



True Parties of Interest for Supply Tier Licenses

Guidance & Frequently Asked Questions

The [New York State Cannabis Law](#) provides a statutory framework for individuals and entities with an interest in businesses licensed by the Office of Cannabis Management (Office). The Cannabis Law creates a two-tier market structure for the Adult-Use Cannabis Program, whereby individuals or entities having any direct or indirect interest in a licensee authorized for the supply tier (nursery, cultivation, processing, distribution, cooperative, microbusiness, Registered Organization with Dispensing or “ROD”, and Registered Organization Non-Dispensing or “ROND”) are prohibited from holding any direct or indirect interest in a licensee on the retail tier (dispensing, on-site consumption, delivery) of the market and vice versa. The Cannabis Law also includes prohibitions for individuals or entities with an interest in an Article 3 registered organization or laboratory testing permit holder and Article 4 adult-use licenses.

In contrast to the absolute prohibition on holding any direct or indirect interest vertically across the two tiers, the Cannabis Law allows for an individual or entity to have an interest in multiple licenses within the same tier, albeit with several significant restrictions designed to ensure increased competition and access to the industry.

This guidance for supply tier licensees, which includes nursery, cultivators, processors, distributors, cooperatives, microbusinesses, ROND, and ROD, provides additional information as they continue to grow their licensed businesses. Licensees are responsible for remaining compliant with this guidance and any future guidance, laws, and regulations governing licenses. The Office has also made available on its website, TPI guidance for [retail tier licensees](#).



Definitions

For the purpose of this FAQ, the following definitions shall apply:

Person means an individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

Financial institution means any bank, mutual savings bank, consumer loan company, credit union, savings and loan association, trust company, or other lending institution under the jurisdiction of the New York State Department of Financial Services.

Financial interest means any actual or future right to ownership, inclusive of all restricted stock units, options, warrants, or any other interest that can be converted into a share of voting stock or equity investment, or compensation arrangement with another person, either directly or indirectly, through business, investment, spouse, domestic partner, parent or child; provided however, that with respect to a compensation arrangement the compensation, over the course of a calendar year, exceeds the greater of: (i) 10% of revenue, (ii) 50% of net profit, or (iii) \$250,000. A person with a financial interest does not include a passive investor or salaried employee earning income in excess of the compensation limits set herein.

Financier means any person, other than financial institution, that provides capital as a gift, provides a grant, or lends capital pursuant to a secured or unsecured financing agreement. Agreements will be assessed based on current and future right to ownership or interest on the licensee, including, but not limited to, interest in the event of default, bankruptcy, or reorganization. A financier may not receive an ownership interest; control of the business; gross profits or net profits; a profit-sharing interest; a percentage of the profits in exchange for a gift, grant, or loan; or a share of revenue in excess of the greater of the following over a calendar year: (i) 10% of gross revenue, (ii) 50% of net profit, or (iii) \$250,000.

Exempt services provider means any person, who is **not** a TPI, but provides services that do not inherently introduce a risk of that service provider unduly influencing across the tiers. Exempt services include providers of:

- 1) General goods and services (accounting, license application preparation, record-keeping, cleaning and janitorial, leasing equipment, architect services, security, legal services, government relations (registered lobbyist), construction, heating, ventilating, air conditioning, refrigeration, plumbing, lighting, office supplies, and provision of non-cannabis goods from unlicensed persons);
- 2) Landlords; and,
- 3) Financiers and financial institutions.

Non-exempt services provider means any person is **not** a TPI but provides services that could inherently introduce a risk of that service provider unduly influencing across the tiers. Non-exempt services include consulting, advisory, or strategic services related to the licensee's cultivation, processing, distributing, or selling of cannabis or cannabis products.



Passive Investor means a person that is a true party of interest of a licensee with an ownership interest of no more than 5% percent of the outstanding shares or interest of an applicant or licensee whose shares are publicly traded, 10% of the outstanding shares or interest of a non-publicly traded ROD license and microbusiness license, or 20% of the outstanding shares or interest of any other entity, as well as any person who guarantee a lease.

True Parties of Interest (TPI)

1. What is a True Party of Interest (TPI)?

True Parties of Interest are those persons (whether individuals and entities) who have an interest in a cannabis license.

TPIs of applicants or licensees include persons who:

- are sole proprietors, partners, LLC members, LLC managers, shareholders of a licensed entity, or their spouses;
- exercise control over a licensee, including management services providers;
- hold an actual or future right to ownership or investment, or are the spouse of someone who holds such a right, including by stock, convertible bond, note, warrant, option, SAFE (simple agreements for future equity), or equity swap agreements over a licensee;
- serve in a leadership, senior, or control position, such as a manager, president, vice president, secretary, treasurer, officer, board member, trustee, director, or a person with an equivalent title or position in a licensee, or are the spouse of a person who holds one of these roles or titles;
- receive aggregate payments in a calendar year, as part of goods and services agreement, that exceed **the greater of**:
 - ten percent (10%) of gross revenue;
 - fifty percent (50%) of net profit of a licensee; or
 - \$250,000;
- assumes responsibility for the debts of a licensee; or
- make up, or are the spouse of a person who makes up, the ownership structure of each level of ownership of a licensee that has a multilevel ownership structure.

2. What is control over a licensee?

Control means the authority to order or direct the management, operation, managers, or policies of a person, including, but not limited to, the ability or authority, expressed or reserved, to:

- i. amend or change the corporate or operating identity (e.g., joint venture agreement or unincorporated business status) of a person;
- ii. approve operating and capital budgets for the person;
- iii. adopt, approve, or direct fiscal operating policies and procedures;



- iv. approve debt necessary to finance the person's costs of compliance with operational or facility standards required by law;
- v. approve contracts for management of facility services;
- vi. hire or dismiss executive personnel;
- vii. maintain and control the books and financial records of the person, including, but not limited to, co-signing bank accounts and the power to authorize capital outlays and spending;
- viii. encumber the assets of the person by way of mortgage or other indebtedness; and;
- ix. dissolve the person or arrange for sale or transfer of the person to new ownership or control.

Control also includes:

- i. the right to execute any material contracts;
- ii. the ability to exercise the authority to materially influence the day-to-day business decisions, operations, strategic priorities, capital allocations, acquisitions and divestments;
- iii. the ability to direct decisions, voting or otherwise.

3. Is anyone who has entered an arrangement with a licensee considered a TPI?

No. A person may be a goods and services provider to a licensee without becoming a TPI, presuming that the arrangement does not exceed the following control thresholds:

For an exempted service provider (inclusive of landlords and financiers):

An exempted services provider will become a TPI in a license if that service provider exceeds the thresholds defined in the TPI definition above. Therefore, if an exempted service provider receives payment in a calendar year in excess of the greater of 10% of revenue, 50% of net profit or \$250,000, that person will be considered a TPI.

For a non-exempted services provider:

A non-exempted services provider must follow the same rules as the exempted services provider, with the additional restriction that any person that has a non-flat fee non-exempted services arrangement with a licensee may only provide services within that tier. However, a non-exempted services provider may provide services to multiple tiers, presuming that all arrangements are for a flat fee.

In addition to the above, licensees and their service providers should be aware that all arrangements between parties shall be viewed as a single arrangement, and the combined agreement shall be held to the strictest prohibitions of each of those individual agreements. Further, any agreement imparting control or otherwise creating a true party of interest relationship, as outlined in question one, would make the goods



and services provider a true party of interest in the licensee receiving the goods or services.

The Office reserves the right to review all agreements entered into by licensees.

4. Can a foreign national be a TPI in an adult-use license?

You must be a US citizen or a person lawfully admitted for permanent residence in the United States to obtain a cannabis license or become a TPI in a license.

If you are a corporation, then each of the principal officers and more than one-half of its directors must be citizens of the United States or personal lawfully admitted for permanent residence in the United States.

For purposes of citizenship, the Office interprets the citizenship requirement to extend eligibility to any individual who is:

- A citizen of the United States;
- An alien lawfully admitted for permanent residence in the United States;
- Foreign nationals from reciprocal treaty countries set forth in a list maintained by the U.S Department of State. That list may be found at the [State Department website](#).
- Foreign nationals from any other country who can satisfy the Authority that his/her country has a treaty with the United States that permits citizens of both countries to engage in trade with and/or work in each other's country on a reciprocal basis.

Please note that a citizen of another nation that qualifies under this section is not required to be physically present in the United States to obtain a license. However, if such an individual intends to work at the licensed premises, it will be necessary for the person to demonstrate that he/she has the appropriate visa to enter and work in the United States. ALL TPI must meet all other requirements to be eligible to hold the license being sought.

5. Will the Office collect and review information about licensees' TPI?

Yes. Applicants will be required to disclose all TPI of certain types. An applicant's disclosable TPI must submit a personal or entity history disclosure to the Office for review. Unless otherwise approved by the Office, all required TPI disclosures must be received and reviewed before a license will be issued. More information on the TPI disclosure rules is available at the Office's additional TPI Guidance.

The Office will only consider licensure applicants whose ownership structure does not violate any of the rules and requirements under the Cannabis Law and applicable regulations.

Licensees are recommended to consult with their own legal counsel before entering into any agreements that may, for example, create TPI relationships, violate ownership rules, and result in denials of full licensure.



6. Which of an applicant's TPI are required to be disclosed?

An applicant must disclose the following TPI:

- Any TPI with a non-ownership interest, such as executive officers and other persons with control over the applicant;
- If the applicant is a privately held entity, any owner TPI with a proportional ownership stake over 10%;
- If the applicant is a publicly traded entity, any owner TPI with a proportional ownership stake over 5%; and
- Any other TPI as determined by the Office.

If a TPI qualifies as both a non-owner TPI and an owner TPI (for example, a company President who owns 12% of the company's shares), they must be disclosed per the non-ownership disclosure rules.

7. How will the Office calculate the percentage of shares that a TPI holds in a license?

The Office will consider a person's share in a license to be the greatest of that person's percentage share of:

- Current voting shares;
- Future voting shares;
- Current equity shares; or
- Future equity shares.

Note: For the purposes of determining the total shares outstanding for future ownership, the Office will use a modified definition of fully diluted share count, calculating a TPI's future ownership interest based on the entity's fully diluted share count (inclusive of all restricted stock units, options, warrants, or any other units of ownership that can be converted into a share of voting stock or equity), LESS contingent or future shares owned by persons whose financial or controlling interest in an entity is active.

8. Can a licensee receive a gift, grant, or loan pursuant to a financing agreement from a financier or financial institution?

Yes. A licensee may borrow capital and enter into a financing agreement with a financier or financial institution. A financier or a financial institution may also give a gift, grant, or loan to **licensees across multiple tiers** (e.g. a cultivator and a retail dispensary). However, if the financier or financial institution giving such a gift, grant, or loan receives an ownership interest, control of the business, a share of revenue or net profits that exceeds the allowable thresholds (see questions one and two) in exchange for the gift, grant, or loan, they become a TPI in the license and are subject to disclosure requirements and ownership prohibitions.

9. Can a management services provider to a cultivator, processor, distributor, cooperative, microbusiness, ROD or ROND also provide services to a retailer,



delivery, on-site consumption licensee, laboratory permittee, or medical-only registered organization?

No. Management services providers are assumed to hold a controlling interest and are therefore considered a TPI of the licensee and are prohibited from having an interest in another tier.

Adult-Use Cultivator

10. Can I be a TPI in multiple licenses authorized for cultivation?

While a person can be a passive investor in an unlimited number of cultivator licenses, a person may only have a financial or controlling interest in one license authorized for cultivation. All true parties of interest, except passive investors, are considered to have a financial or controlling interest. Licenses authorized for cultivation include cultivators, microbusinesses, cooperatives, RODs, and RONDs.

11. As a TPI in a license authorized for cultivation, can I invest in other types of adult-use cannabis licenses?

It depends. Under no circumstances may a TPI in a license authorized for cultivation have a direct or indirect interest in a license authorized to sell cannabis at retail (including retail dispensaries, delivery, and on-site consumption), a medical-only Registered Organization, or a cannabis laboratory or permittee. Such prohibited interests shall include exempt and non-exempt goods and services agreements. This means that a TPI in a cultivator may not, for example, be a landlord or lender to a licensee authorized to sell cannabis at retail.

However, a TPI in a cultivator, cooperative, microbusiness, ROND or ROD may invest in or have other arrangements with entities holding processor or distributor license and may enter goods and services agreements with other cultivators, processors, and distributors.

No person may be a TPI with a financial or controlling interest in more than one license authorized for cultivation. Therefore, cultivators, cooperatives, microbusinesses, RONDs or RODs and their TPI should proceed with caution to ensure they are compliant with guidance, rules, and regulations when investing in other licenses and should maintain copies of all agreements for review by the Office.

For more information on Processors or Distributors and their TPI, please see the section below.

12. Can a cultivator gift, grant, or lend to another licensee pursuant to a financing agreement?

Any person giving a gift, grant, or loan to a licensee in which they are not a TPI is a financier.



Under no circumstances may a cultivator, or a TPI in any license authorized for cultivation, be a financier to a licensee authorized to sell cannabis at retail (including retail dispensaries, delivery, and on-site consumption), a medical-only Registered Organization, or a cannabis testing laboratory or permittee.

However, a licensee authorized for cultivation may be a financier for a licensee authorized for cultivation, processing, or distribution, so long as the licensee offering such a financial agreement does not violate TPI rules by becoming a TPI in the other licensee they are financing. The Office reserves the right to review all agreements entered by the licensee for compliance with the Cannabis Law, rules, regulations, and guidance.

13. Can a cultivator minimally process cannabis products?

To process cannabis, including the purchasing of biomass, or packaging of cannabis products for sale, a cultivator must apply for and hold a processor license. Under no circumstances may a licensee holding a cultivator license who does not also hold a processor license, or any other license authorized to process cannabis products, perform any processing of cannabis products.

14. Can a licensee authorized for cultivation rent space from licensee authorized for cultivation, if the landlord also provides consulting services? Can such licensee authorized for cultivation pay for the space and services with a mix of cash and cannabis when harvested?

Yes, this agreement is allowed. A cultivator may rent space to another supply-tier licensee, pursuant to the Office's TPI and goods and services rules. In such a situation, the cultivator landlord is permitted to include services in the terms of the agreement, however licensees and service providers should be aware that such stacked agreements will be viewed as a single combined agreement (see question 2). As long as the landlord is not taking on ownership or equity in the licensee in excess of the passive investor limits set forth in question eight, receiving a share of revenue or profit in excess of the thresholds set forth in question one, or controlling the tenant licensee, the cultivator landlord is not a TPI. Payment to the landlord may be paid in cash or any legal alternative form of compensation, provided that such alternate forms of payment are valued at fair market value for the purposes of the transaction and the landlord holds a license that authorizes cultivation.

15. Can a cultivator have any interest in a Registered Organization?

It depends. Pursuant to the Cannabis Law, a cultivator or a TPI of a cultivator may not have any interest, direct or indirect, in a Registered Organization authorized under Article 3 ("Medical Only RO"). However, a cultivator may have a direct or indirect interest in a Registered Organization authorized under Article 4 (ROD & ROND). In addition, a cultivator may be a goods and services provider to a ROD or a ROND.

A cultivator and their TPI must remain aware of any potential TPI violations when entering into agreements with Registered Organizations to ensure such agreements are permitted under the Office's regulations and guidance.



Adult-Use Processor

16. Can I be a TPI in multiple adult-use processor licenses?

Yes, a person may be a TPI in more than one Adult-Use Processor license. However, the entity holding the Adult-Use Processor license cannot be a TPI in another processor.

17. As a TPI in an Adult-Use Processor, can I invest in other types of adult-use cannabis licenses?

An investor in a licensee is a TPI in that licensee. A TPI in an Adult-Use Processor license may also be a TPI in other supply tier entities holding a cultivation, processing, distribution, cooperative, microbusiness, ROD, or ROND license. However, TPIs should be aware of prohibitions on other licensees. For instance, the Cannabis Law allows a person to have a financial or controlling interest in **only one** cultivation license. If a person is an investor in an entity with a financial or controlling interest in, or that is holding both an Adult-Use Processor and an Adult-Use Cultivator, then they are a TPI in both license types and cannot be a TPI in another cultivator.

Under no circumstances may a TPI in an Adult-Use Processor have a direct or indirect interest in a license authorized to sell cannabis at retail (including retail dispensaries, delivery, and on-site consumption), a medical-only Registered Organization, or a cannabis laboratory permittee.

18. Can an Adult-Use Processor licensee gift, grant, or lend to another licensee pursuant to a financing agreement?

Any person giving a gift, grant, or loan to a licensee in which they are not a TPI is a financier.

Under no circumstances may an Adult-Use Processor licensee or its TPI be a financier to a licensee authorized to sell cannabis at retail (including retail dispensaries, delivery, and on-site consumption), medical-only Registered Organization, or a cannabis laboratory or permittee.

However, an Adult-Use Processor licensee may be a financier to a cultivator, processor, or distributor licensee, so long as the Adult-Use Processor does not become a TPI in multiple cultivator licenses.

19. If I am an Adult-Use Processor licensee or a TPI on an Adult-Use Processor license, can I enter into a goods and services agreement with another Adult-Use Processor licensee?

Yes, a Adult-Use Processor licensee or its TPI may enter into a goods and services agreement with other Adult-Use Processor licensees.

However, Adult-Use Processors should be aware that while a person may be a TPI in multiple processors, no person may have a direct or indirect financial or controlling interest in multiple licensees authorized to cultivate. As a result, an Adult-Use Processor



should be cautious in entering into agreements with an entity holding both a license authorized to cultivate and process.

20. If I am an Adult-Use Processor licensee or a TPI in an Adult-Use Processor, can I have a goods and services agreement or other similar agreement with a cultivator?

An Adult-Use Processor and its TPI may enter into a goods and services agreement with a cultivator. However, any such agreement that qualifies the Adult-Use Processor as a TPI in multiple a cultivator licenses would not be permitted.

An Adult-Use Processor should refer to the TPI definition in question one for more information on the types of arrangements that would qualify them as a TPI in a license authorized to cultivate.

21. If I am an Adult-Use Processor licensee or a TPI in an Adult-Use Processor licensee, can I have a risk sharing agreement with a cultivator? Am I able to enter into risk sharing agreements with multiple licensees authorized to cultivate?

An Adult-Use Processor licensee or its TPI may enter a risk sharing agreement with a cultivator. While an Adult-Use Processor and its TPI may enter risk sharing agreements with multiple licensees authorized to cultivate, the conditions of such agreements may qualify that Adult-Use Processor as a TPI in those licenses. Because a person may only be a TPI in a single a cultivator, an Adult-Use Processor should be cautious when entering risk sharing agreements with multiple licensees.

An Adult-Use Processor should refer to the TPI definition in question one for more information on the thresholds that would qualify them as a TPI in a cultivator.

Adult-Use Distributor

22. Can I be a TPI in multiple adult-use distributor licenses?

Yes, a person may be a TPI in more than one Adult-Use distributor license.

23. As a TPI in an Adult-Use distributor, can I invest in other types of adult-use cannabis licenses?

An investor in a licensee is a TPI in that licensee. A TPI in an Adult-Use Distributor license may also be a TPI in other entities holding a cultivation, processing, or distribution licenses, **except microbusinesses; a licensee authorized for distribution, or its TPI, may only have a passive interest in a microbusiness, and vice-versa.** TPIs should also be aware of prohibitions on other licensees. For instance, the Cannabis Law allows a person to have a financial or controlling interest in **only one** cultivation license. If a person is an investor in an entity with a financial or controlling interest in, or that is holding both an Adult-Use Distributor and an Adult-Use Cultivator, then they are a TPI in both license types and cannot be a TPI in another cultivator.



Under no circumstances may a TPI in an Adult-Use Distributor have a direct or indirect interest in a license authorized to sell cannabis at retail (including retail dispensaries, delivery, and on-site consumption), a medical-only Registered Organization, or a cannabis laboratory permittee.

24. Can an Adult-Use distributor licensee gift, grant, or lend to another licensee pursuant to a financing agreement?

Any person giving a gift, grant, or loan to a licensee in which they are not a TPI is a financier.

Under no circumstances may an Adult-Use Distributor licensee or its TPI be a financier to a licensee authorized to sell cannabis at retail (including retail dispensaries, delivery, and on-site consumption), medical-only Registered Organization, or a cannabis laboratory or permittee.

However, an Adult-Use Distributor licensee may be a financier to a cultivator, processor, or distributor, so long as the Adult-Use Distributor does not become a TPI in multiple cultivator licenses.

25. If I am an Adult-Use distributor licensee or a TPI on an Adult-Use Distributor license, can I enter into a goods and services agreement with another Adult-Use Distributor licensee?

Yes, an Adult-Use Distributor licensee or its TPI may enter into a goods and services agreement with other Adult-Use distributor licensees.

However, Adult-Use Distributors should be aware that while a person may be a TPI in multiple distributors, no person may have a direct or indirect financial or controlling interest in multiple licensees authorized to cultivate. As a result, an Adult-Use Distributor should be cautious in entering agreements with an entity holding both a license authorized to cultivate and process. Additionally, distributors should be cautious when entering into goods and services agreements with a microbusiness, as distributors who become a TPI in a microbusiness would be violation of the Cannabis Law.

26. If I am an Adult-Use Distributor licensee or a TPI in an Adult-Use Distributor, can I have a goods and services agreement or other similar agreement with a cultivator?

An Adult-Use Distributor and its TPI may enter into a goods and services agreement with a cultivator. However, any such agreement that qualifies the Adult-Use Distributor as a TPI in multiple licensees authorized to cultivate would not be permitted.

An Adult-Use Distributor should refer to the TPI definition in question one for more information on the types of arrangements that would qualify them as a TPI in a license authorized to cultivate.



27. If I am an Adult-Use Distributor licensee or a TPI in an Adult-Use Distributor licensee, can I have a risk sharing agreement with a cultivator or process? Am I able to enter risk sharing agreements with multiple licensees authorized to cultivate?

An Adult-Use Distributor licensee or its TPI may enter a risk sharing agreement with a cultivator or process.

While an Adult-Use distributor and its TPI may enter into risk sharing agreements with multiple licensees authorized to cultivate or process, the conditions of such agreements may qualify that Adult-Use distributor as a TPI in those licenses. As a person may only be a TPI in a single a cultivator, an Adult-Use Distributor should be cautious when entering risk sharing agreements with multiple licensees.

An Adult-Use Distributor should refer to the TPI definition in question one for more information on the thresholds that would qualify them as a TPI in a cultivator.

28. Can a licensee authorized to distribute adult-use cannabis products contract with another licensee authorized to distribute to transport cannabis products to retail on their behalf?

Yes, a licensee authorized to distribute adult-use cannabis products may transport cannabis products to a retail on behalf of another licensee.

Distributors should be aware, however, that while any licensee authorized to process may sell cannabis or cannabis products to any other licensee authorized to process or distribute, no distributor may **sell** cannabis or cannabis products to another distributor.

Microbusinesses, Cooperative, ROND, and ROD

29. Are microbusinesses, cooperatives, RONDs, and RODs and their TPI held to the same TPI rules and restrictions as the supply-tier licenses whose activities they are authorized to perform (cultivation, processing, and distribution)?

Yes. Microbusinesses, cooperatives, RONDs, and RODs, like any other stacked license, are responsible for following the TPI rules of cultivators, processors, and distributors. This means, for example, that a financial or controlling interest of a ROND may not have a financial or controlling interest in a cultivator, cooperative, microbusiness, another ROND, or a ROD. As both RONDs and RODs are considered a supply-tier licenses, ROND and ROD licensees, and their TPI are permitted to hold interests in the supply-tier.

Under no circumstances may a TPI in a ROD or a ROND have a direct or indirect interest in a license authorized to sell cannabis at retail (including retail dispensaries,



delivery, and on-site consumption), a medical-only Registered Organization, or a cannabis laboratory permittee.

Contact the Office

I have a question about True Party of Interests that is not answered here. Who can I contact?

If your question is not answered here, view the [Adult-Use Licensing Homepage](#) . If your question is not answered there—contact the Office at info@ocm.ny.gov.