

**New York City Department of Small Business Services
Small Business Grant Program**

Notice of Adoption of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the New York City Department of Small Business Services (DSBS) in accordance with Sections 1043 and 1301 of the New York City Charter. DSBS proposed a rule to create a new program to devise effective, business-level interventions to achieve the public goal of retaining the benefits that small, diverse businesses provide to the City's residents and economy.

The proposed rule was published in The City Record on April 26, 2018. DSBS did not receive any comments concerning this rule.

Statement of Basis and Purpose

New York City is home to more than 200,000 small businesses that collectively employ more than half of the City's private sector workforce and provide needed jobs, goods and services in neighborhoods across the five boroughs. The vitality, diversity and longevity of small, local businesses are critical to the City's economy and provide important benefits to residents of the City's neighborhoods. For example, in 2014, businesses in NYC's lower income neighborhoods employed 113,420 workers below the age of 30, a 31% increase from 2002.

Over the last fifteen years, the New York City Department of Small Business Services (DSBS) has administered programs to educate and support tens of thousands of local businesses and entrepreneurs seeking to conduct business in New York City. Recently, DSBS has responded to a growing demand to assist commercial tenants in understanding the content of their current or proposed leases, negotiating with landlords and resisting harassment. In addition, DSBS and governmental partners including the Department of City Planning, the Department of Housing Preservation and Development, the New York City Council, and the City's Economic Development Corporation have worked to devise programs and policy interventions to support the survival of independent brick and mortar businesses and the vitality and safety of the commercial corridors in neighborhoods across the City. Interventions by these government partners have included restricting street frontage for banks and other less vulnerable business types through zoning amendments, passing legislation extending anti-harassment protections to commercial tenants, incentivizing affordable housing developers to include appropriate spaces for small business tenants on the ground floor of new developments and investing in improvements to commercial corridors.

DSBS establishes the Love Your Local Small Business Grant Program to expand the City's economic development toolkit. This three-year pilot program will allow the City to develop and test interventions designed to help local, small businesses remain viable and stable participants in the lives of the City's diverse neighborhoods despite changes in local real estate conditions. Devising these solutions is important, as 2016 data published by the Bureau of Labor Statistics shows that job creation attributable to new establishments has been on a decline since the late 1990s and that businesses established prior to 1993 employ nearly 40% of the private

sector workforce. Therefore, supporting existing, neighborhood businesses in making changes to allow them to survive and grow is an efficient means of supporting neighborhood economic well-being.

The Love Your Local Small Business Grant Program will incentivize commercial tenant businesses to share detailed information on challenges related to the costs of their leases with DSBS. DSBS will support a carefully selected set of those businesses in addressing those challenges through expert advice and implementation funding. DSBS will collect performance data from the businesses following these interventions, thus increasing the City's understanding of what strategies are effective in preventing neighborhood businesses from closing due to rising rents and other rising real estate costs. This understanding will increase DSBS' ability to provide meaningful advice and assistance to other businesses committed to retaining local jobs, helping to ensure the continued availability of locally valued goods and services, and preserving retail diversity. The Love Your Local Small Business Grant Program builds on the work of Small Business First, a DSBS program which invests in initiatives to help existing businesses thrive by connecting them to resources that will save them time and money.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Rule Amendment

Section 1. Title 66 of the Rules of the City of New York is amended by adding a new chapter 15 to read as follows:

CHAPTER 15 LOVE YOUR LOCAL SMALL BUSINESS GRANT PROGRAM

§ 15-01: Purpose.

The objective of the Love Your Local Small Business Grant Program (“Grant Program” or “Program”) is to add to the City of New York’s economic development toolkit by devising and testing business-level interventions to support the survival of neighborhood businesses in New York City. The Program will incentivize participation by small businesses citywide by providing an opportunity for businesses to receive assistance to identify business challenges and recommended interventions, and, subject to appropriation, implementation funding to make suggested operational or physical changes. DSBS will collect baseline and follow-up performance data to evaluate the effectiveness of these interventions in assisting participating business in continuing to provide jobs, goods, and services in their current locations. Knowledge gained through the Program will allow DSBS to disseminate informed advice through its Business Solutions Center network and other business support and education programs, to assist small, commercial tenant businesses citywide in remaining competitive in neighborhoods experiencing rising commercial rents.

§ 15-02: Definitions.

As used in this chapter, the following terms have the following meanings:

Applicant. "Applicant" means a commercial business that is applying for this Grant.

Application. "Application" means a written request in a form satisfactory to DSBS, supplemented by all requested supporting documents, made by an Applicant to DSBS to determine the eligibility of an Applicant for a Grant.

Business Needs Assessment. "Business Needs Assessment" means a customized analysis of Applicant's business operations, conducted by an expert in coordination with DSBS, which describes strategies for Applicants to adapt their operations to improve their businesses and increase their chances to thrive in their current locations despite changing real estate conditions.

City. "City" means the City of New York.

Business. "Business" means a sole proprietorship, partnership, corporation or other legal entity involved in the sale of goods or services directly to the public from a physical location in the City.

DSBS. "DSBS" means the Department of Small Business Services or its successor.

Fiscal year. "Fiscal Year" means the period beginning July 1st and ending June 30th of the next calendar year.

Franchise. "Franchise" means, as defined by 16 C.F.R. § 436.1, a continuing commercial relationship or arrangement, whatever it may be called, in which the terms of the offer or contract specify, or the franchise seller promises or represents, orally or in writing that: (1) the franchisee will obtain the right to operate a business that is identified or associated with the franchisor's trademark, or to offer, sell or distribute goods, services or commodities that are identified or associated with the franchisor's trademark; (2) the franchisor will exert or has authority to exert a significant degree of control over the franchisee's method of operation, or provide significant assistance in the franchisee's method of operation; and (3) as a condition of obtaining or commencing operation of the franchise, the franchisee makes a required payment or commits to make a required payment to the franchisor or its affiliate.

Grant. "Grant" means one or more disbursements from the Love Your Local Small Business Grant Program to an Applicant for the purpose of implementing recommendations made in the Business Needs Assessment.

Grant Agreement. "Grant Agreement" means a duly executed, legally binding contract between DSBS and an Applicant setting out terms and conditions for the use of grant funds.

National Retailers/Chains. "National Retailers/Chains" means a business that has at least two locations in the City and at least one location outside the City limits.

Small Business. “Small Business” means a small business as described by the United States Small Business Administration (“SBA”) pursuant to part 121 of title 13 of the Code of Federal Regulations.

§ 15-03: General Eligibility Requirements.

a. Eligible Recipients. To be eligible for a Grant, an Applicant must satisfy the following criteria:

1. Applicant must operate a Business;

2. Applicant must not be in violation of any applicable federal, state, or local law, rule or regulation;

3. Food businesses subject to inspection by the New York City Department of Health and Mental Hygiene must have an A or B letter grade;

4. Applicant must be a small business;

5. Applicant must have been operating in the City for a minimum of three (3) years prior to the date of the application;

6. Applicant must not operate a Franchise, except that Franchises that the SBA has determined to be small businesses may be eligible;

7. Applicant must rent its current location of operation from an entity or individual that is not affiliated with the Applicant, as such affiliation is defined in the City’s Vendor’s Guide to VENDEX

(https://www1.nyc.gov/assets/mocs/downloads/pdf/VendorsGuideToVendex-2012_07_31.pdf);

8. Applicant must not owe any federal, state or city taxes and must not be delinquent in payments owed to resolve judgments or liens;

9. All required licenses or permits relating to the Applicant’s commercial business must be current;

10. Applicant must document that within the ten (10) years prior to its Application to the Program, it has experienced at least a five percent (5%) increase in costs directly related to operating in rented commercial space. Documentation may include, but need not be limited to: lease(s), utility bills, property tax bills or cancelled checks, which reflect increased rental costs, an increased burden relating to payment of property taxes or increased utility costs at its current location; and

11. Applicant must complete an Application. Application will be available online at www.nyc.gov/sbs and by directly contacting DSBS.

b. Business Improvement Projects. Grants may only be used to implement recommendations from the Business Needs Assessment at the location that is the subject of the Grant. Eligible business improvement projects may include:

1. Operational improvements to Applicant's business;
2. Performing outreach and interviewing prospective employees for Applicant's business;
3. Training Applicant's employees;
4. Technological updates to Applicant's business;
5. Physical enhancements of Applicant's business location; or
6. Financial management changes to Applicant's business.

§ 15-04: Selection Criteria.

a. Eligibility. Basic eligibility will be determined based on an Applicant's ability to meet the requirements set forth in subdivision a of § 15-03 of this chapter. Ineligible Applicants will be eliminated from further consideration.

b. Preliminary Ranking

DSBS will rank all eligible Applicants using the following numerical rating scale:

1. Business Criteria.

- (a) Number of years in operation (1-5 points, with 1 point for 3-5 years and 5 points for 12 years or longer);
- (b) Time remaining on current lease (0-5 points, with zero points for less than 1 year and 5 points for more than 10 years);
- (c) Amount of real estate cost increase (1-5 points, with 1 point for 5-10% and 5 points for 40% or more);
- (d) Number of employees (0-5 points, with zero points for 0-1 employees and five points for twenty or more employees);
- (e) Nomination for DSBS' Community Cornerstone Program (1 point for nominated businesses);
- (f) National retailers/chain store(s) within a five block radius of Applicant's business location offering the same goods or services (0-5 points with zero points for no nearby chain competitor and 5 points for 5 or more chain competitors); and
- (g) Neighborhood/community engagement (0 or 1 point for engagement that may include, but not be limited to, sponsoring local community projects, hosting community events, featuring local artists, musicians or performers, and/or sourcing/featuring local products or services).

2. Neighborhood Criteria.

DSBS will consult independent and current data sources to assign a score to Applicant for each of the following neighborhood criteria:

- (a) The percentage of small businesses in the neighborhood of the Applicant's Business (1-3 points, with 1 point for neighborhoods where the percentage of small businesses is greater than 30% of all local businesses and 3 points for neighborhoods

where the percentage of small businesses is less than 20% of all local businesses). “Small business” and “neighborhood” will have the same meanings as those terms have when used in the Association for Neighborhood Housing and Development’s Equitable Economic Development Indicators;

(b) The number of small business loans in the neighborhood of the Applicant’s Business (1-3 points, with 1 point for neighborhoods determined to have a high number of small business loans (approximately 3,000 or more) and 3 points for neighborhoods determined to have a low number of small business loans (approximately 1,200 or fewer). “Small business” and “neighborhood” will have the same meanings as those terms have when used in the Association for Neighborhood Housing and Development’s Equitable Economic Development Indicators;

(c) The household median income in the neighborhood of the Applicant’s Business (1-3 points, with 1 point for neighborhoods determined to have a neighborhood household median income of approximately \$60,000 per year or higher and 3 points for neighborhoods determined to have a neighborhood household median income of approximately \$42,000 per year or lower). “Neighborhood” has the definition set forth in the American Community Survey;

(d) The percentage of change in the presence of national retailers/chains in the neighborhood of the Applicant’s Business (1-3 points, with 1 point for neighborhoods with an increase of 20% or less in the number of national retailers/chains since 2009 and 3 points for neighborhoods with an increase of 35% or more change in the number of national retailers/chains since 2009). “Neighborhood” will have the same meaning as the term has when used in the Center for an Urban Future’s annual reports on the prevalence of chain restaurants;

(e) Neighborhood affordability (1-3 points, with 1 point for businesses in neighborhoods classified as high income and 3 points for neighborhoods classified as both low income and gentrifying, as defined in the Furman Center State of New York City’s Housing and Neighborhoods. “Neighborhood” will have the same meaning as the term has when used in the Gentrification Analysis of the Furman Center’s periodic reports on New York City’s housing and neighborhoods.

3. Based on the numerical scores assigned to each Applicant, DSBS will identify the fifty Applicants with the highest scores. A tie between Applicants with the same scores will be broken by analyzing points granted for individual business criteria first, followed by neighborhood criteria. These fifty Applicants will be given an opportunity to receive an initial Business Needs Assessment. In the event that one or more of these fifty Applicants do not complete the initial Business Needs Assessment, DSBS may select replacements from the remaining ranked businesses, in order in which such businesses are ranked.

4. Any Applicant that is not identified as being among the fifty Applicants with the highest scores will be offered other DSBS services to address its needs.

c. Initial Business Needs Assessment.

1. The initial Business Needs Assessment will require each Applicant to attend in-person meeting(s) with an expert advisor assigned by DSBS. The meeting(s) may take place at Applicant's business and/or a NYC Business Solutions Center and will span a total of up to four (4) hours.

(a) During the initial Business Needs Assessment, Applicants will be asked to provide business financial statements, and to answer questions about the business' financial position. In addition, Applicants will be asked to rate and demonstrate their willingness to implement and make operational changes recommended by DSBS.

(b) Businesses that fail to participate fully in the initial Business Needs Assessment or to timely provide requested documentation will be deemed ineligible for further consideration for the Program, but will be referred for other appropriate DSBS services.

2. The following rubric will be used to complete the initial Business Needs Assessment, resulting in a score for each Applicant.

Financial Management

The Financial Management assessment category considers the adequacy of key financial management practices and systems, and the availability of financial statements covering a time period appropriate to assess Applicant’s financial position.

Availability of Financial Statements	Possible Points			
	0	1	2	3
Income statement	Cannot produce	1 year or less	Between 1 & 3 years	More than 3 years
Balance sheet	Cannot produce	1 year or less	Between 1 & 3 years	More than 3 years
Inventory Controls	0	1	2	3
Does applicant have a system or practices to accurately track inventory on a daily, weekly or monthly basis?	No system or practices	Existing but inadequate system or practices	Existing & adequate system or practices	N/A
Months of inventory reports available	Less than 1	1-6	7-12	More than 12
Sales Tracking	0	1	2	3
Does applicant have a system or practices that accurately track sales on a daily, weekly or monthly basis?	No system or practices	Existing but inadequate system or practices	Existing & adequate system or practices	N/A
Months of sales reports available	Less than 1	1-6	7-12	More than 12
Payroll Records	0	1	2	3
Does applicant use a payroll provider, payroll software, or other system that provides accurate records of wages, taxes, and related benefits?	No system or practices	Existing but inadequate system or practices	Existing & adequate system or practices	N/A
Months of payroll records available	Less than 1	1-6	7-12	More than 12

Financial Position

The Financial Position assessment category considers how Applicant performs against industry standards for key financial metrics provided by expert consultants on NYC business performance and/or national standards. Information gathered during the Financial Management assessment will be analyzed and scored, as described below.

Product Cost	Possible Points			
	0	5	5	10
Divide total sales by cost of goods sold to calculate this percentage for every month over the past twelve month period, then calculate an average describing the year overall.	Insufficient records to calculate one year average	At financial risk = higher than 35%	At competitive risk = lower than 18%	Healthy = 18-35%
	0	0	1	2
Calculate the same average for all prior years for which reliable data is available and consider whether there is an upward, neutral or downward trend.	Insufficient records to calculate trend	Upward trend	Neutral trend	Downward trend
	0	0	1	2
Labor Cost	0	5	5	10
Divide total sales by cost of labor (wages, taxes, insurance) to calculate this percentage for every month over the past twelve month period, then calculate an average describing the year overall.	Insufficient records to calculate 1 year average	At financial risk = higher than 35%	At competitive risk = lower than 18%	Healthy = 18-35%
	0	0	1	2
Calculate the same labor cost average for all prior years for which reliable data is available and consider whether there is an upward, neutral or downward trend.	Insufficient records to calculate trend	Upward trend	Neutral trend	Downward trend
	0	0	1	2
Occupancy Cost	0	5	10	N/A
Divide total revenue by total occupancy costs (rent + real estate taxes + property insurance) to calculate this percentage for every month over the past twelve month period, then calculate an average describing the year overall.	Insufficient records to calculate	At financial risk – higher than 10%	Healthy – 10% or lower	N/A
	0	0	5	10
Net Profit Margin	0	0	5	10
Using data from the past twelve months, subtract all costs (operating expenses, cost of goods sold, etc.) from all revenues (sales, fees, other income) to find net profit. Divide net profit by revenue to find net profit margin and compare to industry standards.	Insufficient records to calculate or negative	Positive & more than 50% above industry standard	Positive & more than 50% below industry standard	Within 50% of industry standard

Implementation Feasibility

The Implementation Feasibility assessment category considers the feasibility of implementing projects to improve the Applicant's financial position. Applicant will be asked to rate its openness to make specific types of changes and asked to describe examples of past, related attempts to strengthen the business.

	Openness Rating (OR)			Openness Demonstration (OD)		Total (OR x OD)
	Unwilling or resistant	Somewhat Willing	Enthusiastic	Past attempt?		
	1	2	3	Yes (x2)	No (x1)	
Willingness to cut operating costs (ex: add Point of Sale system to improve inventory control, upgrade equipment to lower energy costs)						
Willingness to adapt existing goods & services (ex: analyze profitability of specific products services and eliminate unprofitable offerings; reduce product costs; increase prices)						
Willingness to try to increase profits by adding new products & services (ex: add alcohol sales, new product line or online sales)						

3. The twenty Applicants with the highest initial Business Needs Assessment score will be selected to receive an Intensive Business Needs Assessment and grant funding. In the event of a tie, Applicants with the highest number of years in business, in descending order, will be selected. If the number of years in business also results in a tie, Applicants with the greatest number of employees, in descending order, will be selected.

4. In the event that one of the twenty selected Applicants does not complete an Intensive Business Needs Assessment and/or enter into a grant agreement, DSBS may select replacements from the remaining Applicants, in the order of their total scores.

§ 15-05: Intensive Business Needs Assessment.

a. The Intensive Business Needs Assessment will provide each of the twenty selected Applicants with an expert business advisor to analyze each Applicant's business condition with respect to operations, regulatory compliance and procedures, employees and hiring, technology, physical condition of premises and financial management. The expert business advisor will also explore the potential for changes to maximize business success and survival.

b. Intensive Business Needs Assessments will require each Applicant to attend in-person meetings with a DSBS assigned advisor at Applicant's business location and/or a NYC Business Solutions Center for a total of up to twenty-one (21) hours. During the intensive assessment period, each Applicant will be asked detailed questions related to their business' real estate costs, inventory, premises, operations, marketing, staffing and other topics. An applicant that fails to participate fully in the Intensive Business Needs Assessment or to timely provide requested documentation will be dismissed from the Program and will not be eligible for the disbursement of a Grant, but may be referred for other appropriate DSBS services.

c. The Intensive Business Needs Assessment will result in recommendations for how Applicant can improve its business and increase its chance of survival in its current location despite changing real estate conditions. Applicants who participate fully in the intensive Business Needs Assessment will receive recommended business improvement projects to implement using a Grant. The Grant must be used to implement such business improvement projects.

§ 15-06: Compliance.

DSBS shall prepare a Grant Agreement to be executed by the Applicants and DSBS. The Grant Agreement shall stipulate terms of compliance and participation in the Program and provide at a minimum:

- a. Relevant terms and conditions, including applicable insurance requirements;
- b. A list of eligible business improvement projects;
- c. A budget for the business improvement projects for which the Applicant will receive grant funds;
- d. A schedule for disbursing Grant funds;

e. A schedule for reporting and monitoring Grant use and impact, including sharing data on job retention and creation and annual business revenues for three years following receipt of the Grant.