

CHAPTER 4C
HISTORIC PRESERVATION BOND PROGRAM

Authority

N.J.S.A. 13:1B-15.111 et seq. and P.L. 1992, c.88.

Source and Effective Date

R.1994 d.541, effective November 7, 1994.
See: 26 N.J.R. 3253(b), 26 N.J.R. 4350(a).

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Chapter 4C, Historic Preservation Bond Program, expires on November 7, 1999.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:4C-1.1 Purpose

This chapter constitutes the rules of the New Jersey Historic Trust in the Department of Environmental Protection for the Historic Preservation Bond Program for grants that were approved for funding prior to February 18, 1997 on a competitive basis for the preservation, restoration or

rehabilitation of historic properties owned by State, county and municipal government agencies or entities and by tax-exempt nonprofit organizations in accord with the "New Jersey Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L. 1992, c.88.

Amended by R.1997 d.67, effective February 18, 1997.

See: 28 N.J.R. 4551(a), 28 N.J.R. 4980(b), 29 N.J.R. 595(a).

Amended to make chapter applicable only to grants effective prior to February 18, 1997.

7:4C-1.2 Severability

If any portion of this chapter is declared invalid by a court of competent jurisdiction, the remainder of this chapter is not to be affected.

7:4C-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the "New Jersey Green Acres, Clean Water, Farmland, and Historic Preservation Bond Act of 1992," P.L. 1992, c.88.

"Applicant" means the State, county and municipal government entity or agency, or nonprofit organization that submits an application for an historic preservation grant.

"Approved project period" means the amount of time prescribed in the "project agreement" during which the grant recipient must complete satisfactorily the approved historic preservation project to be eligible for the full funding authorized for the project.

"Deputy State Historic Preservation Officer" means the person(s) designated in writing by the Commissioner of the Department of Environmental Protection to administer the State Historic Preservation Program to identify and nominate eligible properties to the National Register of Historic Places.

"Grant recipient" means the applying State government agency, county or municipal government entity or agency, or nonprofit organization names in a project agreement executed with the Trust which has been selected to receive grant funds for a historic preservation project.

"Historic" as applied to any property, structure, facility or site means any area, site, structure or object approved for listing or which has been certified as meeting the criteria for listing in the New Jersey Register of Historic Places as set forth at N.J.A.C. 7:4.

"Historic preservation grant" means monies approved by the New Jersey Historic Trust to fund an historic preservation project.

“Historic preservation project” means work directly related to the restoration, preservation or rehabilitation of an historic property, structure, facility or site.

“National Register of Historic Places” means the national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act, as amended (16 U.S.C. §§ 470 et seq.)

“Nonprofit organization” means a corporation organized under the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq. and qualified for tax-exempt status under the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)).

“Preservation” means the act or process of applying measures necessary to sustain the existing form, integrity, and material of an historic property.

“Project agreement” means a document executed by the New Jersey Historic Trust and a grant recipient which provides a specified amount of grant assistance for an historic preservation project approved by the Trust and subject to conditions to assure benefit to the public and continued preservation of the property, structure or site.

“Property” means the historic site, structure or facility which is the subject of the historic preservation project.

“Reconstruction” means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specified period of time and in its historic location.

“Rehabilitation” means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural or architectural values.

“Restoration” means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

“Secretary of the Interior’s Standards” means the Standards for the Treatment of Historic Properties (Revised 1992) adopted by the Secretary of the United States Department of the Interior, as from time to time modified, changed or amended, incorporated herein by reference.

“Site” means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished where the location itself maintains historic or archaeological value regardless of the value of any existing structure.

“State Historic Preservation Officer” means the Commissioner of the Department of Environmental Protection designated by the Governor to administer the State Historic Preservation Program to identify and nominate eligible properties to the National Register of Historic Places. The State Historic Preservation Officer establishes the procedures and criteria under N.J.A.C. 7:4 for receiving and processing nominations and approving areas, sites, structures and objects, both publicly and privately owned, for listing in the State Register of Historic Places.

“State Register of Historic Places” means the New Jersey Register of Historic Places consisting of areas, sites, structures and objects significant in American history, architecture, archaeology and culture which the Commissioner of the Department of Environmental Protection is authorized to maintain and expand under the “New Jersey Register of Historic Places Act,” N.J.S.A. 13:1B-15.128 et seq.

“State Review Board” means a body whose members represent the professional fields of American history, architectural history, prehistoric and historic archaeology, and other professional disciplines appointed by the State Historic Preservation Officer as part of the State Historic Preservation Program for the purpose of reviewing and recommending to the State Historic Preservation Officer whether to approve New Jersey and National Register nominations based on whether or not they meet the criteria for evaluation in N.J.A.C. 7:4-2.3.

“Structure” means a work constructed by humans and made up of interdependent and interrelated parts in a definite pattern or organization.

“Trust” means the New Jersey Historic Trust, a body corporate and politic with corporate successor established in the Department of Environmental Protection under N.J.S.A. 13:1B-15.111 et seq.

SUBCHAPTER 2. APPLICATION PROCEDURE AND ELIGIBILITY FOR HISTORIC PRESERVATION GRANTS

7:4C-2.1 Eligible applicants

State, county, and municipal government agencies or entities, and tax-exempt nonprofit organizations that own or lease on a long-term basis a historic structure, facility, or property, are eligible to submit applications for historic preservation grants.

7:4C-2.2 Eligible property

(a) At the time of the Trust's receipt of the application, the specific property for which the application is submitted must be:

1. Owned in fee simple by the applicant; or
2. If the property is not owned in fee simple by the applicant, the applicant must have possession and sufficient control over the property under a long-term lease to guarantee the continuing preservation, on-going maintenance and public access requirements for the historic property under this chapter. No historic preservation project proposed for leased property shall be approved for funding unless:
 - i. The lease cannot be revoked at will by the lessor;
 - ii. The unexpired term of the lease is 20 years or more as of January 1, 1993; and
 - iii. The application for the historic preservation grant is endorsed by all owners, lessors, and lessees, of the leased premises as the case may be; and
3. The property is:
 - i. Listed individually in the National or State Register of Historic Places as set forth in N.J.A.C. 7:4;
 - ii. Located within an historic district listed in the National or State Register of Historic Places and identified in the nomination of the district as contributing to its significance; or
 - iii. The State Historic Preservation Officer certifies that the property, structure, facility or site is approved for listing or meets the criteria for listing in the State Register of Historic Places as set forth in N.J.A.C. 7:4.

7:4C-2.3 Activities eligible for funding

(a) The following activities are eligible for funding by the program:

1. Preservation;
2. Rehabilitation;
3. Restoration;
4. Non-construction activities related directly to the development, implementation, operation and monitoring of historic preservation projects may be funded in an amount not to exceed 25 percent of the total approved historic preservation grant. Non-construction activities eligible for reimbursement are:
 - i. Architectural plans, designs, specifications, cost estimates, reports and other contract documents;
 - ii. Feasibility studies;
 - iii. Historic structure reports;
 - iv. Historic landscape reports;

- v. Archaeological investigation and reports;
- vi. Engineering reports;
- vii. Historic research reports;
- viii. Project completion reports;
5. Project signs, required under N.J.A.C. 7:4C-5;
6. Interpretive signs, plaques, or literature approved or required by the Trust for funding as part of an historic preservation grant; and
7. Expenses for materials or professional services incurred in the preparation of a grant application by non-profits which receive grants of \$50,000 or less through this program. Reimbursable costs for this activity may not exceed \$1,000 and are subject to the limits for non-construction costs as specified in N.J.A.C. 7:4C-2.3(a)4.

(b) Costs incurred in the following activities are not eligible for funding by the historic preservation grant program:

1. Acquisition of real or personal property;
2. Reconstruction;
3. Administrative or operational costs of the agency receiving funding except as specified in (a)7 above. Administrative costs shall include:
 - i. Salary and payroll expenses including full-time, part-time and temporary workers;
 - ii. Leasing or rental expenses;
 - iii. Office supplies or equipment;
 - iv. Insurance;
 - v. Utilities;
 - vi. Travel;
 - vii. General maintenance; or
 - viii. Miscellaneous;
4. Ceremonial expenses;
5. Expenses for publicity, with the exception of the required project sign, and interpretive expenses stipulated by the grant agreement;
6. Bonus payments of any kind;
7. Charges for contingency reserves;
8. Charges in excess of the lowest bid, when competitive bidding is required by the State or the recipient, unless the Trust agrees in advance to the higher cost;
9. Charges for deficits or overdrafts;
10. Interest expense;

11. Damage judgements arising from construction, or equipping a facility, whether determined by judicial process, arbitration, negotiation, or otherwise;

12. Services, materials, or equipment obtained by a local or county entity or agency or nonprofit under any other State program;

13. Costs of discounts not taken;

14. Contract cost overruns, not approved, which exceed the allowable amount under contract specifications;

15. Fund raising including grant application expenses, except as noted in (a)7 above;

16. Lobbying;

17. Work including construction, research, and preparation of plans and reports performed outside the approved project period;

18. Work including construction, research and preparation of plans and reports not included in the scope of work set forth in the project agreement;

19. Work which does not comply with the Secretary of the Interior's Standards;

20. Work performed for the State, a county or a municipal government which has not been awarded in compliance with the State Contracts Law, N.J.S.A. 52:32-1 et seq. or the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

21. Work performed for a nonprofit corporation which has not been awarded in compliance with bidding requirements if the aggregate cost of contract for the historic preservation project funded with a historic preservation grant exceeds \$50,000;

22. Routine maintenance work; or

23. Relocation of structures, buildings or objects except that this activity may be eligible for an historic preservation grant if the following conditions are met:

i. Relocation of the structure, building or object is necessary for its preservation;

ii. The relocation re-establishes the historic orientation, the immediate setting, and general environment of the property; and

iii. The State Historic Preservation Officer determines that the property, as relocated, will continue to meet the criteria for listing in the State Register.

7:4C-2.4 Procedures

(a) Announcement of grant rounds and the opening and closing dates for submission of historic preservation grant applications shall be published by the Trust in the DEP Bulletin, major daily papers, and periodicals circulated to the historical and preservation community.

(b) The following three basic steps constitute the historic preservation grant application procedure:

1. The applicant must submit a separate written application for each historic preservation project.

2. A notice of receipt for each application will be sent by the Trust to each applicant.

3. If the application is approved and funds are appropriated by law, funds are to be distributed in accord with a project agreement between the Trust and the applicant which specifies, among other things:

i. Amount of grant;

ii. Project period;

iii. Project scope; and

iv. Special requirements.

(c) Each project application must contain sufficient information to ensure that the Trust is able to conduct an adequate and thorough review. Applications shall be on forms provided by the Trust and must contain at least:

1. A statement of the significance and condition of the property;

2. A description and justification for the proposed project;

3. Cost estimates for proposed work;

4. Photographic documentation;

5. Evidence of matching funds commitment as specified at N.J.A.C. 7:4C-2.5;

6. Long-range plans for the future use and preservation of the property;

7. The names and addresses of all owners, all parties with an ownership interest, and evidence of ownership or an interest in ownership of the historic property for which a grant is requested;

8. As applicable, the names of lessors and lessees, and a copy of a long-term lease meeting the requirements of N.J.A.C. 7:4C-2.2(a)2;

9. If the property for which a grant is requested is not listed in the State or National Register of Historic Places, a certification by the State Historic Preservation Officer that, as of the date of the Trust's receipt of the application, the historic property for which a grant is requested is approved for listing or meets the criteria for listing in the State Register of Historic Places as set forth in N.J.A.C. 7:4; and

10. A copy of a resolution of the governing body of the applying county or municipal government agency or entity; or a resolution of the board of directors of the applying nonprofit organization; or the signature of the head of the applying State agency recommending the historic preservation project for funding under the Historic Preservation Grant Program.

(d) Applications not funded in a given grant round shall not receive further consideration for funding by the Trust in that grant round; however, revised or new applications can be submitted in subsequent grant rounds.

(e) Application materials for projects not funded are to be retained by the Trust for 90 days following the announcement of grant awards, and are to be returned if an applicant submits a written request to the Trust within the 90 day period. After 90 days the Trust may discard all application materials for nonfunded projects.

7:4C-2.5 Matching funds

(a) To be eligible for a grant for a historic preservation project, the applying State, county or municipal government entity or agency shall, as part of the application for a historic preservation grant, demonstrate the ability to match the grant requested by generating \$1.00 in funds for every \$1.00 of grant money requested in the application.

(b) Tax-exempt, nonprofit organizations awarded grants up to \$100,000 are eligible for a 3:2 funding match in which the Trust may provide up to 60 percent of project funding while the grant recipient is responsible for generating a minimum of 40 percent of project funding.

(c) Funds derived from the sale of debt of the State of New Jersey or special appropriations by the State Legislature shall not be used as the matching share of projects costs by tax-exempt nonprofit organizations or county or municipal government entities or agencies.

(d) Funds raised by the applicant up to two years prior to August 20, 1992, as well as after that date, for ongoing historic preservations projects, and of which the project described in the application is a significant and substantial part, may satisfy the matching funds requirement enumerated in (a) above if:

1. As part of the application, the applicant submits evidence of payment, plans and specifications or other items documenting the expenditure of funds by the applicant and describing the work performed; and
2. The Trust determines that the work performed is part of the historic preservation project described in the application and the work was performed in accordance with the Secretary of the Interior's Standards.

(e) An applicant matching share shall consist only of cash raised by the applicant except as provided in (c) above or funds spent by applicant on an on-going historic preserva-

tion project as provided in (d) above. If matching funds have not been spent or are not in hand at the time of application, applicants must describe in detail plans for procuring matching funds.

SUBCHAPTER 3. ALLOCATION OF HISTORIC PRESERVATION GRANT FUNDS

7:4C-3.1 Allocation of historic preservation grant funds

(a) In each round historic preservation grant funds are to be allocated in accord with a ranking of applications received by the Trust in a given grant round, subject to availability and appropriation of funds under the Act. The ranking of applications is to be established by the Trust based on criteria set forth in N.J.A.C. 7:4C-3.2.

(b) The Trust reserves the right to limit funding to less than that requested in application.

(c) Up to 25 percent of monies made available for historic preservation projects under this act is to be awarded to State agencies or entities.

(d) Up to 10 percent of monies may be awarded by the New Jersey Historic Trust to be utilized for historic preservation projects or programs that aid designated districts, municipalities, or geographic areas, including, but not limited to, certified local governments and Main Street New Jersey communities.

7:4C-3.2 Criteria for review and ranking of applications for historic preservation grants

(a) To determine priority for funding, all applications for eligible historic preservation projects in a given grant round are to be ranked on the basis of the following competitive criteria:

1. Significance of resource which shall involve consideration of the following:
 - i. The degree to which a property is historically, archaeologically, architecturally, or culturally significant in the State, according to the evaluation criteria for the National Register of Historic Places;
2. The physical condition of property, including any immediate threat of collapse, demolition or inappropriate use or development; notice of code violations; and deterioration requiring stabilization;
3. The overall quality of the work proposed for funding based on the following:
 - i. The quality of preliminary planning or contracts documents submitted, including degree to which documents comply with the Secretary of the Interior's Standards;

- ii. The credentials and experience of project team; and
 - iii. A realistic and feasible budget and schedule for work proposed for funding;
4. The availability of funds to match the requested grant;
5. The ability of applicant to carry out the proposed work, develop programs to sustain and interpret the property, and provide for the long-term protection of the property;
6. The impact of the project based on the following:
- i. The ability of the project to create jobs or training opportunities;
 - ii. The potential of the project to promote other preservation activity;
 - iii. The relationship of the proposed project to other State, county, municipal, or organizational planning initiatives or programs which will aid community revitalization, or protect and preserve the built or natural environment, or improve or promote heritage education including the policies set forth in the New Jersey State Development and Redevelopment Plan, Statewide Policies No. 10, Historic, Cultural and Scenic Resources; and
 - iv. The proposed use and interpretive program for site;
7. The financial plans for the continued preservation of the historic structure after the expenditure of historic preservation grant money;
8. The degree to which the proposed project represents innovative design or programming for a historic site and the degree to which the project reaches new audiences; and
9. The distribution of funds to achieve a geographical balance as well as a balance between sizes and types of projects, diversity of audiences served by projects, and diversity of historical or cultural periods.

7:4C-3.3 Grant payment

(a) After funds have been appropriated and the project agreement has been fully executed, subject to its approval of documents submitted pursuant to (b) below, the Trust will reimburse the grant recipient for expenditures incurred by the recipient for historic preservation activities which are eligible for funding under N.J.A.C. 7:4C-2.3 and within the scope of the historic preservation project described in the project agreement. Total reimbursements cannot exceed the amount of the grant.

(b) Reimbursement is to be made under (a) above based on itemized invoices and canceled checks approved by the Trust and referenced to completed tasks within the scope of the historic preservation project described in the project agreement. The Grant recipient must submit itemized invoices to the Trust for approval prior to reimbursement. Invoices must itemize cost of labor and materials and describe the work performed for which reimbursement is requested. Invoices are to be submitted for each billing period set forth in the project agreement and shall be accompanied by any other documentation defined in the project agreement.

(c) Five percent of the total amount of each grant is to be retained by the Trust. The Trust is to deduct as retainage an amount equal to five percent of each payment approved under (b) above. The retainage is to be kept by the Trust until the historic preservation project has been completed and met all financial and project requirements, including submission of required reports.

7:4C-3.4 Grant amount

The minimum grant awarded for a historic preservation project shall be \$20,000; the maximum amount of grant funds that may be allocated to any one historic property, structure or site is \$1,250,000.

SUBCHAPTER 4. EASEMENT

7:4C-4.1 Easement on the historic property

(a) To assure the continued preservation of grant-assisted historic properties and to assure that public benefit continues from the use of public funds after the expenditure of the grant moneys, the Trust will not make grant assistance available until an easement agreement between the Trust and the grant recipient and all other parties having an ownership interest in the historic property is recorded. The easement agreement must include:

1. Provision for the continued preservation of the historic property;
2. Limitations on the right to change the use, alter, demolish or convey the property; and
3. Provisions for public access to the historic property.

(b) The period of the easement is to be determined by the aggregate total of grant assistance made available under these regulations:

1. From \$20,000 to \$50,000—Five years;
2. From \$50,001 to \$100,000—10 years;
3. From \$100,001 to \$250,000—15 years;
4. From \$250,001 to \$500,000—20 years; and

5. From \$500,001 and above—20 years or such additional period as the Trust may reasonably require.

(d) The project sign shall remain prominently located and maintained in the project site until the project is administratively closed out by the staff of the New Jersey Historic Trust.

SUBCHAPTER 5. PROJECT SIGNS

7:4C-5.1 Project signs

(a) Once a grant agreement has been executed for a project funded by historic preservation grant, a sign acknowledging that the project is funded with grant assistance from the New Jersey Historic Preservation Grant Program administered by the New Jersey Historic Trust in the New Jersey Department of Environmental Protection shall be located prominently and maintained on the project site.

(b) The project sign shall be fabricated and erected by the grant recipient in accord with specifications contained in the project agreement.

(c) The costs of making and erecting the project sign are eligible for funding under N.J.A.C. 7:4C-2.3(a)5. The costs of replacing or maintaining the sign are not eligible for funding.

SUBCHAPTER 6. FEES

7:4C-6.1 Fees

(a) To help defray costs of monitoring easements which are held on properties assisted through this program, an easement monitoring fee of \$250.00 for each year of the term of the easement will be added to the recommended grant award for each project. The following is a schedule of easement fees:

1. Five years for a total of \$1,250;
2. Ten years for a total of \$2,500;
3. Fifteen years for a total of \$3,750;
4. Twenty years for a total of \$5,000;
5. Twenty-five years for a total of \$6,200; and
6. Thirty years for a total of \$7,500.