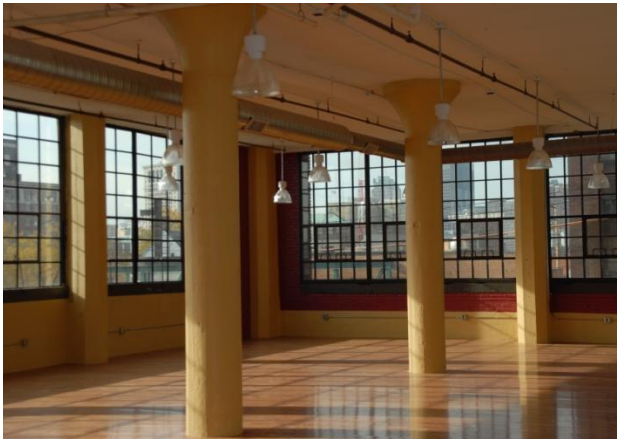




Ohio Historic Preservation Tax Credit Program



Program Policies - January 2010

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1. Definitions

- 1.1. Except as otherwise provided, terms used in this document have the same meaning as Section 122:19-1-01 the Ohio Administrative Code and Section 149.311 of the Ohio Revised Code.

2. Eligible Applicants

2.1. Eligible Applicants

- 2.1.1. An eligible Applicant for Historic Preservation Tax Credits is the Owner of a Historic Building holding the fee simple interest in the building. Evidence of fee simple ownership can be demonstrated through providing the following documents:
 - Deed for the property or County auditor's card for all parcels
 - Executed sale and purchase agreement for all parcels
 - Executed closing documents for all parcels (settlement sheets)

2.2. Eligible Projects

- 2.2.1. Projects are eligible if they meet the definition of a 'Historic Building' as outlined in section 149.311 (A) (1) of the Ohio Revised Code.
- 2.2.2. Consistent with federal regulation 36 C.F.R. 67, dated February 26, 1990 or any successor to that section, a Project may include more than one building, such as an industrial or agricultural complex, provided there is historical evidence that the buildings functioned together during their time period of significance to serve an overall purpose.
- 2.2.3. Row houses that were designed and constructed as a single building or complex shall be considered a single Project provided the Applicant owns each building included in the application.

3. Application Schedule and Procedures

- 3.1. The Ohio Department of Development will accept applications on a semi-annual schedule (rounds) for Application Periods for State of Ohio fiscal years 2010 (beginning July 1, 2009) and 2011 (beginning July 1, 2010) and an application submission period of three months will occur at the beginning of each round.
- 3.2. Distinct application review and approval periods shall be referred to as rounds. Round 1 refers to all approved applications from the program inception date until the program's temporary suspension on March 1, 2008. Round 2 refers to applicants who, as of March

- 1, 2008, had filed completed applications that met the eligibility criteria for the program, who had not withdrawn the application at the effective date of certain legislative changes to the program, and whose applications were approved on October 16, 2008.
- 3.3. The following dates will serve as rounds for the Application Periods for fiscal years 2010 and 2011:
- **Fiscal Year 2010 Application Period**
 - **Round 3 (July 1, 2009 – December 31st, 2009)**
 - Application Submission Period – July 1st – September 30th
 - Application Review Period – October 1st – November 30th
 - Approved Applicants Announced - December 30th, 2009
 - **Round 4 (January 1, 2010 – June 30, 2010)**
 - Application Submission Period – January 4th – March 31st
 - Application Review Period – April 1st 2010 – May 31st
 - Approved Applicants Announced - June 30, 2010
 - **Fiscal Year 2011 Application Period**
 - **Round 5 (July 1, 2010 – December 31st, 2010)**
 - Application Submission Period – July 1st – September 30th
 - Application Review Period – October 1st – November 30th
 - Approved Applicants Announced - December 30th, 2010
 - **Round 6 (January 1, 2011 – June 30, 2011)**
 - Application Submission Period – January 3rd – March 31st
 - Application Review Period – April 1st – May 31st
 - Approved Applicants Announced - June 30, 2011
- 3.4. The Applicant must submit two completed original applications and two electronic versions on compact disc to the Ohio Department of Development, Urban Development Division, 77 S. High Street, 26th Floor, Columbus, Ohio 43215. To fulfill the requirements of section 149.311 of the Revised Code, the Ohio Department of Development shall forward the original application to the Ohio Historic Preservation Office for their review within one week of receipt by the Ohio Department of Development.
- 3.5. Once an application has been submitted, it shall not be amended during the application submission period. An applicant may withdraw its application and submit a new application prior to the final day of the application submission period.
- 3.6. Applications need to be received by close of business (5PM Eastern Time) the final day of the application submission period to be included in that evaluation period.
- 3.7. Any application received after the last day of the application submission period will be included in the following round if it is within the same fiscal year Application Period only.
- 3.8. Following the application submission period will be an application review period. During this time, applications will be reviewed for completeness and the Ohio Department of Development may request that Applicants provide additional information. Applicants can only submit additional information in direct response to written

completeness review correspondence from the Ohio Department of Development. If the Applicant does not submit the requested information within 10 business days of the request, the application will be evaluated as submitted.

- 3.9. Following the completeness review, the Ohio Department of Development and Ohio Historic Preservation Office will review eligibility requirements for applications.
- 3.10. The Director will make a determination of each application by the final day of the Application Period. The Director shall notify all Applicants in writing of the status of an application upon completion of the Application Period.
- 3.11. Applicants that are not approved during the semi-yearly schedule are eligible to re-apply in any of the following Application Periods. Applicants may elect to re-submit a new application or notify the Director that their current application should be re-considered within the same Application Period only.

4. Applicant Scoring

- 4.1. An application worksheet will be provided that contains detailed guidance on what materials and documentation will be required for a completed application.
- 4.2. Each application will require Applicants to self-score their Project. All scores will be verified by the Ohio Department of Development to ensure accuracy.

5. Detailed Scoring Criteria

- 5.1. The regional distributive balance set of criteria will make up 20% of the total points used to evaluate applications. These measures will use all previously approved applications since the inception of the Ohio Historic Preservation Tax Credit program. Applications from the current Application Period will not be included in the regional distributive balance calculations.
- 5.2.
- 5.3. The potential economic impact set of criteria will make up 80% of the total points used to evaluate applications. Potential economic impact will be evaluated in three main areas: financing and speed of development, the quality of the property and the quality of the place.

6. Selection of Approved Applications

- 6.1. Applications must score a minimum of 45 total points in the Detailed Scoring Criteria established in this document to be eligible for approval.
- 6.2. Applications will be approved in the ranked order in which they were scored by the Director according to the Detailed Scoring Criteria established in this document, subject only to the requirement from ORC 149.311 (B)(2) set forth in this document.

- 6.3. The program will commit the amount requested in approved Ohio Historic Preservation Tax Credit applications until there is no longer a sufficient allocation of credits to do so. At that point, the program will offer a partial credit amount to Applicants in the ranked order in which they are scored. Applicants will be required to respond within a week of receiving notification if the partial credit amount will be accepted. If additional funding becomes available as a result of previously approved applicants not utilizing allocated credits from the program within that fiscal year, partially allocated credit applications will be fully funded before additional applications are considered.
- 6.4. The Director shall approve only applications that are above the minimum point requirement until all FY2010 and 2011 tax credit allocations have been allocated consistent with ORC 149.311 section (D)(3).
 - 6.4.1. During Round 4 starting January 1, 2010, any remaining unallocated FY2010 allocations and all available FY2011 tax credit allocations will be available for award.
- 6.5. If additional tax credit allocations remain following the Application Period, they will be available for the next Application Period until all available allocations have been awarded.
- 6.6. Should more than one fiscal year of credits be available in a round, the Director will prioritize applications with the highest overall points received during the application review process for the earliest available credit.
- 6.7. Should several applications receive the same point totals according to the scoring criteria established in section 4 of this document, the Director will determine which applications to approve by prioritizing applications in the following order:
 - Applicants that help meet the program goal of including a mix of high and low Qualified Rehabilitation Expenditure Projects in accordance with ORC 149.311 (B)(2);
 - Applications from locations that have never received funding;
 - Applications receiving the highest score from the finance and speed of development criteria; and
 - Applications that have a larger physical scope (square footage).
- 6.8. In accordance with ORC 149.311 (B)(2), the Director shall ensure that approved applications include a mix of both high and low Qualified Rehabilitation Expenditures. To fulfill this requirement, the Director will use the average of the prior five calendar years rehabilitation costs of all federal historic preservation tax credit investment Projects certified in the state of Ohio. Low Qualified Rehabilitation Expenditure Applications have rehabilitation costs equal to or below the five-year average whereas High Qualified Rehabilitation Expenditure Applications have rehabilitation costs greater than the five-year average.
- 6.9. At least one Low and one High Qualified Rehabilitation Expenditure Application will be funded during each fiscal year in which funding is available provided that at least one application is received in each category and the application scores above the minimum score.

- 6.10. The Director may only approve applications outside of the order established through the scoring criteria described in the program policies to ensure a mix of high and low Qualified Rehabilitation Expenditures by selecting the highest ranked either High or Low Qualified Rehabilitation Expenditure Project in order to meet the project mix required by and in accordance with ORC 149.311 (B)(2).
- 6.11. The Director may issue an approval of an application that requires Projects to meet specific milestones by a deadline established in the approval letter. These approvals include recommendations of the Ohio Historic Preservation Office for rehabilitation Project submissions of rehabilitation documents, drawings or other needed materials. If the Applicant does not meet the milestones established in the award letter by the established deadline, the Director shall notify the Applicant that the approval is void.
- 6.12. Each application will receive a unique tracking number assigned to it by the Ohio Department of Development.

7. Amendments

- 7.1. Requests to amend approved applications as to Ownership, Project Information and Qualified Rehabilitation Expenditures amendment requests must be filed with the Ohio Department of Development. These requests to amend will be reviewed by the Ohio Department of Development within 30 calendar days and a determination made. In instances when a determination can not be made, the Director may request additional information.
- 7.1.1. Transfer of Ownership Amendments: Any Amendment to reflect the transfer of the ownership of the property requires a signed letter from the applicant/seller acknowledging the transfer of the tax credit application to the new Owner and a submitted copy of one of the following documents for an Amendment determination:
- Deed for the property or County auditor's card for all parcels
 - Executed sale and purchase agreement for all parcels
 - Executed closing documents for all parcels (settlement sheets)
- 7.1.2. Project Information Amendments: Any Amendment changing Project information, including but not limited to: the scope of the Project, the timeline for completion, end use, or other essential Project information outlined in the application. Factors related to sufficient evidence of reviewable progress will be used to evaluate requested Amendments including but not limited to a viable financial plan, copies of final construction drawings, required historic approvals and building permits. These Amendments will require a detailed explanation for the change and may involve providing additional required information for an Amendment determination.
- 7.1.3. Qualified Rehabilitation Expenditure Amendments: Any Amendment adjusting the Qualified Rehabilitation Expenditures listed in the approved application will require detailed financial information and justification. As established in ORC

149.311 (B)(2) in June 2008, amendments for applications subject to that legislation shall not be submitted for an “amount greater than the estimated amount furnished by the applicant on the application.” Qualified Rehabilitation Expenditure Amendment requests that suggest changes to the historic rehabilitation elements of the project are subject to review by the Ohio Historic Preservation Office as indicated in Section 7.2 of the program policies.

- 7.1.4. The Owner will receive a written communication from the Ohio Department of Development within 20 business days either containing a determination or a request for additional information. If additional information is requested, the Owner will have 20 business days to respond to the request. These established response timelines will continue until an Amendment determination is made.
- 7.2. Historic Rehabilitation Amendments: Any Amendment for combined federal and state applications dealing with the historic designation status, detailed description of rehabilitation work or other historic information must be submitted on the appropriate federal form, filed with the Ohio Historic Preservation Office and follow its established schedules and filing procedures.
 - 7.2.1. For State Only Historic Preservation Tax Credit applications, the Ohio Department of Development will issue a determination based on the Ohio Historic Preservation Office recommendation for the historic rehabilitation Amendment. The Ohio Historic Preservation Office may require Applicants to submit additional documentation, drawings, photographs, maps or any other necessary information to make a recommendation.
- 7.3. The Director has the discretion to approve Amendments in whole or part.
- 7.4. The Director may issue a conditional approval of an Amendment requiring additional materials or progress by a deadline established in the Amendment determination. If the Applicant does not meet the conditions of approval by the established deadline, the Director shall notify the Applicant that the conditions have not been met and the conditional approval is void.

8. Historic Preservation Tax Credit Certification

- 8.1. No later than 90 calendar days after the Project Completion Date the Owner of the Historic Building shall notify the Director that the Project is complete in accordance with the application and request a historic preservation tax credit certificate. This request must include:
 - Cover letter signed by the Owner of the Project certifying that the Project has been completed and that the information contained within the request for certification is correct.
 - Proof of ownership of the Project. Ownership can be documented through a copy of the property deed or the county auditor’s card.
 - The full address of the property will be included in the request for certification. The address and parcel numbers must be consistent with the proof of ownership and the approved application.

- Proof of all historic approvals for the entire Project. A positive recommendation Part 3 form for federal historic tax credit applications is required from the Ohio Historic Preservation office prior to granting a tax credit certification. Copies of this recommendation are required. Applicants that are only receiving the Ohio historic preservation tax credit (not a combined application with the federal historic preservation tax credit), the Ohio Historic Preservation Office will certify whether or not all work to the Historic Building has met the rehabilitation standards and conditions as defined in the historic rehabilitation plan for the Project.
 - Proof of completion is required for tax credit certification. All Applicants must provide a certificate of occupancy for the Project as described in the Application.
 - Financial analysis of the rehabilitation of the Historic Building. The Ohio Department of Development requires detailing all Qualified Rehabilitation Expenditures, non-qualified rehabilitation expenditures, total Project costs and requested historic tax credits. The financial analysis should include items like acquisition costs, construction costs, furniture, fixtures, and equipment, construction interest, architect and engineer, taxes and insurance, legal and professional fees, financing fees, project overhead, developer fees, marketing and advertising, and any other major expenditure involved in the rehabilitation of the Historic Building. This financial analysis may be performed as a third party cost certification by a Certified Public Accountant or other qualified professional.
 - Project information including site acreage, square footage of the rehabilitation, construction jobs created, percentage end use breakdown, property tax valuation, vacancy rates, number of construction jobs, permanent jobs on the site, and number or residents in the site.
 - A few digital photos of the Project in electronic form showing the condition of the interior and exterior before and after the rehabilitation for potential use as promotional materials of the program.
- 8.2. The Applicant must submit two completed original requests for certifications and two electronic versions on compact disc to the Ohio Department of Development, Urban Development Division, 77 S. High Street, 26th Floor, Columbus, Ohio 43215. One request for certification will be forwarded to the Ohio Historic Preservation Office for its review within one week of receipt by the Ohio Department of Development.
- 8.3. Upon receipt of a certification request from the Owner, the Ohio Department of Development will issue a written communication within 30 calendar days either containing a certification determination or a request for additional information. If additional information is requested, the Owner will have 30 calendar days to respond to the request. These established response timelines will continue until a certification determination is made.
- 8.4. The Director may use the date in which the request for certification was filed as the effective date on the certificate as long as all required information and approvals are

- received for the Project within 90 calendar days of request for additional information from the Ohio Department of Development and/or the Ohio Historic Preservation Office.
- 8.5. The Ohio Department of Development cannot issue a tax credit certificate for any Project until the first day of the fiscal year for which the Application was approved. If the Applicant submits a request for certification prior to the fiscal year for which the approved application was designated, the Ohio Department of Development will not respond until after the first day of such fiscal year.
- 8.6. If the Owner is a pass-through entity and will not be subject to the dealer in intangibles tax, the request for certificate must include the following:
- The name and address of each individual and each entity holding an equity interest in the pass-through entity as of the date that the pass-through entity files the tax credit certificate request must be listed.
 - For each equity investor in the pass-through entity that is an individual, the individual's Social Security Number and for each equity investor in the pass-through entity that is not an individual, the equity investor's federal employer identification number must be listed.
 - For each investor in the pass-through entity the equity investor's taxable year-end must be listed.
 - For each investor in the pass-through entity the equity investor's percentage of ownership in the pass-through entity as of the date that the pass-through entity files the tax credit certificate request must be listed.
 - Prior to October 16, 2009: For each investor in the pass-through entity the credit amount allocated to each equity investor consistent with the investor's interest in the pass-through entity. Note: The pass-through entity must allocate the credit to each equity investor in accordance with each equity investor's interest in the pass-through entity on the date that the pass-through entity files the tax credit certificate request. The Ohio Department of Taxation will respect special allocations if the allocation has "substantial economic effect" under the concepts set forth in Internal Revenue Code Section 704(b) and the regulations there under.
 - Effective October 16, 2009: The credit amount allocated to each entity investor as permitted by the applicant shall follow the new Ohio Revised Code Section 5747.76 (C) which states: "If the certificate owner is a pass-through entity, the amount of the credit allowed for the pass-through entity shall not exceed five million dollars. If the certificate owner is a pass-through entity, the credit may be allocated among the entity's equity owners in proportion to their ownership interests or in such proportions or amounts as the equity owners mutually agree." This applies to credits claimed with respect to certificates issued in taxable years ending on or after the effective date (October 16, 2009) of this amendment for each equity investor in the pass-through entity.

- For each equity investor in the pass-through entity, the type of tax against which the equity investor will apply the credit (that is, Ohio corporation franchise tax or Ohio individual income tax) must be identified.

8.7. The certificate issued by the Director shall include the following:

- Application tracking number;
- Name of the Owner;
- Address and location of the Project;
- Amount of Qualified Rehabilitation Expenditures certified for the Project;
- Taxable year in which the tax credit can be claimed; and
- Listing of how the credits will be applied to the tax liability of the Owner, or if the Owner is a pass through entity, to the shareholders, partners or members of the pass through entity, as requested by the Owner and provided under section 5725.151, 5733.47 or 5747.76 of the Revised Code.

9. Monitoring and Reporting

- 9.1. During the Rehabilitation Period, the Director, State Historic Preservation Officer or staff of either agency may, upon reasonable notice of not less than three business days, conduct a site visit to the Project to inspect and evaluate the rehabilitation.
- 9.2. During the Rehabilitation Period, the Director may, upon reasonable notice of not less than 30 calendar days, request a status report from the Applicant consisting of information and updates relevant to the status of the Project. Status reports shall not be requested more than twice yearly.
- 9.3. In order to demonstrate sufficient evidence of reviewable progress within twelve months after the date the Applicant received notification of approval as required under Ohio Revised Code Section 149.311 (D)(4) , the Applicant shall provide the following:
- A viable financial plan which demonstrates that all financing has been secured for the Project. This includes, but is not limited to, letters of commitment from the Owner of the property, investment partners and equity investors.
 - Final construction drawings which demonstrate the complete rehabilitation of the full scope of the application.
 - All historic approvals, which includes all federal and state rehabilitation documents required by the Ohio Historic Preservation Office.
- 9.4. If the Applicant fails to demonstrate sufficient evidence of reviewable progress within twelve months after the date the Applicant received notification of approval as required under Ohio Revised Code Section 149.311 (D)(4) , the Applicant is required to provide the detailed evidence that the Applicant has secured and closed on financing for the complete scope of rehabilitation for the Project within eighteen months after the date the Applicant received notification of approval. To demonstrate evidence that the Applicant

has secured and closed on financing, the Applicant will need to provide signed and processed loan agreements, bank financing documents or other legal and contractual evidence to demonstrate that adequate financing is available to complete the Project. The Ohio Department of Development shall review the submitted evidence and may request additional documentation from the Applicant if necessary. The Applicant will have 30 calendar days to provide the information requested, otherwise the approval shall be rescinded.

- 9.5. For a period of four years following the Owner's date of Ohio Historic Preservation Tax Credit certification, the Owner shall file an annual project status report in an electronic format established by the Director in which financial information can be documented. This report will include, but is not limited to, the following information:
- Financial information dealing with the value of the property and surrounding properties, the repayment of any services, loans or debts incurred during the renovation, or other measures of the Project's continued fiscal condition.
 - Project information including, but not limited to, site acreage, square footage of the rehabilitation, construction jobs created, percentage end use breakdown, property tax valuation, vacancy rates, permanent jobs on the site, number of residents in the site.
 - Digital photos or other means of showing the condition of the interior and exterior of the Project.
- 9.6. The amount of the Qualified Rehabilitation Expenditures identified in the Owner's certification of completion and reflected on the historic preservation tax credit certificate issued by the Director is subject to inspection, examination and audit by the Tax Commissioner or the Tax Commissioner's employees and agents.
- 9.7. The Owner shall establish and maintain for a period of four years following the Owner's date of the Ohio Historic Preservation Tax Credit certification such records as required by the Director. Such records include, but are not limited to, records documenting Project expenditures and compliance with the US Secretary of Interior's Standards for Rehabilitation. The Owner shall make such records available for review and verification by the Director, State Historic Preservation Officer or Tax Commissioner or appropriate staff as well as other appropriate state agencies. In the event the Director determines an Owner has submitted an annual report containing erroneous information or data not supported by records established and maintained under this rule, the Director may, after providing notice, require the Owner to resubmit corrected reports.