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\*\*\* NEW JERSEY REGISTER, VOL. 43, NO. 11, JUNE 6, 2011 \*\*\*

TITLE 5. COMMUNITY AFFAIRS  
CHAPTER 101. GARDEN STATE HISTORIC PRESERVATION TRUST FUND GRANTS PROGRAM

N.J.A.C. 5:101 (2011)

Title 5, Chapter 101 -- Chapter Notes

**CHAPTER AUTHORITY:**

N.J.S.A. 13:1B-15.114(c) and 13:8C-42.

**CHAPTER SOURCE AND EFFECTIVE DATE:**

R.2011 d.024, effective December 14, 2010.

See: 42 N.J.R. 1455(a), 43 N.J.R. 173(d).

**CHAPTER EXPIRATION DATE:**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, expires on December 14, 2017. See: 43 N.J.R. 1203(a).

**CHAPTER HISTORICAL NOTE:**

Chapter 34, Garden State Historic Preservation Trust Fund Grants Program, was adopted as R.2000 d.264, effective July 3, 2000. See: 31 N.J.R. 3917(a), 32 N.J.R. 2457(a).

Pursuant to Reorganization Plan No. 001-2002, Chapter 34 of Title 15, Garden State Historic Preservation Trust Fund Grants Program, was recodified as Chapter 101 of Title 5, effective November 18, 2002. See: 34 N.J.R. 3565(a), 35 N.J.R. 1558(b).

Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, was readopted as R.2005 d.423, effective November 2, 2005. See: 37 N.J.R. 2598(a), 37 N.J.R. 4534(a).

Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, was readopted as R.2011 d.024, effective December 14, 2010. See: Source and Effective Date.

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CHAPTER 101. GARDEN STATE HISTORIC PRESERVATION TRUST FUND GRANTS PROGRAM  
SUBCHAPTER 1. GENERAL PROVISIONS

N.J.A.C. 5:101-1.1 (2011)

§ 5:101-1.1 Purpose

This chapter constitutes the rules of the New Jersey Historic Trust "in but not of" the Department of Community Affairs for the Garden State Historic Preservation Trust Fund Grants Program for the award of grants on a competitive basis for the preservation, restoration or rehabilitation of historic properties owned by State agencies and entities, local government units, and by tax-exempt nonprofit organizations, under P.L. 2007, c. 119, P.L. 2009, c. 117, and terminated or lapsed grants under P.L. 1987, c. 265, P.L. 1992, c. 88 and P.L. 1995, c. 204, and P.L. 1999, c. 152 which are to be redistributed, shall be subjected to this chapter, in accord with the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq.

**HISTORY:**

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

Rewrote the section.

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N.J.A.C. 5:101-1.2 (2011)

§ 5:101-1.2 Severability

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

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N.J.A.C. 5:101-1.3 (2011)

§ 5:101-1.3 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 Garden State Trust Fund Act, N.J.S.A. 13:8C-1 et seq.

"Applicant" means the State agency or entity, local government unit or nonprofit organization that submits an application for a historic preservation grant.

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

"Construction grant" means the matching funds appropriated from the Garden State Historic Preservation Trust Fund for the purpose of planning and/or undertaking the preservation, restoration or rehabilitation of a historic property.

"Deputy Historic Preservation Officer" means the person 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 State and National Registers of Historic Places.

"District" means a significant cohesive concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. A district may also be comprised of individual elements that although linked by association or function were separated geographically during the period of significance, as a district of discontinuous archaeological sites or a canal system where man-made segments are interconnected by natural bodies of water.

"Fund" means the Garden State Historic Preservation Trust Fund.

"Garden State Preservation Trust" means a public body corporate and politic, with corporate succession, established in but not of the Department of the Treasury.

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

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

"Heritage tourism project" means those activities or initiatives that plan, support and enhance visitor experience to the places that authentically represent the stories and people of the past and can include linkages between historic, cultural and natural resources.

"Historic" as applied to any property, structure, facility or site means any area, site, district, structure, or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L. 1970, c.268 (N.J.S.A. 13:1B-15.128 et seq.).

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

"Historic preservation project" means work directly related to the restoration, preservation or rehabilitation of a historic property, structure, facility, site, or district, and shall include: any work related to providing access thereto for handicapped or disabled persons in accord with the Americans with Disabilities Act, 42 U.S.C.A. § 12101 to § 12213 and the State Barrier Free Subcode, N.J.A.C. 5:23-7; and work directly related to the planning for future preservation activities at a historic property, structure, facility, site, or district; and site management activities at a historic property, structure, facility, site, or district.

"Historic preservation project cost" means the expenses incurred in connection with:

1. All things deemed necessary or useful and convenient in connection with historic preservation projects;
2. The execution of any agreements or franchises as determined by the New Jersey Historic Trust to be necessary or useful and convenient in connection with any project funded in whole or in part using constitutionally dedicated moneys;
3. The procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies;
4. Management related to the funded project;
5. The undertaking of feasibility studies; and
6. Reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by the act, or any moneys that may have been expended therefrom for, or in connection with, the Act.

"Historic site management grant" means the matching funds appropriated from the Garden State Historic Preservation Trust Fund for the purpose of planning for the preservation, restoration or rehabilitation of a historic property, determining the feasibility of proceeding with a capital historic preservation project, or activities that aid in strengthening the local government unit or nonprofit organization's capabilities to operate and sustain a historic site and enhance their ability to serve the public and further their mission.

"Improvement" means the act of upgrading the basic physical condition of a property in a manner consistent with the Secretary of the Interior's Standards. This type of activity includes upgrading mechanical systems, providing appropriate barrier-free access for handicapped persons, and bringing a property into conformance with building codes.

"Local government unit" means, with respect to historic preservation projects, a county, municipality, or any agency thereof, which owns or leases on a long-term basis a historic property, or intends to own or lease on a long-term basis a historic property.

"Master Planning" is the term used to describe any of the following activities: preparation of historic preservation plan, historic structure report, site master plan, landscape plan, and feasibility study.

"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.)

"New construction" means the act or process of constructing new forms, features, and/or details that did not exist before.

"New Jersey Register of Historic Places" consists 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.

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

"Planning" means the act or process of developing a procedure or design for the preservation, restoration or rehabilitation of a historic property.

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

"Property" means the historic site, district, structure, facility or object that 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 specific 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 1995) 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, 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.

"Site management" means the act or process of developing procedures or plans for the long-term viability of a historic property or the organization managing the property.

"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 or nominate eligible properties to the New Jersey and National Registers 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 New Jersey Register of Historic Places.

"State Review Board" means the public body whose members represent the professional fields of American history, architectural history, prehistoric and historic archaeology, and other professional disciplines who are appointed by the State Historic Preservation Officer to approve nominations to the New Jersey Register of Historic Places 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 succession established in but not of the Department of Community Affairs under N.J.S.A. 13:1B-15.111.

#### HISTORY:

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Added definitions "Grant agreement," "New construction" and "New Jersey Register of Historic Places"; in definition "Historic preservation project cost", recodified paragraphs 4-5 as 5-6 and added paragraph 4, and in "State Historic Preservation Officer", substituted "New Jersey" for "State" in two places; deleted definitions "Project agreement" and "State Register of Historic Places".

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

In definitions "Applicant" and "Grant recipient", inserted "State agency or entity,"; added definitions "District" and "Heritage tourism project"; in definitions "Historic" and "Property", inserted "district,"; and in definition "Historic preservation project", substituted a comma for "or" following the first occurrence of "facility", inserted "or district," and ", or district" twice, and deleted "or" following the last two occurrences of "facility,".

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SUBCHAPTER 2. APPLICATION PROCEDURE AND ELIGIBILITY FOR HISTORIC PRESERVATION GRANTS

N.J.A.C. 5:101-2.1 (2011)

§ 5:101-2.1 Eligible applicants

(a) State agencies or entities, local government units and nonprofit organizations that own or lease on a long-term basis a historic property, or intend to own or lease on a long-term basis a historic property, and have the property owner's written consent to submit an application, are eligible to submit applications for historic preservation construction grants.

(b) State agencies or entities, local government units, and nonprofit organizations that are interested in the preservation, restoration, rehabilitation or long-term viability of a historic property and have the property owner's written consent to submit an application, are eligible to submit applications for historic site management grants. For historic site management grants affecting a district for which there are multiple property owners, the signature of the chief elected local official of the municipality in which the district is located will suffice as owner consent.

**HISTORY:**

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

In (a) and (b), substituted "State agencies or entities, local" for "Local"; and in (b), inserted the last sentence.

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N.J.A.C. 5:101-2.2 (2011)

§ 5:101-2.2 Eligible properties: construction grants

(a) At the time of the Trust's receipt of the application for a construction grant, the property for which the application is submitted must satisfy (a)3 below and either (a)1 or 2:

1. The property must be 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 an executed lease with the property owner. An acceptable lease shall abide by the following conditions:
  - i. The lessor cannot revoke the lease at will;
  - ii. The unexpired term of the lease is 15 years or more as of the date project funds are appropriated by the Legislature and signed into law;
  - iii. No form of agreement between the applicant and the owner other than a lease or National Park Service Cooperative Agreement is acceptable; and
  - iv. All leases will be referred to the Attorney General for review and approval before funds can be released for a historic preservation project awarded a grant; and
3. The property is:
  - i. Listed individually in the National or New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4;
  - ii. Located within a historic district listed in the National or New Jersey Register of Historic Places and identified in the nomination of the district as contributing to its significance; or
  - iii. Certified by the State Historic Preservation Officer that the property, structure, facility, or site is approved for listing or meets the criteria for listing in the New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4.

(b) If the property is not listed in the National or New Jersey Register of Historic Places at the time of application, the property must be listed within 18 months from the time funding is appropriated or the grant award will lapse. Before any grant money is disbursed to a recipient, the property must meet the requirements of (a)3i or ii above.

(c) The Trust shall require as a condition of a construction grant awarded to a qualifying nonprofit organization that the historic property for which the construction grant is received shall not be sold, leased, or otherwise conveyed to an individual or to an organization that does not have tax exempt or governmental status, during the grant agreement period, without the consent of the Trust.

**HISTORY:**

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Rewrote the section

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N.J.A.C. 5:101-2.3 (2011)

§ 5:101-2.3 Eligible properties: planning grants

(a) At the time of the Trust's receipt of the application for a planning grant, the property for which the application is submitted must be owned in fee simple or leased by the applicant; or, if the property is not owned or leased by the applicant, to submit an application, the applicant must obtain the written consent of the property owner. The written consent of the chief elected local official of the municipality will suffice for planning applications involving a historic district for which there are multiple property owners. In addition, the property must be:

1. Listed individually or as a district in the National or New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4;

2. Located within a historic district listed in the National or New Jersey Register of Historic Places and identified in the nomination of the district as contributing to its significance; or

3. Certified by the State Historic Preservation Officer that the property, structure, facility, site, or district is approved for listing or meets the criteria for listing in the New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4.

(b) If the property is not listed in the New Jersey Register of Historic Places, the application may include a request for funding the cost of a nomination to the New Jersey or National Register. The written consent of the property owner to list the property must be submitted with the application.

**HISTORY:**

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Substituted "New Jersey" for "State" throughout; made grammatical changes throughout; in (a)3, deleted "Before any grant money is disbursed to a recipient, the property must meet the requirements of (a)1 or 2 above".

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

In the introductory paragraph of (a), inserted the second sentence; in (a)1, inserted "or as a district"; and in (a)3, substituted "site, or district" for "or site".

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N.J.A.C. 5:101-2.4 (2011)

§ 5:101-2.4 Activities eligible for funding: construction grants

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

1. Preservation;
2. Rehabilitation;
3. Restoration;
4. Improvements as part of a preservation or rehabilitation project;
5. Reconstruction of a documented part of a historic structure as part of a restoration, preservation, or rehabilitation project;
6. Project signs, required under N.J.A.C. 5:101-5;
7. Interpretive or directional signs, or plaques, approved or required by the Trust for funding as part of a historic preservation grant;
8. Archaeological data recovery as part of construction activity;
9. Non-construction activities related directly to the professional management, development, implementation, operation and monitoring of historic preservation projects by outside consultants may be funded in an amount not to exceed 20 percent of the total project costs approved for a 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 investigations and reports;
  - vi. Engineering reports;
  - vii. Historic research reports, including preparation of a nomination for the site for which a construction grant is requested to the New Jersey or National Register of Historic Places; and
  - viii. Programs to educate the public about the history of the site;

10. Non-construction activities for non-sectarian, non-profit organizations related directly to qualified, on-site project management of historic preservation projects. The management costs may be funded in an amount not to exceed 10 percent of the total project costs approved for a historic preservation grant; and

11. The consulting and on-site management costs together may not exceed 20 percent of the total project costs approved for a historic preservation grant.

**HISTORY:**

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Rewrote (a)

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N.J.A.C. 5:101-2.5 (2011)

§ 5:101-2.5 Activities eligible for funding: historic site management grants

(a) The following activities are eligible for a historic site management grant by the program:

1. Preparation of the following documents or reports for the purpose of planning for the preservation, restoration, rehabilitation of a historic property:

- i. Condition assessment reports;
- ii. Existing conditions documentation to Federal or State recordation standards;
- iii. Historic structure reports;
- iv. Historic landscape reports;
- v. Archaeological investigations and reports;
- vi. Engineering reports;
- vii. Historic research reports;
- viii. Analysis of existing building systems (for example, electrical, security, environmental controls) and recommendations for improvement;
- ix. As part of master planning for a historic site, analyzing, planning, designing, or adapting spaces in the property(ies) for new uses which will benefit the community. The plan should contain cost estimates associated with any changes; and

x. Maintenance plans;

2. Feasibility studies;

3. Preparation of architectural plans, designs, specifications, cost estimates, and other contract documents;

4. As part of master planning for compliance with the Americans with Disabilities Act (ADA), including:

- i. Evaluations of ADA access requirements for a historic property;
- ii. Preparation of architectural plans, designs, specifications, cost estimates, and other contract documents for complying with ADA requirements; and
- iii. Development of materials or devices to help the disabled visitor (for example, videos, audio narratives, displays to aid the visually impaired);



5. Preparation of a nomination to the New Jersey or National Register of Historic Places for an individual property or site owned by a local government unit, nonprofit organization or a State entity or authority. (The consent and signature of the property owner must be obtained. For nominations of historic districts with multiple property owners, the written consent of the local chief elected official shall suffice.);

6. Design guidelines;

7. Heritage tourism assessments, plans and initiatives; and

8. Preparation of the following documents or reports for the purpose of developing a procedure or design for the long-term viability of a historic property or its organization, including the following:

- i. Development of multi-year strategic plans;
- ii. Development of a fundraising plan for initiating capital campaigns for the preservation, restoration or rehabilitation of a historic property;
- iii. Development of interpretive and/or curriculum materials, signage or literature for visitors;
- iv. Development of endowment planning and proposals; and
- v. Visitor assessments which are part of a strategic plan or interpretive/curriculum development proposal.

**HISTORY:**

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Rewrote (a)lii.

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

In (a)5, inserted "the" preceding the second occurrence of "property" and inserted the last sentence in the parenthetical; added new (a)6; recodified former (a)6 and (a)7 as (a)7 and (a)8; and in (a)7, inserted "assessments," and substituted "initiatives" for "programs".

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N.J.A.C. 5:101-2.6 (2011)

§ 5:101-2.6 Ineligible costs

(a) 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. New construction, unless for access improvements and as part of a preservation or rehabilitation project;
3. Administrative or operational costs of the agency receiving funding, except as specified in N.J.A.C. 5:101-2.4(a)6;
4. Donated materials and/or donated in-kind services;
5. Expenses for publicity, unless stipulated in the grant agreement;
6. Charges more than the lowest responsive bid, when the State or the recipient requires competitive bidding, unless the Trust agrees in advance to the higher cost;
7. Charges for deficits or overdrafts;
8. Interest expense;
9. Damage judgments arising from constructing, or equipping a facility, whether determined by judicial process, arbitration, negotiation, or otherwise;
10. Services, materials, or equipment obtained by a local governmental unit or nonprofit organization under any other State program;
11. Contract cost overruns, not approved, which exceed the allowable amount under contract specifications;
12. Costs for grant application expenses;
13. Lobbying;
14. Work including construction, research, and preparation of plans and reports performed outside the approved project period;
15. Work including construction, research and preparation of plans and reports not included in the scope of work set forth in the project agreement;
16. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the overall project costs requested;
17. Work that does not comply with the Secretary of the Interior's Standards;

18. Work performed for a local government unit 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.;

19. Work performed for a nonprofit organization that has not been awarded in compliance with the pre-qualification and bidding requirements of the Trust, unless the costs of the work performed totaled less than \$100,000 and was bid competitively;

20. Routine maintenance work;

21. Costs related to the interiors of buildings that are used primarily for a religious workshop or a religious purpose;

22. For construction grants, the costs incurred for planning and site management activities or documents that were funded by a planning grant;

23. Planning, refurbishing or installing permanent or temporary museum exhibits, except as noted in N.J.A.C. 5:101-2.5(a)4iii and (a)7iii; and

24. Collections management including:

i. Cataloging an artifact or archival collection;

ii. Appraising or documenting collections; or

iii. Instituting conservation measures for artifacts.

#### HISTORY:

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Rewrote (a)2 and (a)19; in (a)6, added "responsive"; in (a)16, changed fund spending maximum from 75 percent of the grant to 25 percent of the overall project costs.

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N.J.A.C. 5:101-2.7 (2011)

§ 5:101-2.7 Procedures

(a) The following steps constitute the historic preservation grant application procedure.

1. 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 major daily papers and periodicals circulated to the historical and preservation community, posted on the Trust's official web site, and published in the New Jersey Register, in accordance with N.J.S.A. 52:14-34.4 et seq.

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

3. Each project application shall contain sufficient information to ensure that the Trust is able to conduct an adequate and thorough review. Applications not complete at the time of submission will not be eligible for review. Applications shall be on forms provided by the Trust and must in all cases contain at least:

- i. A statement of the significance and condition of the property;
- ii. A description, justification, and statement of need for the proposed project;
- iii. Cost estimates for proposed work;
- iv. Photographic and other documentation;
- v. Information on the applicant organization's programs, outreach activities and finances;
- vi. As applicable, proof of the applicant's nonprofit and charitable registration status;
- vii. Evidence of matching funds commitment as specified at N.J.A.C. 5:101-2.8;
- viii. As applicable to a construction grant request, long-range plans for the future use and preservation of the property;
- ix. As applicable, 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;
- x. As applicable to a construction grant request, the names of lessors and lessees, and, if available, a copy of a long-term lease meeting the requirements of N.J.A.C. 5:101-2.2(a)3;
- xi. If the property for which a grant is requested is not owned by the applicant, the application must contain the property owner(s) written consent to the submission of an application by an eligible entity; and
- xii. If the property for which a grant is requested is not listed in the New Jersey 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 applica-

tion, the historic property for which a grant is requested is approved for listing or meets the criteria for listing in the New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4.

4. A notice of receipt for each application shall be sent by the Trust to each applicant.

5. The Trust will review each application for possible funding.

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

i. The amount of grant;

ii. The project period;

iii. The project scope; and

iv. Special requirements including, but not limited to, inclusion in the New Jersey Register of Historic Places.

7. 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.

**HISTORY:**

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Rewrote the section

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N.J.A.C. 5:101-2.8 (2011)

§ 5:101-2.8 Matching funds: construction grants

(a) To be eligible for a construction grant for a historic preservation project, the applying State agency or entity, local government unit and nonprofit organization, except as provided in (b) below, shall, as part of the application for construction 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) State agencies or entities, local government units and nonprofit organizations awarded grants up to \$ 150,000 are eligible for a 3:2 funding match in which the Trust may provide up to 60 percent of project funding. The grant recipient is responsible for 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 project costs by nonprofit organizations or local government units.

(d) Funds expended by the applicant up to two years prior to the time of application for historic preservation 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) and (b) above if:

1. As part of the application, the applicant submits plans and specifications or other items documenting the expenditure of funds by the applicant and describing the work performed;
2. The Trust determines that the work performed is an integral part of the historic preservation project described in the application;
3. The work was performed in accordance with the Secretary of the Interior's Standards; and
4. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the total project costs requested.

(e) An applicant's matching share shall consist only of eligible cash raised or eligible expenses incurred by the applicant. If matching funds have not been spent or are not in hand at the time of application, applicants must describe in detail plans for obtaining matching funds.

HISTORY:

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (b), decreased grant amount from \$ 200,000 to \$ 100,000; in introductory paragraph (d), substituted "expended" for "raised" and "the time of application" for "June 30, 1999"; added (d)4.

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

In (a), substituted a comma for "under the 'Garden State Historic Preservation Trust Fund,' " following "project", and inserted "State agency or entity"; and in (b), substituted "State agencies or entities, local" for "Local" and "\$ 150,000" for "\$ 100,000".

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N.J.A.C. 5:101-2.9 (2011)

§ 5:101-2.9 Matching funds: historic site management grants

(a) To be eligible for a historic site management grant for a historic preservation project, the applying State agency or entity, local government unit and nonprofit organization 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 \$ 3.00 of grant money requested in the application. Evidence of applicant match must be presented at time of application.

(b) 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 project costs by nonprofit organizations or local government units.

(c) Funds expended by the applicant up to two years prior to the time of application for historic preservation 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 plans and specifications or other items documenting the expenditure of funds by the applicant and describing the work performed;

2. The Trust determines that the work performed is an integral part of the historic preservation project described in the application;

3. The work was performed in accord with the Secretary of the Interior's Standards; and

4. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the total project costs requested.

(d) An applicant's matching share shall consist only of eligible cash raised by the applicant except as provided in (b) above or funds spent by applicant on an on-going historic preservation project as provided in (c) above.

HISTORY:

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In introductory paragraph (c), substituted "expended" for "raised" and "the time of application" for "June 30, 1999"; added (c)4.

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).



In (a), substituted a comma for "under the 'Garden State Historic Preservation Trust Fund,' " following "project" and inserted "State agency or entity,".

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N.J.A.C. 5:101-3.1 (2011)

§ 5:101-3.1 Allocation of historic preservation grant funds

(a) In each grant round, historic preservation funds are to be allocated in accord with a ranking of applications received by the Trust, 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. 5:101-3.2.

(b) The Trust reserves the right to limit funding to less than the amount requested.

(c) Of the sum of the monies deposited in the "Garden State Historic Preservation Trust Fund," up to 10 percent of monies awarded by the Trust may be utilized for historic preservation projects or programs that aid designated historic or cultural districts, municipalities, or geographic areas, including, but not limited to, Certified Local Governments, Main Street New Jersey and Urban Coordinating Council communities.

(d) Up to 20 percent of the monies made available for historic preservation projects may be awarded to State agencies and entities.

**HISTORY:**

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

Added (d).

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N.J.A.C. 5:101-3.2 (2011)

§ 5:101-3.2 Criteria for review and ranking of applications for historic preservation grants

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

1. Significance of resource, which shall involve consideration of the degree to which a property is historically, archaeologically, architecturally, or culturally significant in the State, under the evaluation criteria for the New Jersey and National Registers 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 contract documents submitted, including degree to which documents comply with the Secretary of the Interior's Standards;
  - ii. The credentials and experience of project team or consultants; 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 the applicant to carry out the proposed work, develop programs to sustain and interpret the property, remain accessible to the public, and provide for the long-term protection of the property;
6. The impact of 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 investment in and promotion of cultural and historic assets;
  - iii. The relationship of the proposed project to other State, county, municipal, or organizational planning initiatives or programs which will aid community revitalization, protect and preserve the built or natural environment, or improve or promote heritage education and tourism including the policies set forth in the New Jersey State Development and Redevelopment Plan, Statewide Policies No. 9 (Historic, Cultural and Scenic Resources), and the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent; and
  - iv. The proposed use and interpretive program for site;
7. If, at the time of application, the applicant has no legal control over the property, either in the form of a valid 15 year lease or fee simple ownership, the Trust shall evaluate the likelihood in which ownership or the required lease will be obtained within the time set by N.J.A.C. 5:101-2.2(a)3ii;
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.

(b) To determine priority for historic site management grants, all applications for eligible historic preservation projects in a given grant round are to be ranked on the basis of the criteria under (a)1, 2, 4, 8 and 9 above, and the following competitive criteria:

1. The overall quality of the planning and site management work proposed for funding based on the following:
  - i. The quality of the preliminary planning documents and the degree to which the documents comply with the Secretary of the Interior's Standards;
  - ii. The credentials and experience of the project team or consultants; and
  - iii. A realistic and feasible budget and schedule for work proposed for funding;
2. The ability of applicant to carry out the proposed work; and
3. The impact of the project, based on the following:
  - i. The potential for the plans and documents developed to be used as a tool to foster the protection, preservation, restoration or rehabilitation of the historic property by a local government unit or nonprofit organization;
  - ii. The potential of the project to promote other preservation activity or cultural or economic activities such as heritage tourism;
  - iii. The potential of the project to foster appropriate site management practices that will sustain the long-term and viable use of a historic property; and
  - iv. The relationship of the proposed project to other State, county, municipal, or organizational planning initiatives or programs which will aid community revitalization, 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. 9 (Historic, Cultural and Scenic Resources), and the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent.

**HISTORY:**

Amended by R.2005 d.423, effective December 5, 2005.

See: 37 New Jersey Register 2598(a), 37 New Jersey Register 4534(a).

In (a)6iii and (b)3iv, substituted "No. 9" for "No. 10" and added "the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent."

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N.J.A.C. 5:101-3.3 (2011)

§ 5:101-3.3 Proposed action by New Jersey Historic Trust if a recommended project is deleted by the Garden State Preservation Trust

If the Garden State Preservation Trust deletes a project that has been submitted to the Garden State Preservation Trust by the New Jersey Historic Trust for approval, the Garden State Preservation Trust shall, in consultation with the applicant and the New Jersey Historic Trust, review and reevaluate the merits and validity of the project. After completion of this review and reevaluation, if the New Jersey Historic Trust continues to recommend funding of the project, it shall transmit its reasons in writing to the Garden State Preservation Trust and place the project on the next or a subsequent list of projects submitted to the Garden State Preservation Trust. The Garden State Preservation Trust shall include the project in the next legislation to appropriate moneys from the Garden State Historic Preservation Trust Fund and send it to the Governor, President of the Senate, and Speaker of the General Assembly for consideration, together with a written report setting forth the rationale of the Garden State Preservation Trust in recommending deletion of the project from the proposed legislation and the rationale of the New Jersey Historic Trust in recommending retention of the project in the proposed legislation.

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N.J.A.C. 5:101-3.4 (2011)

§ 5:101-3.4 Commencement of project and payment: construction grants

(a) For a construction grant, a project agreement for a historic preservation project shall be in effect within 18 months of the effective date of the appropriation by law of the funds for the construction grant, or the grant for that historic preservation project shall lapse into the Fund.

(b) As defined in the project agreement, work on a historic preservation project funded with a construction grant shall commence within two years of the effective date of the appropriation by law for the grant, or the grant for that historic preservation project shall lapse into the Fund.

(c) After funds for a construction grant have been appropriated by the Legislature, the project agreement has been fully executed, and all eligibility requirements have been met, the grant recipient will be reimbursed for expenditures incurred for historic preservation activities which are eligible under N.J.A.C. 5:101-2.4; which are within the scope of the historic preservation project described in the project agreement subject to the Trust's approval of documents submitted under (d) below. Total reimbursements cannot exceed the amount of the grant.

(d) Reimbursement is to be made under (c) above and must be substantiated by itemized invoices, canceled checks approved by the Trust, and referenced to completed tasks within the scope of the historic preservation project described in the project agreement. 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 reporting period set forth in the project agreement and shall be accompanied by other documentation defined in the project agreement.

(e) Up to 10 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 up to 10 percent of each payment approved under (d) above. The retainage is to be kept by the Trust until the historic preservation project has been completed and met financial and project requirements, including submission of required reports.

(f) The Trust may choose to advance 10 percent of grant monies to nonprofit organizations before receipt of expenditure documentation. Until such documentation is received and approved, the Trust shall make no further payments beyond the 10 percent advanced.

HISTORY:

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (e), rewrote percentages from five percent to up to 10 percent throughout.

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N.J.A.C. 5:101-3.5 (2011)

§ 5:101-3.5 Commencement of project and payment: historic site management grants

(a) For a historic site management grant, a project agreement must be in effect within 18 months of the effective date of the appropriation by law of the funds for the grant, or the grant for that historic preservation project shall lapse into the Fund.

(b) As defined in the project agreement, any work on a historic preservation project funded with a historic site management grant awarded under the Act shall commence within 18 months of the effective date of the appropriation by law of the funds for the grant, or the grant for that historic preservation project will lapse into the Fund.

(c) After funds for the grant have been appropriated by the Legislature, the project agreement has been fully executed, and all eligibility requirements have been met, the grant recipient will be reimbursed for expenditures incurred for historic preservation activities which are eligible for funding and which are within the scope of the historic preservation project described in the project agreement subject to the Trust's approval of documents submitted under (d) below. Total reimbursements cannot exceed the amount of the grant.

(d) Disbursement of 80 percent of the grant is to be made under (c) above once documentation of the following has been received by the Trust:

1. The project team or consultants have been retained;
2. An initial payment for retaining said project team or consultant has been paid by the grantee; and
3. A contract has been signed by both the consultant and grantee.

(e) Twenty percent of each grant is to be retained by the Trust until the project has been completed and met financial and project requirements, including submission of required reports.

HISTORY:

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (a), substituted "18 months" for "12 months".

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

In (a), inserted "of the funds"; and in (b), substituted "18 months" for "one year".



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N.J.A.C. 5:101-3.6 (2011)

§ 5:101-3.6 Grant amount: construction grant

The minimum construction grant awarded for a historic preservation project shall be \$ 5,000. The maximum construction grant that may be allocated to any historic property, structure or site in a funding round of the Garden State Historic Preservation Trust Fund is \$ 750,000.

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N.J.A.C. 5:101-3.7 (2011)

§ 5:101-3.7 Grant amount: historic site management grant

The minimum grant awarded for a historic site management project shall be \$ 5,000. The maximum historic site management grant that may be allocated to any one historic property, structure, site or district in a funding round is \$ 50,000.

**HISTORY:**

Amended by R.2011 d.098, effective April 4, 2011.

See: 42 N.J.R. 2350(a), 43 N.J.R. 829(a).

Substituted ", site or district" for "or site" and deleted "of the Garden State Historic Preservation Trust Fund" following "round".

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N.J.A.C. 5:101-3.8 (2011)

§ 5:101-3.8 Reallocation of lapsed grant funds

(a) At the discretion of the Trust, funds from lapsed or terminated projects may be:

1. Reallocated to the Fund for distribution under a future round of funding; or
2. Reallocated to unforeseen construction expenses or other historic preservation grant-aided projects. Reallocated funds are limited to those preservation costs outlined in the project agreement. Reallocated funds shall not exceed 20 percent of the historic preservation grant. The process for the reallocation of said funds shall be determined by the Trust.

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N.J.A.C. 5:101-4.1 (2011)

§ 5:101-4.1 Easement on the historic property

(a) To assure the continued preservation of historic properties receiving construction grants in excess of \$50,000 and owned by nonprofits, and to assure that public benefit continues after the expenditure of the grant moneys, the Trust shall not make grant assistance available until an easement agreement between the Trust and the nonprofit grant recipient and all other parties having an ownership interest in the historic property is recorded. The easement agreement shall 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 shall be determined by the aggregate total of grant assistance made available under this chapter, as follows:

1. From \$50,001 to \$100,000--15 years;
2. From \$100,001 to \$450,000--20 years; and
3. From \$450,001 to \$750,000--30 years.

**HISTORY:**

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

Rewrote (b)

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 CHAPTER 101. GARDEN STATE HISTORIC PRESERVATION TRUST FUND GRANTS PROGRAM  
 SUBCHAPTER 5. ACKNOWLEDGMENT OF PUBLIC SUPPORT: PROJECT SIGNS AND PUBLIC INFORMATION MATERIALS

N.J.A.C. 5:101-5.1 (2011)

§ 5:101-5.1 Project signs and public information materials

(a) Once funds for a historic preservation construction grant have been appropriated, a sign acknowledging that the project has received grant assistance from the Garden State Historic Preservation Trust Fund Program administered by the New Jersey Historic Trust in but not of the New Jersey Department of Community Affairs must 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. 5:101-2.4(a)4. The costs of replacing or maintaining the sign are not eligible for funding.

(d) The project sign shall remain prominently located and maintained on the project site until all grant funds are paid or the project is terminated.

(e) Upon completion of a project receiving construction grants of more than \$50,000 or at any time prior, the grantee shall affix a permanent sign or plaque to the property noting that the property is listed in the New Jersey or National Register of Historic Places, giving the year and the name of the property as listed in the records of the Register and describing the historical significance of the property.

(f) As applicable for New Jersey Historic Trust funding of construction and historic site management activities, the year preservation work was completed shall be acknowledged on the sign or plaque. The language used when crediting the New Jersey Historic Trust shall read as follows: "Funding has been made possible in part by the Garden State Historic Preservation Trust Fund administered by the New Jersey Historic Trust/State of New Jersey." Credit shall be given to the Trust in all printed materials, releases and announcements of the grantee regarding all activities to which the Trust funds contribute; this applies to all promotional appearances on television and radio by representatives of the grantee organization as well as newspaper interviews. In the case of electronic media, verbal credit shall be given at least once during a broadcast to acknowledge the support the grantee has received from the Trust to its overall operation.

(g) The Trust logo shall be used by the grantee in publicizing those programs or documents supported by a Trust grant (including, but not limited to, newsletters, brochures, and flyers). The logo is to be used only when the credit line stated in (f) above is also used and never in its place (as this implies sponsorship). Ideally, the logo should be reproduced as a unit without alteration.

HISTORY:

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (f), added "Fund" to language used when crediting the New Jersey Historic Trust.

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TITLE 5. COMMUNITY AFFAIRS  
CHAPTER 102. HISTORIC PRESERVATION REVOLVING LOAN PROGRAM

N.J.A.C. 5:102 (2011)

Title 5, Chapter 102 -- Chapter Notes

CHAPTER AUTHORITY:

N.J.S.A. 13:1B-15.111.

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2010 d.150, effective June 17, 2010.

See: 41 N.J.R. 3875(a), 42 N.J.R. 1515(b).

CHAPTER EXPIRATION DATE:

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 102, Historic Preservation Revolving Loan Program, expires on June 17, 2017. See: 43 N.J.R. 1203(a).

CHAPTER HISTORICAL NOTE:

Chapter 31, Historic Preservation Revolving Loan Program, was originally codified in Title 7 as Chapter 4B, Historic Preservation Revolving Loan Program. Chapter 4B was adopted as R.1993 d.637, effective December 6, 1993. See: 25 N.J.R. 748(a), 25 N.J.R. 5694(a).

Pursuant to Reorganization Plan 004-1998, Chapter 4B, Historic Preservation Revolving Loan Program, was recodified as N.J.A.C. 15:31, effective November 10, 1998. See: 30 N.J.R. 1351(a), 30 N.J.R. 4252(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Historic Preservation Revolving Loan Program, expired on December 6, 1998.

Chapter 31, Historic Preservation Revolving Loan Program, was adopted as new rules by R.1999 d.429, effective December 6, 1999. See: 30 N.J.R. 4137(a), 31 N.J.R. 4074(b).

Pursuant to Reorganization Plan 001-2002, Chapter 31 of Title 15, Historic Preservation Revolving Loan Program, was recodified as N.J.A.C. 5:102, effective August 30, 2004. See: 34 N.J.R. 3565(a), 36 N.J.R. 4298(b).



Chapter 102, Historic Preservation Revolving Loan Program, was readopted as R.2005 d.136, effective April 4, 2005.  
See: 37 N.J.R. 170(a), 37 N.J.R. 1514(a).

Chapter 102, Historic Preservation Revolving Loan Program, was readopted as R.2010 d.150, effective June 17, 2010.  
See: Source and Effective Date.

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TITLE 5. COMMUNITY AFFAIRS  
CHAPTER 102. HISTORIC PRESERVATION REVOLVING LOAN PROGRAM  
SUBCHAPTER 1. GENERAL PROVISIONS

N.J.A.C. 5:102-1.1 (2011)

§ 5:102-1.1 Purpose

This chapter shall constitute the rules of the New Jersey Historic Trust in but not of the Department of Community Affairs for the Historic Preservation Bond Program providing for the award of loans on a competitive basis for historic preservation projects, for the preservation, improvement, restoration, rehabilitation or acquisition of historic properties owned by county and municipal governments and by tax-exempt nonprofit organizations in accord with the P.L. 1987, c.265 and P.L. 1991, c.41.

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SUBCHAPTER 1. GENERAL PROVISIONS

N.J.A.C. 5:102-1.2 (2011)

§ 5:102-1.2 Definitions

The following words and terms, when used in this chapter, shall have these meanings, unless the context clearly indicates otherwise:

"Acquisition" means the process of obtaining an interest in real property for the purpose of preserving or enhancing the historic, cultural or architectural significance of the property. Acquisition may include purchase of title, development rights, life estates, remainder interests, easements or other interests in real property which would result in the preservation of a historic property.

"Act" means the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L. 1987, c.265.

"Applicant" means the county or municipal government or nonprofit organization that submits an application for a historic preservation loan.

"Approved project period" means the amount of time prescribed in the project agreement during which the loan recipient must complete the approved historic preservation project.

"County and municipal government" includes all legal subunits and coequal units of county and municipal government.

"Deputy State Historic Preservation Officer" means the Administrator, Historic Preservation Office, Department of Environmental Protection, designated 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.

"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 by as meeting the criteria for listing in the New Jersey or National Register of Historic Places as set forth at N.J.A.C. 7:4. The State Historic Preservation Officer is responsible for identifying and nominating eligible properties to the National Register of Historic Places.

"Historic preservation cost" means the expenses incurred in connection with the historic preservation project for which loan assistance is provided.

"Historic preservation loan" means moneys approved by the New Jersey Historic Trust for funding of a historic preservation project and subject to the terms of an agreement between the Trust and the recipient.

"Historic preservation project" means work directly related to the acquisition, improvement, restoration, stabilization, and/or rehabilitation of a historic property, structure, facility or site and shall include: any work related to provid-

ing access thereto for handicapped or disabled persons in accord with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 to 12213 and the State Barrier Free Subcode, N.J.A.C. 5:23-7.

"Improvement" means the act of upgrading the basic physical condition of a property in a manner consistent with the Standards for the Treatment of Historic Properties (Revised 1992) adopted by the Secretary of the United States Department of the Interior now in effect and as may subsequently be modified, changed or amended. This type of activity includes upgrading mechanical systems, providing appropriate barrier-free access for handicapped persons, and bringing a property into conformance with building costs.

"Loan agreement" means a document executed by the New Jersey Historic Trust and a loan recipient which provides loan assistance of a specified amount for a historic preservation project approved by the Trust.

"Loan recipient" means the county or municipal government or nonprofit organization named in an agreement executed with the Trust to receive loan funds for a historic preservation project.

"National Register of Historic Places," means the 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 to sustain the existing form, integrity, and material of a historic property.

"Reconstruction" is defined as 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 specific period and in its historic location.

"Rehabilitation" is defined as the act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions of features which convey its historical, cultural, or architectural values.

"Restoration" is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period 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" or "Standards" means the Standards for the Treatment of Historic Properties, 36 C.F.R. Part 68 and the Guidelines for Implementation of the Standards adopted by the Secretary of the United States Department of the Interior now in effect and as may subsequently be 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 and to identify and nominate eligible properties to the National Register of Historic Places. The State Historic Preservation Officer establishes the procedures and criteria located at N.J.A.C. 7:4 for receiving and processing nominations and approval of 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 expand and maintain under the "New Jersey Register of Historic Places Act," N.J.S.A. 13:1B-15.128 et seq.

"Structure" means a work constructed by man and made up of interdependent and interrelated parts in a definite pattern or organization. Structures are distinguished from buildings by their functional and utilitarian nature. Generally, a building is built for a purpose other than to create shelter.

"Trust" means the New Jersey Historic Trust, a body corporate and politic with corporate succession established in but not of the Department of Community Affairs under N.J.S.A. 13:1B-15.111 et seq.

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TITLE 5. COMMUNITY AFFAIRS  
CHAPTER 102. HISTORIC PRESERVATION REVOLVING LOAN PROGRAM  
SUBCHAPTER 2. ELIGIBILITY FOR HISTORIC PRESERVATION

N.J.A.C. 5:102-2.1 (2011)

§ 5:102-2.1 Eligible applicants

(a) County and municipal governments and tax-exempt nonprofit organizations are eligible to submit applications for historic preservation loans.

(b) No historic preservation loan will be made to nonprofits or governmental units which are in default on prior obligations to the State of New Jersey.

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N.J.A.C. 5:102-2.2 (2011)

§ 5:102-2.2 Eligible property

(a) A historic preservation project is eligible for a historic preservation loan only if, at the time the Trust receives the loan application, the property which is the subject of the project is:

1. Individually listed in the National or State Register of Historic Places;
2. Located within a historic district listed in the National or State Register of Historic Places and identified in the nomination of the district as contributing to the significance of the district;
3. Included in a thematic listing of historic resources in the State National Register of Historic Places; or
4. Certified by the Deputy State Historic Preservation Officer 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.

(b) Unless the purpose of the historic preservation loan is to fund an acquisition, a historic preservation project is eligible for a historic preservation loan only if, at the time the Trust receives the loan application, the property which is the subject of the project is:

1. Owned in fee simple by the applicant; or
2. If the property is not owned in fee simple by the applicant, the applicant shall have possession and sufficient control over the property pursuant to 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 may not be revoked at will by the lessor;
  - ii. The unexpired term of the lease is 20 years or more as of the date the Trust receives the application for a historic preservation loan; and
  - iii. The application for the historic preservation loan is endorsed by all owners, lessors and lessees of the leased premises as the case may be.

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N.J.A.C. 5:102-2.3 (2011)

§ 5:102-2.3 Historic preservation activities eligible for funding

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

1. Preservation;
2. Rehabilitation;
3. Restoration;
4. Improvement;
5. Acquisition;
6. The following non-construction activities related directly to the development, implementation, operation and monitoring of a historic preservation project:
  - i. Architectural plans, designs, specifications, cost estimates and other contract documents;
  - ii. Feasibility studies;
  - iii. Historic structure reports;
  - iv. Preservation plants;
  - v. Historic landscape reports;
  - vi. Archaeological reports;
  - vii. Architectural reports;
  - viii. Engineering reports;
  - ix. Historic research reports;
  - x. Project completion reports;
  - xi. Preparation of a successful loan application;
  - xii. Construction permits;
  - xiii. Architectural fees for construction administration services;
  - xiv. Consultant fees for preparation of reports required by the Trust; and

- xv. Market feasibility studies;
- 7. Project signs, required under N.J.A.C. 5:102-5.1;
- 8. Interpretive signs or plaques approved by the Trust for funding as part of a historic preservation loan; and
- 9. The following expenses to acquire title or permanent interest in a property, or to refinance the acquisition of an eligible property:
  - i. Survey costs;
  - ii. Appraisal fees;
  - iii. Title searches;
  - iv. Title insurance;
  - v. Recording fees;
  - vi. Inspection fees;
  - vii. Legal fees associated with acquisition; and
- 10. Costs to market the property for resale.

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

- 1. Construction of new buildings, structures or major new additions to existing buildings or structures, except if such construction is a minor and necessary component of a historic preservation project approved for funding;
- 2. Reconstruction of buildings or structures which formerly existed, except if such building or structure is a minor or necessary component of a historic preservation project approved for funding;
- 3. Personnel or administrative overhead or any other indirect cost;
- 4. Ceremonial expenses;
- 5. Expenses for publicity (with the exception of the required project sign);
- 6. Bonus payments of any kind;
- 7. Charges for contingency reserves;
- 8. Charges in excess of the lowest bid when the loan recipient is required to use competitive bidding, unless the Trust agrees in advance to the higher cost;
- 9. Charges for deficits or overdrafts;
- 10. Damage judgments arising from construction, or equipping of a facility, whether determined by judicial process, arbitration, negotiation, or otherwise;
- 11. Services, materials, or equipment obtained under any other State program;
- 12. Costs of discounts not taken;
- 13. Contract cost overruns, not approved, that exceed all allowable amounts as per the contract specifications;
- 14. Fundraising;
- 15. Lobbying;
- 16. Work including construction, research and preparation of plans and reports not included in the scope of work set forth in the project agreement;
- 17. The following costs of acquisitions are not eligible:
  - i. Broker's or realtor's fees;
  - ii. Legal fees not directly related to acquisition;

iii. Loan discounts or origination fees are generally not eligible for reimbursement unless financial hardship can be demonstrated; and

iv. Other loan application fees;

18. Real property taxes, except in loans for acquisition where the purchase of tax liens is necessary to acquire the property;

19. Increases in land costs in excess of the approved fair market value;

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

21. Work performed on behalf of a county or 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. when applicable;

22. Work performed on behalf of a nonprofit organization which has not been awarded in compliance with the State Contracts Law or the Local Public Contracts Law if the cost of the contract for work performed as part of the historic preservation project funded with a historic preservation loan exceeds \$ 50,000;

23. Routine periodic maintenance work except if it is a minor and necessary component of a historic preservation project; and

24. Relocation of structures, buildings or objects unless the following conditions are met:

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

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

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

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TITLE 5. COMMUNITY AFFAIRS  
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 SUBCHAPTER 3. HISTORIC PRESERVATION LOAN APPLICATION PROCESS

N.J.A.C. 5:102-3.1 (2011)

§ 5:102-3.1 Procedures

- (a) Revolving loan applications will be accepted and reviewed from all eligible applicants on a continuous basis.
- (b) To apply for a historic preservation loan, the applicant shall submit a written application, on a form provided by the Trust with specified documents attached to the following address: New Jersey Historic Trust, New Jersey Department of Community Affairs, 506-508 East State Street, PO Box 457, Trenton, New Jersey 08625-0457. The applicant shall include in the application the information listed in (c) below.
- (c) The applicant shall include the following information in the application:
1. A statement of and documentation supporting the significance and condition of the property;
  2. A narrative description of the proposed project;
  3. Cost estimates for proposed work and/or acquisition;
  4. Black and white photographs and color slides of the property;
  5. Long-range plans for the future preservation of the property;
  6. The names and addresses of all owners, all parties with an ownership interest, and if applicable, evidence of ownership or an interest in ownership of the property for which a loan is requested;
  7. As applicable, the names of lessors and lessees, and a copy of a long-term lease meeting the requirements of N.J.A.C. 5:102-2.2(b)2;
  8. Evidence of security may be required depending on the loan applicant's creditworthiness and the mortgagability of the asset to be acquired or on which capital improvement takes place;
  9. Evidence of recipient's ability to repay the loan will include information pertaining to source(s) of funds, projected income statements, and previous years annual financial statements as requested by the Trust;
  10. If the property for which a historic preservation loan is requested is not listed in the State or National Register of Historic Places, a certification by the Deputy State Historic Preservation Officer that, as of the date of the Trust's receipt of the application, the historic property for which a loan 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. 7:4-2;
  11. A resolution of the governing body of the applying county or municipality, or a resolution of the board of directors of the applying nonprofit organization, recommending the historic preservation project for funding under the Program;

12. All applicants shall:

i. Purchase and arrange for delivery to the Trust directly from a recognized, independent credit reporting agency an up-to-date credit report for the entity seeking the loan; or

ii. Submit a check for \$ 100.00 to the Trust to cover the expense of any reports. Any application submitted under (c)12i above shall be deemed complete only when the report is received by the Trust directly from the reporting agency; and

13. Any other information reasonably necessary to enable the Trust to determine whether the applicant and the proposed historic preservation project are eligible for a historic preservation loan, and the amount which should be allocated to the project under this chapter.

(d) If an application is incomplete, the Trust will notify the applicant and state what is necessary to make the application complete. If the applicant does not submit the necessary information within 30 days after the date of mailing of the notice, the application may be deemed rejected without prejudice.

(e) Applicants not funded will be advised of the reasons for rejection and may submit a revised or new application.

(f) Application materials for projects not funded shall be retained by the Trust for 90 days following the final disposition of the request for loan funds. The materials shall be returned if the applicant submits a written request to the Trust within the 90 day period. After 90 days the Trust may discard all application materials for non-funded projects.

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SUBCHAPTER 4. ALLOCATION OF HISTORIC PRESERVATION LOAN FUNDS

N.J.A.C. 5:102-4.1 (2011)

§ 5:102-4.1 Allocation of historic preservation loan funds

(a) Historic preservation loan funds shall be allocated in accord with an evaluation of applications received by the Trust. The Trust shall evaluate applications based on the following criteria:

1. The balance in the revolving loan fund;
2. The aggregate amount of loans for which requests are pending;
3. Any minimum reserve amount established for the fund; and
4. The extent to which a proposed historic preservation project meets the criteria in N.J.A.C. 5:102-4.2.

(b) The minimum loan amount to be accepted for review is \$ 25,000. The maximum loan amount to be accepted for review will not exceed 15 percent of the available revolving loan fund balance as of the beginning of the fiscal year (July 1) in which the application is submitted.

(c) Loan amounts will be for a maximum of 40 percent of project funding for all public entities and will not exceed 90 percent of project funding for nonprofit organizations.

(d) The Trust reserves the right to limit the funding to less than the amount requested in an application and to specify the particular aspect(s) of the project it will fund.

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SUBCHAPTER 4. ALLOCATION OF HISTORIC PRESERVATION LOAN FUNDS

N.J.A.C. 5:102-4.2 (2011)

§ 5:102-4.2 Criteria for review and evaluation of applications for historic preservation loans

(a) All applications for eligible historic preservation projects shall, for the purpose of determining priority for funding, be evaluated on the basis of the following competitive criteria:

1. The significance of the resource, which shall involve consideration of the following:
  - i. The degree to which a property is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of the State, according to the evaluation criteria for the National Register of Historic Places;
  - ii. The degree of significance locally or at the regional, state, or national level; and
  - iii. The degree to which a property retains its historical features and setting;
2. The physical condition of the property, evidence of conditions which require priority attention, including any immediate threat of collapse, demolition or inappropriate use or development, notice of code violations, and deterioration requiring stabilization;
3. Plans for the preservation of the structure, which shall involve consideration of the following:
  - i. Plans for use and interpretation of the historic property;
  - ii. Preservation and maintenance plans;
  - iii. Visibility of the resource and ability of project to serve as a catalyst for further preservation of historic resources; and
  - iv. The potential impact of project on the community;
4. Compliance with the Secretary of the Interior's Standards reflected in:
  - i. Project plans, specifications and any other documents for work that has not been done for which the application for a historic preservation loan has been submitted; or
  - ii. Work underway or completed that is part of an on-going historic preservation project for which the application for a historic preservation loan is submitted;
5. The administrative capability of applicant, which shall involve consideration of the following:
  - i. Completeness of the project concept;
  - ii. The place of the project in long-range plans of applicant;

- iii. The quality of project consultants;
- iv. Financial resources of applicant, including the ability of applicant to repay the loan. Letters of rejection from commercial lenders ("turndown letters") may be required as part of the evaluation of the applicant's financial need;
- v. A realistic time frame for the project; and
- vi. The applicant's qualifications and experience in managing historic preservation projects;
- 6. The availability of funds to meet project budget requirements;
- 7. The security available for the loan, including, but not limited to, any real or personal property, personal or corporate guarantees, and financial instruments;
- 8. Financial plans for the continued preservation of the historic structure after the expenditure of historic preservation loan funds; and
- 9. The degree and kind of public access.

(b) Funds shall be distributed to achieve a geographical, racial and ethnic balance as well as a balance between sizes and types of projects, and historical or cultural period of the resources assisted by the program.

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TITLE 5. COMMUNITY AFFAIRS  
CHAPTER 102. HISTORIC PRESERVATION REVOLVING LOAN PROGRAM  
SUBCHAPTER 5. LOAN DISBURSEMENT AND REPAYMENT

N.J.A.C. 5:102-5.1 (2011)

§ 5:102-5.1 Loan disbursement and repayment

(a) After the project agreement has been fully executed, the Trust shall deposit the revolving loan payment into a separate account established by the recipient specifically for the project for which the loan is made. Payments shall be made in one or more installments, at the discretion of the Trust.

(b) Any changes in the scope of the project funded by this loan must be reviewed and approved in advance by the Trust.

(c) Any use of funds provided through this program that are not in accord with the project agreement will constitute default of the loan agreement and the loan shall immediately become payable to the New Jersey Historic Trust Revolving Loan Fund with interest.

(d) Specific loan terms, conditions and repayment information will be provided in the project agreement:

1. An amortization or loan repayment schedule will be provided in the project agreement. The schedule will indicate installment dates and loan repayment amounts;

2. The precise terms, conditions, and repayment schedule is based on the loan recipient's ability to pay which is calculated from information obtained during the loan review process. The maximum term of the loan will not exceed 20 years from the date the first payment is made until the date the final payment is due; and

3. The recipient may prepay the loan in whole or in part at any time without penalty.

(e) The precise interest rate is based on the recipient's ability to repay the loan and the absolute value of the loan. Interest shall accrue on the amount of funds provided by the Trust at a rate of no more than four percent per annum:

1. The amount of interest due is calculated from the date of disbursement to the date the last payment of principal is due;

2. Failure to make a payment within 30 days of the scheduled payment due date will result in the assessment of a late fee; and

3. Late fees will be computed on a schedule provided in the project agreement.

(f) If a project is withdrawn or aborted, any costs incurred will remain the responsibility of the recipient. Any funds from this program which have been advanced to the recipient are payable immediately to the New Jersey Historic Trust Revolving Loan Fund with interest.

(g) If a property is sold or there is a change in use during the life of the loan, the principal balance will become immediately due and payable.

(h) Loan closing and servicing shall be undertaken through a Memorandum of Understanding between the New Jersey Historic Historic Trust and the New Jersey Economic Development Authority.

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TITLE 5. COMMUNITY AFFAIRS  
CHAPTER 102. HISTORIC PRESERVATION REVOLVING LOAN PROGRAM  
SUBCHAPTER 6. EASEMENT

N.J.A.C. 5:102-6.1 (2011)

§ 5:102-6.1 Easement on the historic property

(a) To assure the continued preservation of loan-assisted historic properties and to assure that public benefit shall continue to accrue from the use of the public funds, the Trust may require that an easement agreement be executed and recorded between all parties having an ownership interest in the historic property. The easement agreement shall include:

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

(b) The period of the easement shall be determined by the aggregate total of loan assistance made available under this chapter, as follows:

1. From \$ 25,000 to \$ 50,000--10 years;
2. From \$ 50,001 to \$ 100,000--15 years; and
3. From \$ 100,001 to \$ 450,000--20 years.

(c) When the term of the loan exceeds the easement term for a particular loan value category, the loan term prevails as the period of the easement.

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TITLE 5. COMMUNITY AFFAIRS  
CHAPTER 102. HISTORIC PRESERVATION REVOLVING LOAN PROGRAM  
SUBCHAPTER 7. PROJECT SIGNS

N.J.A.C. 5:102-7.1 (2011)

§ 5:102-7.1 Project signs

(a) At the initiation of a historic preservation project funded by a historic preservation loan, a sign acknowledging that the project is being funded with assistance available through the New Jersey Historic Preservation Revolving Loan Program administered by the New Jersey Historic Trust, New Jersey Department of Community Affairs, shall be prominently located and maintained on the project site.

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

(c) The costs of fabricating and erecting the project sign are eligible for funding under N.J.A.C. 5:102-2.3(a)9. The costs of replacing or maintaining the project sign are not eligible for funding.

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