

# Legacy Business Program Rent Stabilization Grant INITIAL GRANT INSTRUCTIONS

Version: July 19, 2017



# About the Rent Stabilization Grant

## **Legacy Business Program: Historic Preservation Fund**

In November 2015, the voters of San Francisco approved Proposition J, which established the Legacy Business Historic Preservation Fund and directed the Office of Small Business (OSB) to award Rent Stabilization Grants to landlords that enter into agreements with Legacy Businesses in order to promote the long-term stability of Legacy Businesses and help Legacy Businesses remain in the city. San Francisco Administrative Code 2A.243:

<http://sfsob.org/sites/default/files/Legacy%20Business/San%20Francisco%20Admin%20Code%20A.243.pdf>

## **Qualifications for Rent Stabilization Grant**

Subject to budgetary and fiscal provisions, the OSB shall award an annual grant to a landlord that, on or after January 1, 2016, enters into an agreement with a Legacy Business that leases real property in San Francisco to the Legacy Business for a term of at least 10 years or extends the term of the Legacy Business' existing lease to at least 10 years, for each year of a lease entered into on or after January 1, 2016, or each year that was added to an existing lease on or after January 1, 2016 (e.g., an existing five-year lease that is extended to 20 years on January 1, 2016, would entitle the landlord to 15 years of grants), provided that (A) the landlord files an initial application for the grant with the OSB after execution of the qualifying lease, and annually files an application for the grant prior to the anniversary date of the landlord's first grant payment; (B) the landlord has no amounts owing to the City as a result of fines, penalties, interest, assessments, taxes, fees, or any other financial obligations imposed by law, regulation, or contract that were delinquent as of the date of application; and (C) the landlord is not related by ownership, either directly or indirectly, to the Legacy Business to which the landlord leases the property. The applicant and the lease must also meet all other requirements for the grant established by the OSB as part of the application process.

### **1. The landlord files an initial application and annually files an application prior to the anniversary date**

To receive a grant under the Legacy Business Program, the landlord must file an initial application for the grant after execution of the qualifying lease, and annually file an application for the grant prior to the anniversary date of the landlord's first grant payment. There is a 30-day grace period for applications. Qualified landlords must apply no later than 30 calendar days following the anniversary date to receive the grant and to maintain "Prior Year" status. (See "Amount of Rent Stabilization Grant" below regarding "Prior Year" status.)

For Legacy Businesses with more than one location, each location's landlord is eligible to apply for the Rent Stabilization Grant, as long as the landlord meets all of the grant qualifications.

### **2. The landlord has no amounts owing to the City**

The landlord must certify they do not owe any amounts to the City as a result of fines, penalties, interest, assessments, taxes, fees, or any other financial obligations imposed by law, regulation, or contract that were delinquent as of the date of application.

### **3. The landlord is not related by ownership to the Legacy Business**

The landlord must not be related by ownership, either directly or indirectly, to the Legacy Business to which landlord leases the property. The landlord is related by ownership to the Legacy Business if any of the following criteria are satisfied:

(A) The landlord holds any ownership interest in the Legacy Business; or

(B) The Legacy Business holds any ownership interest in the landlord; or

(C) A third-party entity holds an ownership interest in both the Legacy Business and the landlord; or

(D) The landlord holds any beneficial interest in any entity (including, but not limited to, a beneficial interest in a trust) that holds an ownership interest in the Legacy Business; or

(E) The Legacy Business holds any beneficial interest in any entity (including, but not limited to, a beneficial interest in a trust) that holds an ownership interest in the landlord; or

(F) The landlord, or any person who holds an ownership or beneficial interest in the landlord, is in an immediate family relationship with any person who holds an ownership or beneficial interest in the Legacy Business. The phrase “immediate family relationship” includes the relationships between spouses, domestic partners, parents or guardians and children (including step-parents and step-children, or adoptive parents and adoptive children), grandparents and grandchildren, siblings (including step-siblings or adoptive siblings), aunts or uncles and nieces or nephews, great-aunts or great-uncles and grand-nieces or grand-nephews, and first or second cousins. The phrase also includes the relationship with the parent, grandparent, or sibling of one’s spouse or domestic partner, or the spouse or domestic partner of one’s child, grandchild, or sibling.

## **Other requirements for the grant established by the Office of Small Business**

### **4. Definition of a 10-year lease**

A “10-year lease” is defined as a lease for a full 10 years, or a lease with renewal option(s) that add up to 10 years (e.g., a five-year lease with a five year option to renew). For a lease with renewal option(s), any number of years for which the Legacy Business has an option to renew the lease shall count towards the term of the lease, provided that the option to renew can be exercised at the Legacy Business’ sole discretion.

### **5. Retroactivity**

The Rent Stabilization Grant shall be retroactive to the fiscal year (July through June) in which the Legacy Business was listed on the Legacy Business Registry. For example, if the Legacy Business was listed on the Legacy Business Registry in November 2018, which is fiscal year 2018-19 (July through June), and the qualifying lease is a new 10-year lease that commenced July 1, 2017, and ends June 30, 2026, the landlord would be eligible to apply for 9 years’ of grants retroactive to July 1, 2018, the same fiscal year the Legacy Business was listed on the Legacy Business Registry.

### **6. Advance payments**

The landlord may receive a Rent Stabilization Grant as early as the fiscal year in which the lease or lease extension is executed, even if the lease or lease extension does not take effect until a later fiscal year. The landlord need not wait for the qualifying lease or lease extension to take effect before applying for or receiving a Rent Stabilization Grant. The maximum allowable time between the landlord receiving a grant and the qualifying lease or lease extension taking effect shall be three years. If, however, the landlord applies for a Rent Stabilization Grant before the lease or lease extension has taken effect, the landlord must—as a condition of

receiving a grant —agree to return the entire amount of the Rent Stabilization Grant in the event that the qualifying lease or lease extension does not take effect, unless the landlord shows, to the satisfaction of the Office of Small Business, that the landlord is not responsible for the fact that the qualifying lease or lease extension does not take effect..

### **7. Total square footage**

The landlord must certify the total square footage of the improvements in San Francisco leased to the Legacy Business from which the Legacy Business operates its business.

### **8. Copy of the lease**

The landlord must provide a copy of the lease and any addenda with the Legacy Business.

### **9. Categories of ineligible landlords for the Rent Stabilization Grant**

(A) The landlord may not be a department, agency, commission or other entity within the City and County of San Francisco (including, but not limited to, the Real Estate Division, the Port of San Francisco or the San Francisco Municipal Transportation Agency).

(B) The landlord may not be any other local, state or federal government; any entity within any other local, state or federal government; or any special district created by state law (including, but not limited to, the Bay Area Rapid Transit District).

(C) The landlord may not have entered into a lease agreement with a Legacy Business that had previously owned the real property that is the subject of that lease agreement (e.g., leaseback arrangement).

### **10. Business registration**

All commercial landlords renting units in San Francisco are required to register as businesses with the Office of the Treasurer and Tax Collector. Landlords applying for the Rent Stabilization Grant must comply with this requirement.

### **11. The landlord has no determinations or violations of any of City labor laws**

The landlord must certify they do not have any current determinations or violations of any of the City's labor laws and does not owe any outstanding penalties or payments ordered by the Office of Labor Standards Enforcement (OLSE).

### **12. Signing of the lease**

The landlord and the Legacy Business must sign the lease and any required addenda prior to the landlord applying for a Rent Stabilization Grant.

### **13. Disclosure to Legacy Business**

The landlord must inform the Legacy Business, in writing before the Legacy Business signs the lease, that the City and County of San Francisco does not guarantee it will fully fund the Rent Stabilization Account and does not guarantee that it will award any grant of any amount under Administrative Code Section 2A.243(c).

#### **14. Special Contingency Provision in Lease**

Administrative Code Section 2A.243(c)(1) provides that a lease between a Landlord and a Legacy Business may include a provision making the lease (or any of portion thereof) contingent upon the Landlord receiving a Rent Stabilization Grant from the City equal to \$4.50 square foot, up to the maximum 5,000 square feet per location, of the improvement area in San Francisco lease to a Legacy Business. Any lease that contains such a contingency provision, however, must also provide:

- (A) That the contingency provision is void when the landlord is not awarded the Rent Stabilization Grant because:
  - 1. The landlord has amounts owing to the City as a result of fines, penalties, interest, assessments, taxes, fees, or any other financial obligations imposed by law, regulation, or contract that were delinquent as of the date of application or reapplcation; or
  - 2. The landlord does not properly complete or submit a grant application; or
  - 3. The landlord takes any intentional action to disqualify the application from receiving a grant.
  
- (B) That the landlord must provide the Legacy Business an option to pay the landlord an amount equal to the difference between the maximum grant amount and the amount that the landlord actually receives from the Rent Stabilization Grant program, to allow the lease to remain in effect.
  
- (C) The landlord must provide the Legacy Business with notice of the landlord's intent to exercise the contingency provision at least 120 days before exercising the contingency provision.

Additionally, the landlord must bring the contingency provision to the Legacy Business's attention before the Legacy Business signs the lease.

The landlord must also certify that, in the case where advance payment of the Rent Stabilization Grant is made and the special contingency provision is being exercised, the landlord must wait for the applicable lease year to exercise the special contingency provision versus exercising the special contingency provision in the year in which the Rent Stabilization Grant was awarded.

#### **Amount of Rent Stabilization Grant**

Following a landlord's initial application and on the anniversary date of the qualified landlord's first grant payment thereafter, the OSB shall pay to the qualified landlord an annual grant equal to \$4.50 per square foot, up to a maximum of 5,000 square feet per location, of the improvements in San Francisco leased to the Legacy Business from which the Legacy Business operates its business, except that the total grants paid to all qualified landlords in a fiscal year shall not exceed the appropriations into the Legacy Business Rent Stabilization Account in the Legacy Business Historic Preservation Fund. The OSB shall allocate funds from the Legacy Business Rent Stabilization Account among qualified landlords as follows:

- (A) The OSB shall first allocate amounts in the Legacy Business Rent Stabilization Account to cover all grants to be made during the fiscal year to qualified landlords from prior years that have years remaining on their leases with respect to which the qualified landlords are entitled to grants. If sufficient funds do not exist to cover all grants to be made during the fiscal year to these qualified landlords from prior years, the OSB shall allocate the amount in the Legacy Business Rent Stabilization Account to these qualified landlords from prior years

proportionately based on the square footage of the improvements in San Francisco leased to the Legacy Businesses from which the Legacy Businesses operate their businesses.

(B) If there are sufficient funds in the Legacy Business Rent Stabilization Account to pay all grants during the fiscal year to qualified landlords from prior years, grants to new qualified landlords will be made out of any amount remaining in the Legacy Business Rent Stabilization Account (after subtracting amounts necessary to pay all grants during the fiscal year to qualified landlords from prior years) in the order that the OSB receives the qualified landlords' completed grant applications, beginning on July 1 of each fiscal year. If any qualified landlord from a prior year fails to apply for a grant in a subsequent year or fails to qualify in a subsequent year, the amount of funds that would have been paid to that previously qualified landlord shall be available to pay grants to new qualified landlords.

The landlord is required to annually reapply for the grant by the anniversary date of their first grant payment on a reapplication form to be made available. Failure to do so will result in the landlord losing "Prior Year" standing and the application will be considered along with new applications for funding allocation purposes.

On or before July 30 of each fiscal year, the Office of Small Business shall notify all Qualified Landlords from the prior fiscal year of the annual grant the landlord will receive for the current fiscal year when the Qualified Landlord reapplies. The OSB will also notify the Legacy Business of the annual grant amount the landlord will receive

#### **Grant Fund Use**

Consistent with the purposes of the Legacy Business Preservation Fund as set forth in Administrative Code section 2A.243(a), Rent Stabilization Grant funds shall be used as incentives for landlords of Legacy Businesses to enter into long-term leases with such businesses, thereby retaining longstanding tenants. Per Administrative Code 2A.243(c), the grant funds will be awarded directly to the Qualified Landlord. The Qualified Landlord and the Legacy Business may agree to use the grant to offset the Legacy Business's rent, or for any other purpose.

Please be mindful that funds available for these grants are limited. Consider whether you need grant funds as an incentive to enter into a long-term lease with a Legacy Business before deciding whether to apply.

#### **Successors to Qualified Landlords**

Whenever a new landlord assumes the obligations of a lease that previously qualified the prior landlord for a grant under Administrative Code Section 2A.243(c), and the new landlord does not renegotiate or otherwise change the terms and conditions of that lease, the new landlord shall be eligible to be a Qualified Landlord, and to receive a grant under Administrative Code Section 2A.243(c), without entering into a new lease or lease extension of the kind described in Administrative Code Section 2A.243(c)(1). The new landlord must still satisfy all other requirements to be a Qualified Landlord and to receive a grant, other than the requirement to enter into a new lease or lease extension.

#### **Confidentiality**

Whenever an application for a grant under Administrative Code 2A.243(c) is approved, the Office of Small Business shall, to the extent permitted by law, keep confidential all provisions in any lease submitted by a landlord in connection with the application, except to the extent that OSB relied on the content of any such provisions in deciding to award a grant to the applicant landlord.

Whenever an application for a grant under Administrative Code 2A.243(c) is denied, or before such an application has been either approved or denied, the OSB shall, to the extent permitted by law, keep confidential the entirety of any lease submitted by the landlord in connection with the application.

**Contact Information**

For more information, contact the Legacy Business Program Manager at [legacybusiness@sfgov.org](mailto:legacybusiness@sfgov.org) or (415) 554-6680.

# Grant Application Instructions

## **1. Determine whether you are eligible to apply for the Rent Stabilization Grant**

Review the information and application for the Rent Stabilization Grant. Are you a landlord that entered into an agreement with a Legacy Business to lease real property in San Francisco to the Legacy Business for a term of at least 10 years or extend the term of the Legacy Business' existing lease to at least 10 years, on or after January 1, 2016? Do you meet all other eligibility requirements? Additionally, please be mindful that funds available for these grants are limited. Consider whether you need grant funds as an incentive to enter into a long-term lease with a Legacy Business before deciding whether to apply.

## **2. Complete the application**

Complete numbers 1-20 of the Rent Stabilization Grant Application.

We also recommend you complete Section 15 (City Supplier Registration). Getting set up as a Supplier with the City and County of San Francisco will result in less funds being paid to a third party vendor, resulting in more funds for the Legacy Business Program.

## **3. Submit the completed application and required attachments**

Mail, hand-deliver or email the completed application, addendum and required attachments to:

Legacy Business Program

Office of Small Business

City and County of San Francisco

1 Dr. Carlton B. Goodlett Place, Room 110

San Francisco, CA 94102

[legacybusiness@sfgov.org](mailto:legacybusiness@sfgov.org)