



ATTACHMENT B: BE SMART PROGRAM GUIDELINES AND SUMMARY OF ARRA SPECIAL TERMS AND CONDITIONS

Eligible Uses of Be SMART (Better Buildings) Funds and Financing

Be SMART Funds are provided through the Department of Energy's (DOE) Better Buildings/Energy Efficiency and Conservation Block Grant program and are authorized through Section 544 of the Energy Independence and Security Act of 2007. Funds available through this program are to be used only for installation of measures that directly and significantly improve the energy efficiency of a building. All installed materials and equipment must be new. Eligible measures are those that will result in an improvement of energy efficiency by at least 15% and include:

- Whole house air sealing measures (interior and exterior), including use of sealants, caulks, insulating foams, gaskets, weather-stripping, mastics and other building materials.
- Attic and crawl space insulation, including sealing of air leakage between the attic and the conditioned space, addition of at least R-19 insulation to existing insulation and other significant insulation improvements.
- Wall insulation that results in significant energy savings.
- Duct sealing or duct replacement and sealing that results in significant energy savings and /or replaces and seals at least 50 percent of a building's distribution system.
- Skylight replacement that meets the most recent ENERGY STAR standards.
- Installation of energy efficient lighting.
- Replacement of doors or storm doors with those that meet the most recent ENERGY STAR specifications.
- Replacement of storm windows under DOE's Window Volume Purchase Program.
- Replacement of heating systems (gas/propane/oil burner/furnace) and water heaters with new units that meet the most recent ENERGY STAR specifications. (Installation of a solar hot water heater is an eligible measure as long as it significantly reduces the amount of electricity or fuel needed to heat the water.)
- Replacement of air source air conditioner or air source heat pump with a new unit that meets the most recent ENERGY STAR specifications.
- Installation of ENERGY STAR ceiling fans, ventilating fans, dampers and programmable thermostats.
- Installation of energy monitoring devices.
- Health and safety measures and other improvements (such as asbestos removal, lead paint removal, ADA compliance and other similar activities) that are incidental to carrying out the eligible Be SMART activity may be eligible as long as the total cost of health and safety measures is not equal to more than 25% of the total project cost.
- Replacement of appliances (refrigerator, dish washer, clothes washer) with new units that meet the most recent ENERGY STAR specifications.
- Metal or asphalt "cool roofs" that meet the most recent ENERGY STAR specifications (to be approved on a case-by-case basis by the Maryland Department of Housing and Community Development).
- Installation of renewable energy measure (such as qualified geothermal systems, photovoltaic systems or wind turbines) may be eligible on a case-by-case basis, as approved by the Maryland Department of Housing and Community Development and the U.S. Department of Energy.
- *Projects related to regular maintenance and repairs are not eligible.*
- Other measures may be eligible based on the results of an approved energy audit and discussions with DHCD Be SMART program staff.

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Restrictions on Use of Funds

None of the funds provided through Be SMART may be expended, directly or indirectly, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Whistleblower Protection

All recipients of Be SMART funding are required to comply with the Whistleblower Protection requirements of the Recovery Act, Section 553 of Division A, Title XV, Public Law 111-5, which provides protection for non-federal employees (including contractors and subcontractors) making specified disclosures relating to possible fraud, waste or abuse of Recovery Act funds. Recipients of Be SMART funding shall display a poster at their job sites. The poster can be downloaded from: <http://www.oig.doc.gov/Pages/Hotline.aspx>.

Borrower Responsibilities for Be SMART

Borrowers participating in a Be SMART program will agree, as part of their participation, to release to the Maryland Department of Housing and Community Development 24 months of historical utility data and 24 months of utility data following completion of the project. The borrower will release this information to the Maryland Department of Housing and Community Development by signing a one-time release of information that will allow DHCD to access their energy consumption data directly from the provider. This information will be provided for confidential use in calculating energy savings estimates, and will also be used by the U.S. Department of Energy's (DOE) and DHCD's program research staff for program evaluation purposes. DHCD and the U.S. Department of Energy will protect the confidentiality of this information the same as it does for their own customer or other confidential information.

Borrowers will also agree to permit a quality assurance inspection within 30 days after completion of the Be SMART work.

Contractor Responsibilities Regarding Reporting for Be SMART

Contractors are required to report information on project work that receives Be SMART funding to DHCD prior to receiving a portion of the final payment. Please see Attachment B for the contractor reporting template.

Buy American Provision

- To the greatest extent practicable, all equipment and products purchased with Be SMART funds (through the U.S. Department of Energy's BetterBuildings program) should be American-made. The Maryland Department of Housing and Community Development strongly encourages Be SMART contractors and subcontractors to utilize American-made products whenever possible.
- If any construction, alteration, or repair activity will be performed on a public building or public works, the provisions in Section 1605 of the Recovery Act (the Buy American Act) will apply regarding the use of American iron, steel, and manufactured goods.
- Public building or public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

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Historic Preservation

Before work begins to alter any historic structure or site using Be SMART funds, DHCD and the contractor/subcontractor must ensure that the work is in compliance with Section 106 of the National Historic Preservation Act (NHPA). Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places, or are located in or contribute to a National Register Historic District. Certain undertakings may be exempt from review and approval by the Maryland State Historic Preservation Office. If the undertakings for a particular project are not exempt, the contractor must notify DHCD and the State Historic Preservation Officer (SHPO) to coordinate the Section 106 review outlined in 36 CFR Part 800. In these cases where projects are referred to the SHPO for approval, work may not begin on these projects until documented approval has been received.

DHCD will retain sufficient documentation (to be provided to DOE upon their request) from the contractor and SHPO for individual projects, in order to demonstrate that the required approval was received from the SHPO or THPO for the project. DHCD will report annually to DOE on the disposition of all historic preservation consultations by category.

Davis Bacon Recovery Act Reporting

Projects involving Federal or District of Columbia construction contracts or Federally assisted contracts in excess of \$2,000, or involving retrofits of non-residential public buildings or public works will be required to comply with the Davis Bacon Act Federal law. Contractors and subcontractors performing work through Be SMART on commercial or multifamily projects are required to submit regular reports verifying that their activities are in compliance with Davis Bacon act requirements and that prevailing wages are being paid to employees. The Maryland Department of Housing and Community Development will review these records for compliance and submit semi-annual Davis Bacon reports to the U.S. Department of Energy.

Waste Management

All contractors participating or receiving funds through the Be SMART (a Better Buildings Initiative) program are required to create or obtain and follow a waste management plan. Plans to address waste generated by a proposed project must be created prior to commencement of work on the project. The waste management plan will describe the contractor's plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the work. All Be SMART participating contractors and their sub-contractors are required to identify, maintain proper control, and provide documentation for the disposition of materials described in this plan. An objective of the waste management plan is to ensure that waste material generated from Be SMART projects will be diverted from direct landfill disposal whenever opportunities for recycling and reuse exist. Attachment C provides templates for waste management documents required as part of a contractor's participation in the Be SMART program. An estimate of waste disposal is required with the submission of a Be SMART participation application and a post-completion waste management report is required upon the completion of each job.

Participating contractors are responsible for ensuring that work is in compliance with all Federal, state and local regulations for waste disposal.