

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
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**3. Name of Promulgating Authority**

Department of Planning

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**Title 34**  
**DEPARTMENT OF PLANNING**

**Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS**

**34.04.09 Maryland Historical Trust African American Heritage Preservation Program**

Authority: State Finance and Procurement Article, § 5A-330, Annotated Code of Maryland

**Notice of Proposed Action**

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The Maryland Department of Planning proposes to repeal and reenact 34.04.09, regulations that govern the Maryland Historical Trust African American Heritage Preservation Program.

**Statement of Purpose**

The purpose of this action is to incorporate into the regulations statutory changes made during the 2015 Session applicable to the procedural implementation of the African American Heritage Preservation Program (AAHPP), and to make various stylistic changes and minor edits to the regulations for the African American Heritage Preservation Program to provide greater clarity and to conform with existing agency processes.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.**

The African American Heritage Preservation Grant Program, which has been awarding grants since 2011, will assist local governments, non-profit organizations, business entities, and private individuals with to acquisition, construction, and rehabilitation of buildings, sites, and communities important to the African American experience in Maryland. Since its inception, the economic impacts of the Program have included stimulating economic expansion within those communities where properties highlight African American history and culture, and improving real property in communities assisted by Program grants.

**II. Types of Economic Impact.**

Revenue (R+/R-)

Expenditure (E+/E-)

Magnitude

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A. On issuing agency:	NONE	
B. On other State agencies:	(R+)	Indeterminate
C. On local governments:	(R+)	Indeterminate

Benefit (+)	Magnitude
Cost (-)	

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D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	(+)	Indeterminate
F. Direct and indirect effects on public:	(+)	Indeterminate

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

- B. State agencies are eligible to receive grants under the Program.
- C. Local governments are eligible to receive grants under the Program.
- E. Non-profits and other businesses are eligible to receive grants from the Program.
- F. The public will benefit from projects funded by the Program which will assist with the identification and preservation of buildings, sites, and communities of historical and cultural importance to the African American experience in Maryland.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Elizabeth Hughes, Acting Director, Maryland Historical Trust, Maryland Department of Planning, 100 Community Place, 3rd Fl., Crownsville, MD 21032, or call 410-514-7604, or email to [elizabeth.hughes@maryland.gov](mailto:elizabeth.hughes@maryland.gov), or fax to 410-514-7678. Comments will be accepted through December 30, 2015. A public hearing has not been scheduled.

**Economic Impact Statement Part C**

- A. Fiscal Year in which regulations will become effective: FY 2016
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General funds.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations do not alter that amount of funds that will be available for AAHPP grant. Rather, the regulations primarily alter the grant review and approval process, which will not impact program funding.

G. Small Business Worksheet:

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

The intended beneficiaries of the proposed regulation are primarily local governments and non-profit organizations.

1b. Intended Beneficiaries: Households. If households are the primary intended beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted?

Households are not the primary intended beneficiaries of the regulation.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Are these Maryland establishments disproportionately small businesses? If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected? Can you estimate the present total payroll or total employment of small businesses affected?

For-profit businesses are not the primary intended beneficiaries of the regulation.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how

Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

The regulation will not direct or otherwise cause businesses to incur additional expenses of doing business in Maryland.

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected?

Maryland businesses are positively impacted by AAHPP Grants in so far as grant recipients use grant funds to hire small businesses to conduct rehabilitation or construction activities on African American heritage properties.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

It is not possible to identify long term economic impacts on small businesses resulting from this regulation.

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

This regulation will not have an impact on any of the categories of measurement listed here.

# **Title 34 DEPARTMENT OF PLANNING**

## **Subtitle 04 HISTORICAL AND CULTURAL PROGRAMS**

### **Chapter 09 Maryland Historical Trust African American Heritage Preservation Program**

Authority: State Finance and Procurement Article, § 5A-330, Annotated Code of Maryland

#### **.01 General.**

These regulations prescribe the policies, procedures, and authorizations for administering the African American Heritage Preservation Program, a joint partnership of the Maryland Historical Trust and the Maryland Commission on African American History and Culture.

#### **.02 Objective.**

The objective of the Program is to provide a source of grant funding to the political subdivisions of the State, nonprofit organizations, business entities, and individuals, to assist efforts to identify and preserve, through acquisition, construction or improvements, buildings, communities, and sites of historical and cultural importance to the African American experience in Maryland.

#### **.03 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Acquisition" means the act or process of acquiring fee title or an interest other than fee title to historic property, including the purchase or acquisition of preservation easements, leasehold estates subject to ground rents, development rights, or remainder interests.

(2) "Act" means State Finance and Procurement Article, §5A-330, Annotated Code of Maryland, as amended.

(3) "African American Heritage Preservation Project" or "project" means a capital project that:

(a) preserves a building, site, or community of historical or cultural importance to the African American experience in Maryland;

(b) is for the acquisition, construction or improvement of land or buildings; and

(c) has an expected useful life of at least 15 years.

(4) "Board of Trustees" or "Trustees" means the Board of Trustees of the Maryland Historical Trust.

(5) "Business entity" means a corporation, association, partnership, joint venture, or other legally organized entity.

(6) "Commission" means the Commission on African American History and Culture.

(7) "Construction or Improvement" means:

(a) planning, design, engineering, alteration, construction, reconstruction, enlargement, expansion, extension, improvement, replacement, rehabilitation, renovation, upgrading, repair, or capital equipping; and

(b) includes archeology and other predevelopment costs necessary for preparation of plans, designs, or engineering.

(8) "County" means any of the 23 counties of the State or the City of Baltimore.

(9) "Department" means the Maryland Department of Planning.

(10) "Director" means the Director of the Maryland Historical Trust.

(11) "Grant" means an award of financial assistance from the Grant Fund.

(12) "Grant documents" means the grant agreement and other documents between a grantee and the Trust which establish the terms and conditions of a grant.

(13) "Grantee" means the recipient of a grant.

(14) "Grant Fund" means the African American Heritage Preservation Grant Fund of the Trust as established by the Act.

(15) "Historic property" means a district, site, building, structure, monument, or object significant in the prehistory, history, upland and underwater archaeology, architecture, engineering, and culture of the State, which is listed in or is eligible for listing in the Maryland Register of Historic Properties.

(16) "Maryland Register of Historic Properties" means the register of historic properties in Maryland which is established by the Trust under State Finance and Procurement Article, §5A-323, Annotated Code of Maryland.

(17) "Municipality" means a municipal corporation in Maryland that is subject to the provisions of Article XI-E of the Maryland Constitution.

(18) "Nonprofit organization" means a corporation, foundation, governmental entity, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding an interest in such entity.

(19) "Political subdivision" means any county or municipality and any duly authorized agency or instrumentality of a county or municipality.

(20) "Program" means the African American Heritage Preservation Program of the Trust established by the Act.

(21) "Rehabilitation" means the act or process of returning an historic property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features which are significant to its historical and cultural values.

(22) "Restoration" means the act or process of applying measures to sustain the existing form, integrity, and material of an historic property or of accurately recovering the form and details of an historic property as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(23) "Secretary" means the Secretary of the Maryland Department of Planning.

(24) "Trust" means the Maryland Historical Trust, an agency within the Division of Historical and Cultural Programs of the Department.

#### **.04 Eligible Grantees.**

A. Subject to §B of this Regulation, the following are eligible for grants under the Program, subject to meeting the grant selection criteria of §B of Regulation .06 of this chapter:

- (1) A nonprofit organization;
- (2) A political subdivision;
- (3) An individual; and
- (4) A business entity.

B. To be eligible for a grant, a nonprofit organization or a business entity shall be in good standing, qualified to do business in Maryland, and have the legal capacity and all necessary legal authority to incur the obligations and requirements of the grant.

#### **.05 Eligible Projects.**

A. Subject to §C of this Regulation, and except as provided in §B of this Regulation, the Trust may provide a grant from the Grant Fund to any eligible grantee for completion of an African American Heritage Preservation Project.

B. A grant from the Grant Fund may not be used to assist a project that includes restoration, rehabilitation or other construction or improvement to a historic property if:

- (1) The project does not meet the Secretary of the Interior's Standards for Treatment of Historic Properties; or
- (2) Any acquisition, rehabilitation, restoration, or other construction or improvement of the property for which grant funds are sought is already under way or completed at the time a grant application is submitted.

C. To be eligible for a grant, a project must have as the applicant an eligible grantee who:

- (1) Owns the property where the project is located; or
- (2) Has a leasehold interest, contract, option, or other written agreement or instrument, acceptable to the Trust, that gives the applicant the legal right to carry out the project on the property.

#### **.06 Grant Allocation Procedures.**

A. Annual Application Solicitation and Submission.

(1) Once during each fiscal year for which funds are available in the Grant Fund for the award of grants, the Trust and the Commission shall jointly:

(a) Solicit applications for the award of grants under the Program by issuing a public announcement regarding the availability of grant funds under the Program that:

- (i) Includes a description of the application process;
- (ii) States the total anticipated funding available;
- (iii) Identifies criteria for eligible grantees and projects;
- (iv) Provides a deadline date for submission of grant applications;
- (v) Provides an estimated timeline for project selection and grant award; and
- (vi) As appropriate, includes suggested recommendations on the types of projects to which the Trust and

the Commission intend to give special consideration for funding;

(b) Send the public announcement by email to African American heritage preservation organizations and other related organizations statewide;

- (c) Issue a press release that includes the public announcement; and
- (d) Post the public announcement on the Trust's website.

(2) Grant applications shall be submitted to the Trust in form prescribed by the Trust and shall include:

- (a) A description of the scope and purpose of the project;
- (b) A project budget, in a form acceptable to the Trust, that:
  - (i) Details anticipated project costs and expenses;
  - (ii) Identifies all sources and uses of project funds; and
  - (iii) Includes the estimated total cost of the overall project;
- (c) Sufficient information and documentation to:
  - (i) Evaluate the historical or cultural significance of the property;

- (ii) Determine the relationship of the project to the types of projects that the Trust and the Commission may have noted for special consideration under §A(1)(b)(vi) of this Regulation;
- (iii) Determine the ownership and all lessees or substantial users of the property;
- (iv) Evaluate the current and proposed condition and use of the property;
- (v) Evaluate the extent, if any, to which the project will change the type of use or increase the intensity of the existing use of the property;
- (vi) Evaluate the nature and cost of the project;
- (vii) Evaluate the readiness of the applicant to commence the project and applicant's ability to complete the project within an established time frame;
- (viii) Evaluate the applicant's administrative and financial capacity and capability;
- (ix) Establish that the applicant has site control of the property as required by §C.(2) of regulation .05 of this chapter; and
- (x) Determine the availability of matching funds from other sources to support the project;
- (d) Copies of applicant's organizational documents; and
- (e) Such other information as determined necessary by the Trust and the Commission.

#### B. Selection Criteria.

(1) The Trust and the Commission shall review and evaluate grant applications in accordance with the following selection criteria:

- (a) Relative historical or cultural significance of the project to the African American experience in Maryland;
- (b) Public necessity for the project;
- (c) Urgency of the project;
- (d) If applicable, the degree to which the project relates to the types of projects that the Trust and the Commission have noted for special consideration under §A(1)(b)(vi) of this Regulation;
- (e) Estimated cost and timeliness for executing the project;
- (f) Extent to which the project will contribute to the cumulative equitable statewide geographic diversity and distribution of funds considering relative concentrations of historic properties;
- (g) Inclusion within the project scope of long-term preservation measures that will protect the property or resource that is the subject of the project;
- (h) Comprehensiveness of the scope of the project;
- (i) The applicant's capacity to administer the project;
- (j) Extent to which the project might stimulate or promote other African American heritage preservation activities;
- (k) Informational and educational value of the project;
- (l) Demonstration and innovation value of the project;
- (m) Need for additional sources of funding for the project;
- (n) Viability of matching funds for the project;
- (o) Applicant's readiness to commence the project;
- (p) Applicant's ability, including financial ability and capacity, to complete the project within an established time frame; and
- (q) Any additional criteria which the Trust and the Commission consider to be appropriate.

(2) The Trust and the Commission may assign differing weights to the criteria set forth in §B(1) of this Regulation and the weights may vary from time to time.

#### C. Emergency Grants.

(1) The Secretary may reserve during any fiscal year up to 20 percent of the funds available during that year in the Grant Fund to be used for emergency project grants for grantees and projects that qualify as eligible under Regulations .04 and .05 of this chapter but not otherwise applied for under the annual procedures established under §A of this Regulation.

(2) A project may qualify for an emergency project grant if:

- (a) An unpredictable or unforeseen situation has occurred which may necessitate an immediate need to undertake the project; or
- (b) The project is one which provides a special opportunity to undertake a qualifying activity within a narrow time frame.

(3) An application for an emergency project grant shall:

- (a) Be submitted to the Trust in form and content as proscribed under §A(2) of this Regulation; and
- (b) Include a description of the nature of the emergency and an explanation as to why the applicant cannot wait until the next annual grant application deadline date to apply for the grant.

### **.07 Review and Approval.**

#### A. Procedures for Review of Annual Grant Applications.

(1) For each grant application timely submitted to the Trust in accordance with §A of Regulation .06 of this chapter, Trust staff shall review the application and determine if:

- (a) The applicant is an eligible grantee under Regulation .04 of this chapter; and
- (b) The proposed project is an eligible project under Regulation .05 of this chapter.
- (2) Following its review under §A(1) of this Regulation, Trust staff shall:
  - (a) Transmit to the Commission all grant applications for which staff determined during review that both the grantee and the project are eligible; or
  - (b) Send a notice of ineligibility to each grant applicant for which staff determined during review that either the grantee or the project is not eligible.
- (3) Upon receipt of applications transmitted by Trust staff under §A(2)(a) of this Regulation, the Commission shall:
  - (a) Review each application and the recommendations made by Trust staff;
  - (b) Evaluate and rank competitively the applications in accordance with the selection criteria under §B of Regulation .06 of this chapter;
  - (c) Recommend funding levels for the projects it determines worthy of the award of a grant; and
  - (d) Transmit to the Board of Trustees the Commission's evaluations, rankings and recommendations.
- (4) Upon receipt of the information transmitted by the Commission under §A(3)(d) of this Regulation, the Trustees shall:
  - (a) Review the Commission's evaluations, rankings and recommendations;
  - (b) Refine or revise the Commission's rankings and recommendations as the Trustees deem appropriate; and
  - (c) Forward to the Secretary recommendations on each application as to whether the applicant should be awarded a grant and in what amount.

**B. Procedures for Review of Emergency Applications.**

- (1) For each emergency grant application submitted to the Trust under §C of Regulation .06 of this chapter, Trust staff shall review the application and determine if:
  - (a) The applicant is an eligible grantee under Regulation .04 of this chapter; and
  - (b) The proposed project is an eligible project under Regulation .05 of this chapter.
- (2) Following its review under §B(1) of this Regulation, Trust staff shall:
  - (a) Transmit the application to the Commission if staff determined during its review that both the grantee and the project are eligible; or
  - (b) Send a notice of ineligibility to the applicant if staff determined during its review that either the grantee or the project is not eligible.
- (3) Upon receipt of an application by Trust staff under §B(2)(a) of this Regulation, the Commission shall:
  - (a) Review the application and the recommendation made by Trust staff;
  - (b) Evaluate the application in accordance with the selection criteria under §B of Regulation .06 of this chapter;
  - (c) Evaluate the nature of the emergency;
  - (d) Recommend a fund level for the project if it determines the project worthy of the award of a grant; and
  - (e) Transmit to the Board of Trustees the Commission's evaluation and recommendation.
- (4) Upon receipt of the information transmitted by the Commission under §B(3) of this Regulation, the Trustees shall:
  - (a) Review the Commission's evaluation and recommendation;
  - (b) Refine or revise the Commission's recommendation as the Trustees deem appropriate; and
  - (c) Forward to the Secretary a recommendation as to whether the applicant should be awarded a grant and in what amount.

**C. Secretary's Review and Approval. The Secretary shall:**

- (1) Review each grant application forwarded to the Secretary by the Trustees and the recommendations of the Trust and of the Commission;
- (2) Evaluate each grant application against the selection criteria set forth in §B of Regulation .06 of this chapter and, as applicable, the nature of any emergency; and
- (3) Make a final decision to:
  - (a) Approve the grant and in what amount;
  - (b) Approve the grant with modifications; or
  - (c) Deny the grant.

**D. Board of Public Works Approval.** For all grants awarded by the Secretary under §C of this Regulation that are to be funded with the proceeds of the sale of State general obligation bonds, the Trust shall submit the grant agreement to the Board of Public Works for approval.

**E. Final Decision.** The decision on a grant application of the Secretary under §C of this Regulation, or, as appropriate, of the Board of Public Works under §D of this Regulation, is final and not a contested case within the meaning of State Government Article, Title 10. Subtitle 2, Annotated Code of Maryland.

**F. Inapplicable Provisions.** Grants submitted to the Board of Public Works in accordance with §D of this Regulation are not subject to the provisions of the State Finance and Procurement Article, Title 4, Annotated Code of Maryland, or otherwise subject to review by the Department of General Services or any other State unit.

## **.08 Grant Terms and Conditions.**

### **A. Matching Requirements.**

(1) Except for a nonprofit organization, the recipient of a grant under the Program must match the grant with other sources of funds contributed to the cost of the project in an amount at least equal to the amount of the grant.

(2) The match shall consist of either cash or an equivalent dollar value of an in-kind contribution to the project.

(3) The match may come from any combination of federal, county, municipal, or private sources of funds as acceptable to the Commission and the Trust.

(4) The Commission and the Trust may require a match in the case of a grant to a nonprofit organizations. The matching requirement for a nonprofit organization, if any, shall be specified in the public announcement made pursuant to §A(2) of Regulation .06 of this chapter and the contents of the match shall conform with the requirements in §A(1) and (2) of this Regulation.

**B. Grant Amount.** Except as may be permitted for grants awarded to nonprofit organizations, a grant may not exceed 50% of the total cost of the project for which the grant funds are awarded.

**C. Grant Disbursement.** Disbursement will be made as the project progresses based upon requests for disbursement submitted by the grantee in accordance with the terms of the grant documents and in a form satisfactory to the Trust.

### **D. Additional Grant Requirements.**

#### **(1) Deeds of Easement and Preservation Agreements.**

(a) If a grant is for a project located on historic real property that is individually listed in, or individually eligible for, listing in the Maryland Register of Historic Properties, the grantee and the owner of the real property, if the owner is not the grantee, shall convey to the Trust or an entity acceptable to the Trust a perpetual deed of easement containing preservation covenants applicable to the historic real property, in form and substance satisfactory to the Trust. The deed of easement may also contain conditional lien provisions and other provisions which require reimbursement of the grant if the encumbrance of the deed of easement is extinguished by the foreclosure of a prior lien or otherwise or if the deed of easement is determined not to be legally enforceable for any reason. The grantee shall record the deed of easement among the land records of the political subdivision in which the real property is situated.

(b) If a grant is for a project affecting historic personal property other than real property, the grantee and the owner of the historic personal property, if the owner is not the grantee, shall enter into an agreement with the Trust or an entity acceptable to the Trust to preserve and maintain the historic personal property in such manner and duration as is acceptable to the Trust.

(c) The preservation agreement or deed of easement requirements of §D(1)(a) and (b) of this Regulation may be modified or waived by the Director if the Director determines that such an agreement or easement is impracticable, infeasible, or not necessary under the circumstances. Evidence of impracticability, infeasibility, or lack of necessity may include, among other things, the existence of a previous agreement or deed of easement in form and substance satisfactory to the beneficiary of the agreement or holder of the easement, as the case may be.

(d) The requirement in §D(1)(a) of this Regulation that a deed of easement be conveyed by a property owner if the owner is not the grantee may be modified or waived by the Director, as necessary, if the subject property is long-term leasehold property.

(2) **Title to Real Property.** The Trust, in its discretion, may require a grantee to provide evidence of title, acceptable to the Trust, that certifies title to the real property on which the grantee will undertake the project for which the grant is awarded. The certificate of title may contain only standard exceptions and encumbrances approved by the Trust.

(3) **Insurance.** A grantee shall insure the property where the project is located against loss or damage by fire and other hazards, casualties, and contingencies as may be required by the Trust in amounts satisfactory to the Trust.

#### **(4) Review of Plans and Specifications.** If a grant is for a project on historic property:

(a) The plans and specifications for the project shall be subject to the review and approval of the Trust;

(b) All aspects of the project shall conform to the acquisition, protection, stabilization, preservation, rehabilitation, restoration, reconstruction and other applicable standards established or applied by the Trust, including, but not limited to, the Secretary of the Interior's Standards for Treatment of Historic Properties; and

(c) The grantee shall permit the Trust to inspect ongoing construction and to ensure that the grantee is undertaking the project in conformance with all applicable standards and requirements.

**E. Other Requirements.** The Commission and the Trust may establish in grant documents other terms and conditions of a grant as considered reasonable and necessary by the Commission and the Trust.

## **.09 Grantee Administration.**

### **A. Books, Accounts, and Records.**

(1) Grantees, contractors, and subcontractors shall maintain those books, accounts, and records and shall file with the Commission and the Trust those financial and other reports as the Commission and the Trust may from time to time require. All such books, accounts, and records shall be open to the inspection of representatives of the Commission and the Trust or other agencies of the State during reasonable working hours before, during, or after the period of time during which the grant proceeds are expended. Grantees shall make their administrative offices and personnel, whether full-time, part-time, consultants, or volunteers, available to the Commission or the Trust upon request.

(2) Books, accounts, and records of a grantee's contractors and subcontractors shall be maintained and made available for inspection for up to 3 years after either the date of grantee's final expenditure of grant proceeds or the termination of the contractual relationship between the contractor and the grantee, whichever is later.

B. Reports. Grantees shall submit a final report and interim reports as may be required by the Commission and the Trust that document project progress and evaluate project effectiveness.

C. Nondiscrimination.

(1) A grantee may not discriminate on the basis of age (except with respect to residents in elderly projects), ancestry, color, creed, gender identity and expression, genetic information, marital status, national origin, physical or mental handicap, race, religion, sex, and sexual orientation.

(2) Each grantee shall comply with all applicable federal, State, and local laws and departmental policies and programs regarding discrimination and equal opportunity in employment, housing, and credit practices including:

(a) Titles VI and VII of the Civil Rights Act of 1964, as amended;

(b) Title VIII of the Civil Rights Act of 1968, as amended;

(c) The Governor's Code of Fair Practices, as amended; and

(d) The Department's Minority Business Enterprise Program, if any, as amended, if the grantee does not have its own minority business participation program which is acceptable to the Commission and the Trust.

#### **.10 Program Administration.**

A. Any action or decision required or permitted to be taken or made by the Secretary, the Commission or the Trust under these Regulations may be taken or made by the Secretary's designee, the Executive Director of the Commission or a designee, or the Director of the Trust or a designee.

B. The Commission and the Trust may terminate a grant or refuse to make additional disbursements under the applicable grant documents if it finds that the grantee is not complying with any of the requirements of the Program or the grant documents.

C. The Commission and the Trust may establish from time to time operational handbooks or manuals governing matters relating to the Program including descriptive statements of Program procedures which do not directly affect the rights of the public or the procedures available to the public.

D. After a grant has been awarded, the Commission and the Trust may:

(1) Cancel or reduce the grant, and withhold any funds not yet disbursed if the grantee has not expended all grant funds within 24 months of the effective date of the grant documents, and the grant documents may prescribe a shorter period of time if warranted by the circumstances of the project;

(2) Subject to the availability of funds, increase the grant or extend the time limit for completing the project if the grantee demonstrates to the satisfaction of the Commission and the Trust that the circumstances warrant such an increase or extension.

#### **.11 Waiver.**

Except for Regulation .07B of this chapter relating to Board of Public Works approval, the Secretary may waive or vary particular provisions of these Regulations if:

A. The waiver or variance is not inconsistent with the authorizing provisions of the Act; and

B. In the written determination of the Secretary, application of the regulations in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.