding, or being able to convey of the state that they know how these businesses operate. Day-to-day they understand how to track inventory. They understand how to, how to track cash. Um, and those are things that kind of worry the state. And, and those are often areas where we see on winning applicants lose points. And usually in, in these sorts of competitions, I mean, you win or lose by a point half a point, um, every time.

Speaker 6 ([31:24](#)):

Um, so, you know, the, the pivot program really offers a really good opportunity for social equity applicants. On the other side, there's definitely some support that higher yields can offer States when

creating their RFPs or scoring their RFPs, or even just vetting out the people that they would have score and conduct those, uh, conduct the RFP for, for the state applicants. Um, whether it's being writing regulations, whether it's reviewing regulations, whether it's helping at the local level. There's so many nuances of rolling out one of these programs. And there has to be a lot of continuity between the regulations, the RFP, the, the scoring of it, because what happens in the end is, is kind of this blow up that, that we're seeing in Illinois right now that you don't a lot of ways probably could have been avoided, you know, Illinois, like a couple of members on podcasts here pointed out, you know, this was supposed to be one of the first States that really took into consideration a good, strong social equity program, and the way that the language of the law and what fell out from it is just so contradictory to it.

Speaker 6 ([32:31](#)):

So, um, you know, like Mercedes said, being transparent is, is one big piece of it, but my opinion, you know, being consistent and being consistent in what you want and what you end up having in the end is really important to cannabis in general, as this continues to roll out across the world. Um, and those are all areas that, that higher yields can really step in and, and help States and local governments and social equity applicants be successful in this industry and not run into these issues like we're seeing in some of these new States.

Speaker 5 ([33:02](#)):

Yeah. If no one else has anything they'd like to add on the pivot program or how they feel higher yields can help them, we are done. Awesome. All right. Thanks guys so much. It was really interesting to hear everyone's, um, ideas and solutions to this. Absolutely. Thank you. I will talk to you all later. You guys have a good day

Speaker 1 ([33:29](#)):

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