



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Alexa Jeffress
Director, Department of
Economic and Workforce
Development

SUBJECT: 2022-2023 Governor's Office of
Business and Economic Development
Grant for Cannabis Equity Program

DATE: March 28, 2022

City Administrator Approval

Date: Apr 14, 2022

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

A Resolution Authorizing The City Administrator To:

- (1) Apply For And Accept Five Million Four-Hundred And Thirty-Five Thousand, One Hundred And Forty Dollars And Eighty-Two Cents (\$5,435,140.82) In State Of California, Governor's Office Of Business And Economic Development (Go-Biz) Cannabis Equity Grant Program Funds; And**
- (2) Appropriate The Local Jurisdiction Assistance Grant Funds By:**
 - (A) Providing Grants And/Or No-Interest Loans In An Amount Not To Exceed Two-Hundred And Fifty Thousand Dollars (\$250,000) Per Grant Or Loan For Cannabis Equity Applicants And Licensees, To Be Determined And Without Return To Council, For Businesses' Start-Up And Ongoing Costs In A Cumulative Amount Not To Exceed Two-Million Four Hundred And Twenty-Eight Thousand, Nine Hundred And Fifty-Three Dollars And Ten Cents (\$2,428,953.10); And**
 - (B) Providing No-Interest Loans To Cannabis Equity Licensees And Applicants To Fund The Purchase Of Real Property For Use By Multiple Equity Applicants And Licensees, To Be Determined And Without Return to City Council, In A Total Amount Not To Exceed Two-Million Two Hundred And Fifty Thousand Dollars (\$2,250,000); And**
 - (C) Funding Direct Technical Assistance To Cannabis Equity Applicants And Licensees Through Shared-Use Manufacturing Facilities And Workforce Development Programs In An Amount Not To Exceed Five-Hundred And Forty-Three Thousand, Two Hundred And Seventy-Two Dollars And Thirty-Six Cents (\$543,272.36); And**

(D) Funding Administration Of The Cannabis Equity Program In An Amount Not To Exceed Two Hundred And Twelve Thousand, Nine Hundred And Fifteen Dollars And Thirty-Six Cents (\$212,915.36); And

(3) Forgive The Loans For Purchase Of Real Property Referenced Above And Without Return To Council Based On Loan Recipients' Compliance With Loan Program Terms; And

A Resolution Amending Resolution No. 88735 C.M.S., Which Among Other Things Authorized the Acceptance And Appropriation Of Nine-Hundred And Ninety-Seven Thousand Six Hundred And Ninety-Four Dollars (\$997,694) In State Of California Proposition 64 Public Health And Safety Grant Program Cohort Two Funds ("Proposition 64 Grant") To Authorize The City Administrator To Re-Appropriate The Proposition 64 Grant Funds By:

(A) Entering Into An Agreement At An Amount Not To Exceed Three-Hundred And Ten Thousand Dollars (\$310,000) With Youth Uprising To Provide Preventative And Intervention Activities To Youth In Regards To Cannabis Consumption; And

(B) Entering Into An Agreement In An Amount Not To Exceed One Hundred And Sixty-Three Thousand Three Hundred And Six Dollars (\$163,306) With The Public Health Institute To Develop and Execute Youth Public Awareness Campaign Regarding Cannabis Consumption; And

(C) Entering Into An Agreement With LMB Creative Group, LLC In An Amount Not To Exceed Fifty Thousand Dollars (\$50,000) To Provide Data Collection And Local Evaluation Reporting; And

(D) Waiving The Request Proposal/Qualification Requirements For The Above-Mentioned Agreements With Youth Uprising And Public Health Institute.

EXECUTIVE SUMMARY

The City Council established the nation's first Cannabis Equity Program (Equity Program) in the Spring of 2017, following a race and equity analysis that identified strategies to promote equitable ownership and employment opportunities in the cannabis industry to address the disproportionate impacts of the war on drugs in marginalized communities of color. The City of Oakland's action led to the creation of California's Cannabis Equity Grants Program for Local Jurisdictions administered by the Governor's Office of Business and Economic Development (Go-Biz) that has made funding available on an annual basis for local jurisdictions with cannabis equity programs. On February 7, 2022 Go-Biz awarded the City of Oakland \$5,435,140.82 to support the City of Oakland's Equity Program over the next year.

This funding offers an opportunity to continue building upon the foundation the City of Oakland (City) has established for its Equity Program. Specifically, state funding will facilitate grants and no-interest revolving loans to equity operators to support their businesses' start-up and ongoing costs, the purchase of property to support multiple equity operators, shared-use manufacturing

facilities, workforce development programs, as well as a portion of the costs of administering the Equity Program.

In addition to accepting and appropriating the latest Go-Biz grant, staff recommends re-allocating Proposition 64 Public Health and Safety Grant funds previously received from the Board of State and Community Corrections (BSCC) in 2021. This re-structuring adjusts for the unavailability of an initial project partner and funds a third-party organization to provide the BSCC with required evaluation reports.

BACKGROUND / LEGISLATIVE HISTORY

Federal Cannabis Policy

Cannabis remains a Schedule One controlled substance under federal law, however, since the 2013 Department of Justice “Cole Memorandum”¹ and the 2015 Fahr-Rohrbacher federal budget amendment,² state compliant medical cannabis facilities have generally been shielded from federal prosecution. The Trump Administration had threatened to interrupt this status quo by rescinding the Cole Memorandum. Nonetheless, Congress has consistently extended the Fahr-Rohrbacher amendment and the federal government has not prioritized cannabis prosecutions.

California Statewide Cannabis Regulation

Although medical cannabis has been legal in California longer than anywhere in the country, until the passage of the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015, California’s system of medical cannabis was one of the least structured regulatory frameworks in the United States. MCRSA created a comprehensive regulatory framework for the cultivation, production, transportation and sale of medical cannabis in California, all overseen by a new state bureau. In November 2016, the people of California enacted the Adult-Use of Marijuana Act (AUMA) or Proposition 64, which among other actions, established a licensing and taxation scheme for the non-medical adult-use of cannabis in California. Then in June 2017, the state legislature consolidated the MCRSA and AUMA into the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). State agencies have been implementing MAUCRSA ever since, including through the issuance of multiple sets of regulations governing cannabis operations.

Oakland’s Cannabis Regulatory History

The City has been a leader in regulating cannabis. In 2004, following the federal closure of the Oakland Cannabis Buyers Club, the City’s initial medical cannabis provider under Oakland

¹ The Cole Memorandum can be found here:

<https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

² The Fahr-Rohrbacher amendment states: “None of the funds made available in this Act to the Department of Justice may be used, with respect to the States of... California...to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

Municipal Code (OMC) 8.46, the City enacted OMC 5.80, which established the nation's first permitting process for medical cannabis dispensaries. In 2011 the City expanded the number of available dispensary permits from four to eight and attempted to establish a permitting process for the cultivation of medical cannabis under OMC 5.81, however, threats of federal intervention and the lack of comprehensive state law prevented implementation of OMC 5.81.

Oakland Examines Equity Within Cannabis Industry

In anticipation of state legalization of the cannabis industry's supply chain and the adult use of cannabis, the City began exploring approaches to legalizing the cannabis industry within Oakland in 2015 and 2016. Discussions at the City Council centered around one question: Who benefits from cannabis legalization?

This inquiry led the City Council in the fall of 2016 to adopt the goal of promoting equitable ownership and employment opportunities in the cannabis industry to address the disproportionate impacts of the war on drugs in marginalized communities of color and to direct the City Administration to conduct a race and equity analysis of proposed medical cannabis regulations.

In March 2017 staff returned with a race and equity analysis³ that identified barriers to achieving a more equitable cannabis industry and strategies to remove those barriers. For example, the analysis found disparities within the cannabis industry in access to capital and real estate as well as disparities in operators' familiarity with the "red tape" involved in governmental processes and operating a compliant cannabis business. In response, the analysis recommended the creation of several measures to prioritize lower-income Oakland residents that either had a cannabis conviction arising out of Oakland or had lived in areas of Oakland that experienced disproportionately higher levels of cannabis enforcement.⁴ Strategies identified to prioritize equity applicants included:

- Free industry-specific and business ownership technical assistance;
- A no-interest revolving loan program funded by new cannabis tax revenue;
- A phased permitting process whereby the City Administrator must issue half of all permits under OMC 5.80 and 5.81 to equity applicants during the initial phase;
- An incubator program that prioritizes general applicants who provide three years of free space and security to equity applicants; and
- Application and permit fee exemptions for equity applicants.

³ <https://cao-94612.s3.amazonaws.com/documents/Equity-Analysis-and-Proposed-Medical-Cannabis-Amendments.pdf>

⁴ OMC 5.80.010 and OMC 5.81.020 define an "Equity Applicant" as "an Applicant whose ownership/owner: 1. Is an Oakland resident; and 2. In the last year, had an annual income at or less than 80 percent of Oakland Average Medium Income (AMI) adjusted for household size; and 3. Either (i) has lived in any combination of Oakland police beats 2X, 2Y, 6X, 7X, 19X, 21X, 21Y, 23X, 26Y, 27X, 27Y, 29X, 30X, 30Y, 31Y, 32X, 33X, 34X, 5X, 8X, and 35X for at least ten of the last twenty years or (ii) was arrested after November 5, 1996 and convicted of a cannabis crime committed in Oakland, California."

In the Spring of 2017, the City Council passed a legislative package (Ordinance No. 13424 C.M.S. and Resolution No. 86633 C.M.S.) enacting these recommendations and the City Administrator's Office began accepting applications for non-dispensary permits in May of 2017.

Growth of a Larger Movement and State Grant Awards for Equity Program

Oakland's pioneering race and equity analysis of the cannabis industry and creation of an Equity Program inspired jurisdictions across the country to pursue and support similar programs. For example, the City and County of San Francisco, the City of Los Angeles, the City of Sacramento, and the States of Massachusetts, Illinois, New Jersey, and New York have conducted similar analyses or enacted their own equity programs.

Starting in 2019 the State of California has set aside annual grant funding to support local jurisdictions' cannabis equity programs. Since 2019, the City of Oakland has received either the largest or second largest portion of these grant funds, including \$1,657,201.65 in 2019; \$6,576,705.76 in 2020; \$2,434,712.51 in 2021; and most recently \$5,435,140.82 in 2022.

Equity Tax Rebate Program

In 2019 the Oakland City Council amended the City of Oakland's tax rates by lowering tax rates for equity businesses, establishing different tax rates based on a businesses' annual gross receipts or business type, and introducing a tax rebate program to incentivize local hiring and support of the City's Equity Program. Specifically, OMC Section 5.04.481 offers a rebate of 0.5 percent of taxes paid for any of the following rebate conditions: 30 percent of the workforce consists of equity employees, 25 percent of equity employees in essential roles, and 20 percent of workforce consists of equity employees in managerial roles. To date, few cannabis employers have sought an equity tax rebate.

Comparative Analysis for Oakland's Cannabis Industry

As part of an updated assessment of the City of Oakland's Equity Program, in 2021 the City partnered with Sharon Jan, a student of the University of California Berkeley Goldman School of Public Policy, who examined employment and entrepreneurship opportunities and challenges of non-cannabis equivalent industries in Oakland.⁵ The analysis concluded that the City of Oakland can facilitate high wage employment opportunities by building partnerships and training Oakland workers to fill specialized manufacturing akin to chemical and medical manufacturing.

Proposition 64 Public Health and Safety Grant Program

In addition to the grants to support the Equity Program, in 2021 the City of Oakland received a \$997,694 Proposition 64 Public Health and Safety Grant. Proposition 64 directed a portion of state tax revenue generated from the cultivation and retail sale of cannabis and cannabis products towards grant programs to mitigate the impacts resulting from the legalization of

⁵ The comparative analysis can be found on pages 24-40 of the May 2021 Cannabis Regulatory Commission Agenda Packet: https://cao-94612.s3.amazonaws.com/documents/CRC-May-6.-2021-Agenda-Packet_2021-05-03-154013.pdf

recreational cannabis. Specifically, the Revenue and Taxation Code directs the BSCC to make grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of Proposition 64. After releasing a Request for Proposals (RFP) in early 2020 and selecting an initial cohort of ten local jurisdictions, the BSCC released an RFP for a second cohort (Cohort Two) in December 2020. The most recent RFP limited grant proposals to four Project Purpose Areas (PPAs): PPA 1: Youth Development/Youth Prevention and Intervention; PPA 2: Public Health; PPA 3: Public Safety; and PPA 4: Environmental Impacts. Additionally, the Cohort Two RFP mandated that all grant proposals address PPA 1 with at least ten percent of the overall budget.

In 2021 the BSCC awarded the City of Oakland a \$997,694 grant to implement a Cannabis Safety and Awareness Program. This program features a three-prong approach: (1) a campaign to educate youth about cannabis use with a goal of decreasing youth usage rate; (2) a campaign to inform consumers aged 21 and over about safe cannabis use by encouraging consumers to support equity-owned cannabis businesses in the regulated marketplace; and (3) a series of security workshops for cannabis businesses. City Council approved these measures in July 2021 through the passage of Resolution 88735 C.M.S.

ANALYSIS AND POLICY ALTERNATIVES

Approval of the requested action advances the Citywide priority of **housing, economic, and cultural security**.

Challenges Facing Equity Applicants

As noted in prior reports, the Equity Program does not exist in a vacuum. Equity applicants face many of the same challenges that confront entrepreneurs seeking to establish any business, such as securing sufficient capital, bringing a facility into compliance with building and fire codes, legal issues, scaling a business, as well as securing sales. Further, equity applicants encounter many of the same challenges that cannabis businesses face operating in the infancy of cannabis legalization, such as market uncertainty, regulatory compliance, inadequate access to banking, and security concerns. While the challenges faced by equity applicants may not be unique, these challenges likely have a disproportionate impact on equity applicants due to a web of past and present policies and actions of institutions that have resulted in disparities in business ownership and access to venture capital. For an overview of current challenges facing equity applicants, please see **Attachment A**, 2022 Cannabis Equity Program Survey.

Workforce Development Opportunities

There is a strong role for government to play with respect to cannabis workforce development. Due to security concerns and the lack of formal training institutions, cannabis businesses tend to hire people they know, which reinforces socio-economic disparities. Furthermore, traditional job training programs lack subject matter expertise regarding cannabis specific issues. By funding cannabis specific workforce development programs for equity employees, the City can provide valuable training and connect different socio-economic groups.

Strategies for Utilizing State Funds

The Go-Biz grant offers an opportunity to address several of the challenges confronting equity applicants and expand the Equity Program's reach into workforce development programs.

Figure 1 offers a summary of the proposed uses of Go-Biz funds and the level of funding proposed for each use.

Figure 1- Proposed Use of 2022-2023 Go-Biz Grant Funds

Proposed Use	Amount of Funds
A. Grants/Loans to Operators For Start-Up and Ongoing Costs	\$2,428,953.10
B. No-Interest Loan to Purchase Property	\$2,250,000.00
C. Managing Shared-Use Facilities	\$212,915.36
D. Workforce Development	\$330,357.00
E. Half of a City Administrator Analyst	\$122,959.00
F. Administering of Grant/Loan Programs	\$89,956.36
TOTAL	\$5,435,140.82

A. Grants and/or Loans to Operators to Assist with Start-Up and Ongoing Costs

Staff recommends that the largest tranche of funds - approximately \$2.4 million - be committed to grants and/or loans to operators for start-up and ongoing costs. Grants and loans to equity operators provide access to capital, the fundamental barrier confronting equity applicants as they seek to gain entry and successfully operate in the state's regulated cannabis marketplace. In a recent survey (see **Attachment A**), equity applicants identified lack of capital as the principal barrier to establishing a compliant cannabis business. Grants and loans address this barrier and provide operators with flexibility to cover the variety of expenses they encounter initiating and growing their business, from completing construction, to purchasing insurance, to covering state licensing fees.

B. No-Interest Loans to Purchase Properties That Support Multiple Operators

In addition to broad assistance through grants and loans for all eligible expenses, Go-Biz funds offer an opportunity for targeted sustainable investments, such as the purchasing of properties that support multiple equity operators, which simultaneously addresses two principal barriers: access to real estate and capital. Staff recommends that \$2.25 million be allocated for no-interest loans to purchase such properties. This is particularly important since the initial three-year incubation period has ended for most equity applicants, resulting in many seeking a new site for their business. As in 2020, staff will make these funds available through a Request for Proposal (RFP) process for equity applicants that identify one or more locations and business plans that serve as permanent incubators for equity operators. Shared property can allow equity operators to benefit from economies of scale, shared equipment, and shared networks.

C. Grants to Manage Shared-Use Manufacturing Facilities

Staff also recommends setting aside approximately \$212,000 for the managing of shared-use manufacturing facilities for equity applicants. Manufacturing edible or topical cannabis products prior to the legalization of the cannabis industry had few barriers to entry, as many produced these products from their homes. In contrast, manufacturing cannabis within the regulated environment has been significantly more expensive as the construction of a commercial kitchen can cost hundreds of thousands of dollars and these facilities are only allowed in industrial areas that generally consist of large warehouses that can be expensive to rent or own. Shared-use manufacturing facilities allow multiple operators to leverage a compliant commercial kitchen and the funding of technical assistance at these sites can ensure the manufacturers utilizing these sites operate in a compliant manner and have support moving their product to retailers.

D. Workforce Development Programs

Staff recommends allocating approximately \$330,000 to pilot both (i) on the job training of equity employees at Oakland cannabis businesses and (ii) an equity employee cannabis certification training to establish a pipeline of qualified prospective employees. The advantages of on the job training are that equity employees will gain direct experience within the regulated cannabis marketplace and potentially find ongoing employment at their place of training. In addition, a certification program offers a prepared workforce of equity employees that cannabis employers can hire with the extra benefit of receiving a tax rebate. Exploring both approaches will allow the City to observe the effectiveness of each strategy for providing long term employment pathways in the cannabis industry, which will inform City policies in subsequent years.

Both strategies will rely on the insights of cannabis employers that staff will solicit in the coming weeks to ensure the programs are efficient and practical. By working with cannabis businesses and establishing a base of qualified cannabis employees, cannabis businesses will maintain and start cannabis businesses in Oakland, which in turn will increase tax revenues that fund various City services.

E. Administration of Equity Grant/Loan Program

Go-Biz funds also offer an opportunity to cover a portion of staff costs administering the various components of the Equity Program plus the costs of a consultant administering loan and grant programs for equity applicants. Specifically, staff recommends directing Go-Biz funds towards half of the cost of a City Administrator Analyst who is responsible for tracking use of Go-Biz funds and compiling quarterly and annual reports to Go-Biz. The other half of this position is funded through the Proposition 64 grant, which is described below. In addition to funding City staff's oversight of these programs, staff recommends allocating approximately \$90,000 for the consultant (to be selected through a Request for Proposals RFP process) to administer the grant and loan programs for equity operators. This funding is in addition to the funding identified in the recent Local Jurisdiction Assistance Grant to account for the large volume of work involved in distributing capital to hundreds of eligible equity applicants. Increased funding will allow consultants to fund sufficient staff for timely responses and monitor appropriate uses of state funds.

Adjustments to Proposition 64 Grant

After the passage of Resolution 88735 C.M.S. City staff learned that one of the initial project partners, East Oakland Youth Development Center (EOYDC), could not participate in the project due to the lack of bandwidth. Accordingly, staff recommends that the City Council approve another East Oakland non-profit organization, Youth Uprising, to fulfill the services originally assigned to EOYDC. This will allow the City to complete the original grant proposal during the remaining two years of the grant period without delay. Staff also recommends two other adjustments: (1) increasing funds for the Public Health Institute's youth consumption prevention efforts and (2) adjusting the grant budget to fund a third-party organization, LMB Creative Group LLC, to fulfill state required Local Evaluation Reports analyzing the impact of the grant programs. **Figure 2** outlines the proposed new allocation of Proposition 64 grant funds as compared to the initial budget adopted via Resolution No. 88735 C.M.S. in 2021.

Figure 2: Original and Proposed/New Uses of Proposition 64 (BSCC) Grant Funds				
Purpose	Original Organization	Original Amount	New or Same Organization	New or Same Amount
Preventative and Intervention Activities for Youth	East Oakland Youth Development Center (EOYDC)	\$360,000	Youth Uprising	\$310,000
Develop and Support Youth Awareness Campaign	Public Health Institute	\$133,306	Same	\$163,306
Data Management/Local Evaluation Reports	Cityspan	\$30,000	LMB Creative Group, LLC	\$50,000
Security Workshops and Support for Cannabis Businesses	City of Oakland: 8 Hours Weekly Police Officer Overtime	\$112,329	Same	Same
Public Outreach Campaign to Adults	To Be Determined After Request for Proposals	\$70,000	Make Green Go Selected After RFP	Same
Meeting Supplies and Notification	EOYDC, OUSD, PHI	\$32,000	Youth Uprising, OUSD, PHI	Same
Indirect Costs/Overhead	City of Oakland	\$29,059	Same	Same
Oversee Overall Program	City of Oakland: 0.5 F.T.E. City Administrator Analyst	\$231,000	Same	Same
TOTAL				\$997,694

FISCAL IMPACT

Staff recommends the acceptance and appropriation of the Go-Biz grant of \$5,435,140.82 to continue the City of Oakland's support of cannabis equity operators. The purpose and requirements of the Go-Biz grant require that almost all of the funding be distributed externally. Accordingly, only \$122,959 of the Go-Biz grant will go towards City expenses, and the City Administrator Analyst position has always been funded via grants, so none of the Go-Biz grant will replace existing City of Oakland costs or funding of the Equity Program. The Go-Biz grant funds will be deposited in the State of California Fund (2159), Cannabis Organization (85621), Miscellaneous State Grant Revenue Account (46229), in a Project to be established.

The adjustments to the Proposition 64 Grant have no fiscal impact on the City as they do not alter the overall grant amount nor the amount allocated for City resources.

PUBLIC OUTREACH / INTEREST

Staff conducted public outreach regarding how best to utilize the Go Biz funds at the March 2022 Cannabis Regulatory Commission (CRC) during which the CRC approved staff's recommended budget.⁶ Staff has made one adjustment to the budget presented to the CRC; staff now recommends providing \$330,357 for workforce development programs and \$212,915.36 towards managing shared-use manufacturing facilities to ensure there are sufficient funds to support workforce development programs. On March 24th, the Oakland Workforce Development Board approved staff's recommended budget with this increased funding allocation for workforce development programs.⁷

COORDINATION

The Special Activity Permits Division in the Economic and Workforce Development Department (EWDD) consulted with the Real Estate and Business Development Divisions within EWDD, the Budget Bureau, the Department of Race and Equity, and the Office of the City Attorney in preparation of this report.

SUSTAINABLE OPPORTUNITIES

Economic: Establishing a pathway to equitable cannabis industry growth will generate economic opportunities for Oakland residents.

Environmental: Encouraging local employment and business ownership can reduce commutes and related greenhouse gas emissions.

⁶ Draft Budget on pages 38-39 on Special March 10th Cannabis Regulatory Commission agenda packet: <https://cao-94612.s3.amazonaws.com/documents/Special-CRC-Agenda-March-2022-Packet.pdf>

⁷ Report available on pages 23-29 of March 24th Oakland Workforce Development Board agenda packet: <https://cao-94612.s3.amazonaws.com/documents/OWDB-Special-Meeting-Agenda-Packet-3-24-22.pdf>

Race and Equity: Promoting equitable ownership and employment opportunities in the cannabis industry can decrease disparities in life outcomes for marginalized communities of color and address disproportionate impacts of the war on drugs in those communities.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

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Authorize The City Administrator To: Re-Appropriate The Proposition 64 Grant Funds By:

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For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370.

Respectfully submitted,



ALEXA JEFFRESS
Director, Economic and Workforce
Development Department

Prepared by:
Greg Minor
Assistant to the City Administrator

Attachment (1):
Attachment A: 2022 Cannabis Equity Program Survey