

February 3, 2023

**SENT VIA ELECTRONIC MAIL**

Safe Medicine Disposal Stewardship Ordinance  
San Francisco Department of the Environment  
1155 Market Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94103  
[safemeds@sfgov.org](mailto:safemeds@sfgov.org)

Re: MED-Project LLC Comments on Inmar Intelligence Draft Safe Drug Disposal Stewardship Plan Proposal, dated November 23, 2022

Dear San Francisco Environment Department,

MED-Project LLC (“MED-Project”) appreciates the opportunity to submit these public comments on the Proposed Update of the Safe Drug Disposal Stewardship Plan, dated November 23, 2022, (the “Inmar Proposed Plan”) that was recently submitted by Inmar Intelligence (“Inmar”) to the City and County of San Francisco (“San Francisco”) Department of the Environment (“SFE” or the “Department”) pursuant to the San Francisco Safe Drug Disposal Ordinance (the “Ordinance”) and related regulation #SFE-16-01SDDSO (the “Regulation”).

MED-Project develops, implements, and operates stewardship programs for covered drugs from households on behalf of hundreds of “Producers” (as defined in § 2202) or parent companies and their affiliates. MED-Project has substantial, practical, on-the-ground experience implementing covered drug take-back programs in jurisdictions across the country. MED-Project currently administers an approved Stewardship Plan (as defined in §2202) in the City and County of San Francisco, which has been in operation since October, 2016, and has collected over 135,000 pounds of unwanted medicine from households since 2017. Further, MED-Project’s outreach and education efforts have thus far resulted in over 65 million impressions, stemming from a combination of digital, TV, radio, and print campaigns.

MED-Project has serious concerns with a number of aspects of the Inmar Proposed Plan. SFE cannot approve a proposed Stewardship Plan, like the Inmar Proposed Plan, that is legally insufficient, is in conflict with the mandatory requirements imposed under the Ordinance or under other applicable laws or regulations, and which would provide a level of service far below the approved and operating MED-Project Product Stewardship Plan for Unwanted Medicine from Households dated November 1, 2018. Such an act of approval by SFE would not only be unreasonable, arbitrary and capricious, and inconsistent with the Ordinance, but would create unfairness and inequities not only for MED-Project, but for San Franciscans and Producers as well.

Such approval would be inequitable and unreasonable, as it would allow some Producers to participate in the less robust Inmar Proposed Plan, while relying on other,

equally situated Producers participating in MED-Project's program for more required services that result in a higher cost program, for example, the Stewardship Plan that provides the bulk of unwanted medicine product stewardship services to San Francisco. This, in turn, would create a “race to the bottom” scenario, which would incentivize covered manufacturers to switch to the less robust Inmar Proposed Plan, thereby reducing the level of product stewardship services provided to San Franciscans. This result is clearly inconsistent with the objectives of the Ordinance. If the Department does approve the Inmar Proposed Plan in its current or similar form, it must be willing to quickly take the necessary steps to remedy these and any other inequities between the two plans.

As described below, Inmar’s Proposed Plan presents new issues under the Ordinance and Regulation, and fails to adequately address several of the issues raised previously both by MED-Project and by SFE.

**1. Inmar’s Proposed Plan does not meet the Service Convenience Goal as required in § 2205(b).**

Section 2205(b) of the Ordinance states that approved Stewardship Plan collection systems must:

- (1) Provide reasonably convenient and equitable access for all City residents in all Supervisorial Districts. The system of drop-off sites shall provide at least five drop-off sites in every Supervisorial District, geographically distributed to provide reasonably convenient and equitable access. If the service convenience goal in this subsection cannot be achieved due to a lack of drop-off sites... then those areas shall be served through periodic collection events and/or mail back services.
  
- (3) Give preference to having Retail Pharmacies and law enforcement agencies serve as drop-off sites.

These core components of a Stewardship Plan collection system are mandatory under the Ordinance, and must apply equally to all Stewardship Organizations. The Inmar Proposed Plan fails not only to provide an adequate system of drop-off sites throughout San Francisco, but also fails to adequately describe what steps it will take during the Proposed Plan’s term to move towards growing their drop-off site presence. This is made more evident by the Inmar Proposed Plan’s Program Collection Goals, which do not include the expansion of their drop-off site presence as a short term goal and only aim to “maintain” their current service in the short term. See Inmar Proposed Plan Page 41. The Ordinance clearly states that the priority is for drop-off sites, and service substitution via collection events and mail-back services is only appropriate when the convenience goal “cannot be achieved due to a lack of drop-off sites.” Inmar’s failure to include in their short-term goals any goal around increasing their drop-off site presence

in San Francisco is concerning given Inmar has only one operating site listed in the Proposed Plan.

The Inmar Proposed Plan lists only one currently operating drop-off site in San Francisco: the CBHS Pharmacy Services kiosk. This kiosk, which was provided to Inmar from MED-Project's existing drop-off site network upon launch of the Inmar program, clearly does not meet the Ordinance required number of sites needed to meet the goal set by the Ordinance.

The Proposed Plan states that Inmar "maintains the goal of establishing at least five Authorized Collection Sites," however, there is little within the Proposed Plan outlining how Inmar intends to reach that goal beyond "continu[ing] to have discussions with its existing ... client network seeking pharmacies interested in becoming Authorized Collectors." See Inmar Proposed Plan §V.A. This language is nearly identical to that used in Inmar's Approved 2020 Plan, and raises questions about whether approval of the Proposed Plan will result in this new Proposed Plan achieving the required number of drop-off sites in San Francisco.

During the over two years between the initial plan's approval and this Proposed Plan, the Proposed Plan indicates Inmar has not opened any new kiosk drop-off sites. Rather, based on the number of Standard Mail-Back Envelope Distribution Sites listed in Appendix C, it appears Inmar has focused instead on mail-back services which are clearly less desirable under the Ordinance. See Ordinance § 2205(b). Similarly concerning, the Inmar Proposed Plan does not inspire confidence it will meet the goal of five sites per district, listing only six identified potential locations for future kiosks and failing to commit to future notification of the opportunity to participate as a drop-off site for any nonparticipating or new retail pharmacies as required by § 2203(e)(2) of the Ordinance. The Inmar Proposed Plan repeats a strategy from their earlier 2020 Plan, which has clearly not succeeded in expanding its drop-off site presence in San Francisco. MED-Project is aware of no indication that anything has changed that would make this strategy effective in the coming years. The Inmar Proposed Plan must include commitments to more tangible and effective efforts towards meeting the Ordinance's drop-off site goals for it to be approvable by the Department.

The Inmar Proposed Plan also fails to provide any information or indication that there is a lack of drop-off sites available within San Francisco that would otherwise justify the reliance on mail-back services under the Ordinance. Instead, the Inmar Proposed Plan includes a list of all mail-back locations that Inmar currently operates, which includes 17 sites that are hospitals, pharmacies, or other locations that would qualify for becoming drop-off locations. See Inmar Proposed Plan, Appendix C. It is unclear why Inmar does not include specific plans to engage with these existing locations on converting from mail-back to drop-off.

The failure of Inmar to have installed and maintained any kiosks in the two and half year period since the Inmar Stewardship Plan was first approved, comes in stark contrast

with MED-Project's operation in San Francisco. Since March 2020, MED-Project has installed 19 drop-off kiosks throughout San Francisco. Not only did MED-Project successfully install kiosks in that time period, demonstrating the availability of possible drop-off sites in San Francisco, MED-Project also supported 50 mail-back sites during that time frame. Additionally, MED-Project has conducted additional outreach to 32 facilities that are potential sites for future drop-off locations in January 2023. MED-Project's experience in San Francisco, and the availability of potential sites, shows that Inmar's Proposed Plan is insufficient in its attempt to meet the Ordinance's convenience standard goal.

SFE should reject the Inmar Proposed Plan unless significant changes are made showing, in detail, tangible steps that Inmar is actively planning for and moving towards the Ordinance's stated goal of having five drop-off sites per supervisorial district. The approval of the Inmar Proposed Plan, which includes only one established drop-off site in the entirety of San Francisco and does not provide sufficient details or plans to install more, would be inequitable and unreasonable. Such an approval would serve to embolden Inmar, or any other Program Operator, to offer services that do not meet the goals of the Ordinance, and continue to deprive San Franciscans of convenient availability of unwanted drug take back kiosk options.

**2. The Inmar Proposed Plan does not provide for sufficient promotion of its program**

**a. Inmar's Proposed Plan does not meet previous SFE Reporting Requirements**

On November 25, 2020, the Department issued a Notice of Determination ("NOD") to Inmar, which approved Inmar's 2020 Stewardship Plan subject to a number of conditions, including a number of increased reporting requirements. These requirements include: providing quarterly reports to SFE containing summaries of help desk requests by type by drop-off sites in the previous quarter including the number of each type, the average length of time, and the range in length of time to close the requests; providing, in their annual report, numerical results of the plan's stated goals; providing SFE with an outline of the training provided to kiosk hosts by Inmar; and providing quarterly reports to SFE of the number of kiosk hosts using each of the different pick-up and disposal options offered; and provide copies of trifold brochures promoting safe storage and return of medicine to facilities listed by SFE.

MED-Project is concerned that these requirements imposed by the NOD have not been carried over into the new Proposed Plan. SFE should ensure that these requirements be added to the Proposed Plan either via another NOD or through rejecting this Proposed Plan.

**b. The Inmar Proposed Plan's Outreach and Education section does not adequately commit to required outreach and education.**

The Ordinance and Regulation establish comprehensive outreach and education requirements for each Stewardship Plan. See Ordinance § 2206; Regulation §§ B-D. Each Stewardship Plan must independently meet promotion content, reach and frequency, materials distribution, and other promotion requirements in order to be approved. See *e.g.*, Regulation § 1.0 (“*Each Plan Operator* shall utilize the following design parameters in meeting the requirements of Section 2206 of the Ordinance.”) (emphasis added). The Department must ensure that each Stewardship Plan meets these requirements and cannot allow one provider to provide less media outreach than what is required while benefiting from another’s more robust program to provide awareness.

Inmar’s Proposed Plan fails throughout the Outreach Program and Design section to commit to sufficient outreach and education. While Inmar participates in required coordination efforts with MED-Project, which results in the operation of a joint program website and toll-free number, Inmar’s Proposed Plan is unclear regarding its commitments to perform additional traditional media outreach, such as mailers or radio advertisements. Inmar’s language throughout the Outreach Program and Design section is often non-committal about its use of traditional media outreach, indicating that it “plans to” or “aims” to provide direct mailing that “can target” certain demographics of the city. See Inmar Proposed Plan § VI.E This qualified language is in contrast to the Proposed Plan’s firmer commitments regarding “Programmatic Media” and “Influencer Marketing,” examples of which Inmar also failed to include as appendices in the Proposed Plan.

The lack of certainty around Inmar’s use of traditional media outreach is further compounded because the Inmar Proposed Plan is not clear if these traditional media techniques will otherwise be used if the 50% target audience awareness is reached. See Inmar Proposed Plan § VI.E. This language, coupled with Inmar’s focus and firmer commitments regarding “Programmatic Media” and “Influencer Marketing”, is concerning, as it raises questions about whether Inmar may or may not invest in tried and true traditional media if 50% target audience awareness is reached.

Further, in MED-Project’s experience, it is difficult to derive reach calculations from social influencer promotions because of challenges identifying where followers are located and audience overlap across influencer channels. Nevertheless, because the Department imposed these reach and frequency requirements on MED-Project, it must also do so for other Stewardship Organizations. If other Stewardship Organizations can satisfy these standards through promotions not readily susceptible to San Francisco City and County reach calculations, through alternative metrics, or if they do not need to satisfy these requirements at all, then the Department must allow such flexibility for all Stewardship Organizations.

The Inmar Proposed Plan, while noting that their materials are available in the Ordinance’s required languages, includes only examples of their brochure materials in English with no translations included of any brochure materials into Spanish, Chinese,

Russian, or Tagalog. The Inmar Proposed Plan similarly fails to commit to ensuring the outreach done via Influencer Marketing is done in the languages required by the Ordinance, instead it notes only that “Inmar can recruit Spanish and Chinese speaking influencers.” See Inmar Proposed Plan § 6.F.

Compare this instead with MED-Project’s existing robust outreach and education system, which surpassed the outreach requirements of a combined target reach percent of 75% at a 3+ frequency for the duration of one month, at least three times per year for the last 4 calendar years. Allowing for Inmar to initiate the majority of its proposed outreach and education systems only when awareness drops below 50% would allow for Inmar to rely on the hard work MED-Project has done to market the program throughout San Francisco over the last six years, rather than implementing an outreach and education system that conforms to the Ordinance. The Department must ensure that Inmar commits to actively pursuing an independent robust outreach and education system.

**3. The Department Must Treat Stewardship Plans Equitably**  
**a. Inmar’s Proposed Plan, If Approved, Would Provide Lower Levels of Service than Required of MED-Project**

MED-Project believes that Stewardship Plans must be treated equitably by the Department, with the same standards and interpretations of the Ordinance and Regulation being applied to each plan. The Department’s approval of the Inmar Proposed Plan, which is insufficient under the Ordinance and Regulations as discussed above, would allow for Inmar to continue to provide San Franciscans with a level of services far below that required of MED-Project. Allowing for one Stewardship Organization to operate a significantly less robust, and thus operationally cheaper, Stewardship Plan may incentivize Producers to join the less robust plan, resulting in a reduced level of product stewardship services in San Francisco. The Department must ensure that every approved Stewardship Plan offers the equivalent level of service as required by the Ordinance.

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MED-Project appreciates your consideration of these comments. Please do not hesitate to contact me with any questions or concerns.

Sincerely yours,



Dr. Victoria Travis, PharmD, MS, MBA  
National Program Director