



“Made in NY” Marketing Credit for Digital Games Program Guidelines¹

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¹ These Program Guidelines are based on the official “Made in NY” Marketing Credit Program for Digital Games rules at [Title 43, Chapter 19 of the Rules of the City of New York](#). If there is a conflict between these guidelines and the official rules, the official rules control.

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A. General Information

1. Who will the “Made in NY” Marketing Credit for Digital Games Program help?

The Mayor’s Office of Media and Entertainment (MOME) seeks to promote Digital Games being made in New York City. If you are a Digital Game company that is spending a large portion of your production costs for a Digital Game in New York City, the “Made in NY” Marketing Credit for Digital Games Program (“Program”) might be for you. Please read more.

2. What benefit does the Program provide?

The Program provides Digital Game companies with ads for their approved Digital Games in subways in New York City. **MOME pays for the ads.** The ads provided by the Program generally run for about four weeks.

3. Who is eligible for the Program?

You may be eligible for the Program if:

- your Digital Game is one of the types listed below in section B1 and B2,
- your Digital Game’s production costs are at least \$100,000 (section B4 explains which costs count toward the threshold), and
- you spend at least 75% of your Digital Game’s production costs in New York City.

You may not apply for the Program if you’ve received marketing under the Program for a different game in the past 365 days.

4. When does the Program begin?

MOME will open applications on March 20, 2023. The first ads are available in July 2023.

5. If I qualified for the New York State Digital Game Development Tax Credit Program, do I qualify for this Program too?

If you spent at least 75% of your Digital Game's production costs in New York City and you qualified for the New York State Digital Game Development Tax Credit Program, there's a good chance that you qualify for this Program too. We encourage you to apply.

6. Where are the official Program Rules?

The official Program Rules are found at [Title 43 Chapter 19 of the New York City Rules and Regulations](#).

B. Qualifying Digital Games and Production Costs

1. How does the Program define “Digital Game”?

A Digital Game includes:

- A website whose production costs are primarily from:
 - video simulation, animation, text, audio, graphics, or similar gaming characteristics in digital format, and
 - interactive features of digital gaming (for example, links, message boards, communities or content manipulation).
- Software containing animations, simulations, or embedded graphics that is intended for commercial distribution.
- A program distributed over the internet, a wireless network or similar technology (for example, a game played on a platform like Twitch).

2. What are examples of Digital Games that could qualify for the Program?

Some examples of Digital Games that could qualify are:

- A video game, whether played on a personal computer, console, arcade machine, mobile phone or other electronic device (for example, *Minecraft* and *Call of Duty*).
- An extension of a video game (such as an extended storyline or new game areas), so long as the content of the extensions is new and playable for an end-user (for example, *The Sims: Livin’ Large* is an extension of *The Sims*).
- Simulation software (for example, software that simulates a driving experience for beginner drivers who are studying for their driver’s tests and virtual reality simulations for physical therapy).

- Interactive educational or training products (for example, *Endless Alphabet* for children and incident command software for emergency management trainees).
- A software application that provides connectivity and communications between a mobile device and a digital gaming media production web platform (e.g., *Roblox*).

3. What kinds of Digital Games aren't eligible?

The following types of Digital Games aren't eligible for the Program:

- A Digital Game that contains obscene material (as defined in [article 235 of the New York Penal Law](#)).
- A Digital Game used primarily for electronic commerce, gambling, or political advocacy.

4. What production costs count toward the Program's \$100,000 threshold?

The following kinds of production costs count toward the Program's \$100,000 threshold:

- Wages or salaries paid to individuals employed to create the Digital Game, not exceeding \$100,000 per person. See exceptions below.
- Payments for services and property used for the Digital Game's:
 - development (including concept creation),
 - design,
 - production (including testing),
 - editing (including encoding), and
 - compositing (including the integration of digital files for interaction by end users) of digital gaming media.

5. What costs don't count?

The following kinds of costs do not count toward the Program's \$100,000 threshold:

- Compensation for the CEO, CFO, president, treasurer, and similar positions, if your company has more than 10 employees.
- Any income or other distribution (such as licensing fees and royalties) to anyone who holds an ownership interest in the Digital Game company.
- Costs spent for acquiring the intellectual property rights of a character from a third party.
- Costs to distribute the Digital Game.
- Marketing, promotion, and advertising costs.
- Other costs not directly and primarily related to the creation, development, design, production, editing, or compositing of the Digital Game.

6. How much of the production costs must be spent in NYC?

To qualify for the Program, at least 75% of your Digital Game's production costs must be spent in New York City.

C. Application Process

1. How do I apply for the Program?

You must submit the following materials to MOME:

- Complete the on-line application form.
- Supporting documents, upon MOME's request.

2. Who should I contact if I need help applying due to a disability?

Please contact DisabilityServices@media.nyc.gov or 212-602-7418.

3. Who should I contact if I need help applying in another language?

Please contact LanguageAccess@media.nyc.gov. MOME can assist in over 100 different languages.

4. Who should I contact if I have a general question about applying?

Please send an email to gaming@media.nyc.gov for general questions.

5. Is there an application deadline?

Yes, you must apply at least 60 days before the Digital Game's first release date. In addition, you must complete your Digital Game before you submit your application. You may submit your application up to 24 months after the Digital Game was completed.

Sample Submission Timeline:

	Completion Date	First Release Date	Submission Dates
Qualifying Digital Game	February 1, 2023	August 15, 2023	Until June 16, 2023

6. How will I know if I've been approved for the Program?

MOME will send an email telling you if the application was approved or denied in about three weeks (unless there are exceptional circumstances).

If approved, you will be required to sign a [contract](#) with MOME, which will include a Certificate of Marketing Credit. You must sign within business five days or you might lose your marketing credits.

Along with legal terms, the [contract](#) and Certificate will include the following information:

- Your name and address.
- Name of the Digital Game.
- Amount of “media assets” you will receive. “Media assets” means advertising media.
- Dates your media assets will run.

7. Is my application confidential?

MOME might have to disclose your application if someone requests it under the Freedom of Information Law. If you provide information in your application that is a confidential trade secret, please explain in your application.

D. Advertising and Acknowledgments

1. How long will my Made in NY marketing run on the subway?

Approximately four weeks.

2. When will my ads run?

We will work with you to determine the dates. The dates depend on available slots.

3. How much advertising will I get?

It depends. A typical package includes 250 subway cards, but availability may vary.

4. Can I choose the subway lines where my ads will run?

No.

5. What are the rules about artwork in the advertising materials?

Artwork in subways must comply with the [MTA Advertising Policy](#). For example, the MTA rules do not allow advertising that portrays graphic violence; sexual violence; human body parts, animal parts, or fetuses in states of mutilation, dismemberment, decomposition or burning; or the purposeful infliction of pain to a human being or animal.

Generally, advertising materials for the Program cannot include third-party names or third-party logos such as sponsors. It is ok to include a third-party name or logo to inform where or how to find or play the Digital Game (for example, the name of the platform).

6. Will MOME review my advertising artwork for the Program?

You must get MOME’s approval for all advertising materials provided for the Program. At least five weeks before the ads run, you must submit low-resolution JPEGs of your proposed artwork for legal review by MOME. Once MOME gives approval, you must then submit high-resolution PDFs of your proposed artwork for production review by MOME. Once MOME gives production approval, the artwork is cleared to be sent to the printers.

7. Do I have to give credit to MOME for its support?

You must include the “Made in NY” logo in all artwork for bus shelters, subway cars, and other media assets provided for the Program.

In the Digital Game, you must include the “Made in NY” logo and the following sentence must appear next to the logo: “The ‘Made in NY’ logo is a trademark of the City of New York and is used with the City’s permission.”

If you can’t comply with this requirement, you may request a waiver. You may make this request in the application form when you apply for the Program.

8. Where can I get a high-resolution “Made in NY” logo?

After you sign the [Program contract](#), you may request an electronic version of a high-resolution “Made in NY” logo from MOME. You must make sure your use of the “Made in NY” logo complies with the [City of New York Official Licensing Style Guide](#).

9. Who pays to print the marketing materials for the Program?

In most cases, MOME will pay for the cost of printing marketing materials for the Program.

But you must pay for the costs of printing advertising materials if any of the following applies to you:

- The Digital Game's production costs are \$10 million or more; or
- More than 5% of the beneficial ownership of the Digital Game is owned directly or indirectly by a publicly traded entity; or
- The Digital Game has more than \$35 million in annual revenue.

E. Community Benefit Requirement and Recordkeeping

1. What is the “Community Benefit” requirement?

You must donate money to a **Cultural Institution** on [MOME’s list](#) or a **Community Organization** identified through [New York City Council Participatory Budgeting](#) (contact [City Council](#) for a list).

Generally, the donation is 0.1% of the Digital Game’s production costs spent in New York City. But if your production costs spent in New York City are \$10 million or more, you must contribute \$10,000.

	Production Costs in NYC	Donation Amount
Example Game #1	\$100,000	\$100
Example Game #2	\$250,000	\$250
Example Game #3	\$11 million	\$10,000 (capped)

2. How do I prove I met the “Community Benefit” requirement?

Within 30 days after the marketing campaign under this Program is completed, you must send to MOME either a cancelled check or a letter of acknowledgment from a Cultural Institution or Community Organization. You can send it to MOME via email or by mail.

NOTE: If you do not provide proof of payment, you will be required to pay MOME for the value of the media assets you received.

3. Am I required to keep records for the Program?

Yes. You must keep records, in paper or electronic form, of any qualified production costs that were used to calculate the media assets you received through the Program. These records include paystubs, invoices, receipts, and similar documents. You must keep the records for a minimum of 3 years from the date you file the tax

return that is associated with the year that you claim the marketing credit.

For example, if you claim the marketing credit in 2023 and you file your 2023 tax return on February 15, 2024, you must keep your records for 3 years after February 15, 2024.

You must provide these records if MOME asks you for them.

F. Appealing an Application Denial or the Amount of Media Assets

1. What can I do if my application is denied or if I disagree with the amount of media assets MOME offers me?

You may submit an appeal to MOME if your application is denied. You may also submit an appeal if your application is approved, but you disagree with the amount of media assets you are offered.

2. How do I appeal?

You must submit your appeal within 30 days from the date the application was denied. If you are appealing the amount of media assets you received, you must submit the appeal within 30 days from the date the Certificate of Marketing Credit was issued.

To appeal, send a letter to MOME at the following address:

Mayor's Office of Media and Entertainment
Attn: Commissioner
1 Centre Street, 27th Floor
New York, NY 10007