

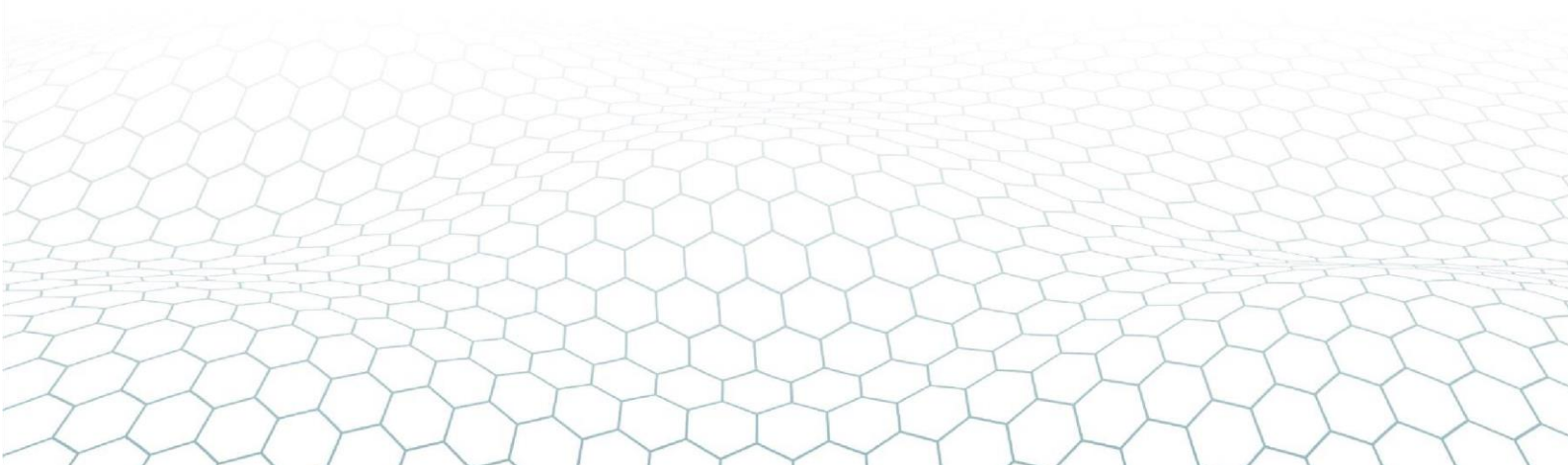


MALTA ENTERPRISE

INCENTIVE GUIDELINES

Investment Aid for Energy Efficiency Projects

(Version 2.0)



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<https://www.maltaenterprise.com/support>

Malta Enterprise provides support to interested applicants to understand the objectives of the incentive, details relevant to the scheme and address any problems they might encounter when completing their application. Applicants may contact the Corporation by calling 144 or by email on info@businessfirst.com.mt



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1. Introduction

Malta Enterprise Corporation (hereafter referred to as the Corporation), in collaboration with the Energy and Water Agency (hereinafter referred to as the Agency), shall be supporting undertakings in carrying out investments leading to improved energy-efficiency. The assistance is intended to facilitate investments in technological solutions that provide higher energy efficiency and contribute directly towards a reduction in the energy requirements of the beneficiaries.

The aid awarded through this measure shall be in the form of a cash grant or a tax credit (which may be utilised against tax payable by the beneficiary) or a combination of both.

1.1 Duration of Support Measure

The Corporation shall receive applications for support until 31st December 2022, yet it may, at its own discretion close the scheme at an earlier date.

Approved projects must commence within six (6) months from the date they are approved and should be completed within thirty-six (36) months from approval date. A project shall be considered to have commenced when the firm enters into a contractual obligation that makes it difficult from an economic standpoint to abandon the project.

1.2 Official Incentive Guidelines

The Corporation is publishing these official Incentive Guidelines (hereafter referred to as the *Guidelines*) in terms of Article 8 (3)(a) of the Malta Enterprise Act, Chapter 463 of the Laws of Malta. The Corporation may periodically update and amend these *Incentive Guidelines*. The latest version of the *Incentive Guidelines* published on the Corporation's website when the request for assistance is received, shall be considered as applicable to that request.

1.3 Legal Basis

The subsidiary legislation 463.24 to the Malta Enterprise Act, mentioned in the previous paragraph, forms the national legal basis of this aid scheme.

2. Definitions

2.1 Energy Efficiency

In accordance with *Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter Regulation (EU) No 651/2014)*, 'energy efficiency' shall mean the amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy-efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption.

2.2 Union Standard

In accordance with Regulation (EU) No 651/2014 'Union Standard' shall imply:

- a. a mandatory Union standard setting the levels to be attained in environmental terms by individual undertakings;

or

- b. the obligation under Directive 2010/75/EU of the European Parliament and of the Council¹ to use the best available techniques (BAT) and ensure that emission levels of pollutants are not higher than they would be when applying BAT; for the cases where emission levels associated with the BAT have been defined in implementing acts adopted under Directive 2010/75/EU, those levels will be applicable for the purpose of this Incentive Guidelines; where those levels are expressed as a range, the limit where the BAT is first achieved will be applicable.

2.3 Operating Base in Malta

For the purpose of these Incentive Guidelines, an applicant is deemed to have an operating base in Malta if:

- a. it owns, leases, or has been given the right of use by a third party, adequate premises from where to conduct an eligible economic activity in the region of Malta;

and

- b. employs at least one person under a full time employment contract that is based in Malta and is liable to pay income tax in Malta.

¹ OJ L 24, 29.1.2008, p. 8.

2.4 Undertaking in Difficulty

For the purpose of this Incentive Guidelines, an “undertaking in difficulty” means an undertaking in respect of which at least one of the following circumstances occurs:

- (a) In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within seven (7) years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, ‘limited liability company’ refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU and ‘share capital’ includes, where relevant, any share premium.
- (b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, ‘a company where at least some members have unlimited liability for the debt of the company’ refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- (c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- (d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- (e) In the case of an undertaking that is not an SME, where, for the past two years:
 1. the undertaking's book debt to equity ratio has been greater than 7,5 and
 2. the undertaking's EBITDA interest coverage ratio has been below 1,0.

2.5 Start of Works

For the purpose of these Incentive Guidelines, ‘Start of Works’ means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, ‘start of works’ means the moment of acquiring the assets directly linked to the acquired establishment.

3. Eligibility

This incentive is available to eligible undertakings duly registered in the European Union as a partnership *en nom collectif*, *en commandite* or a limited liability company or a similar set-up, has an operating base in Malta, and which adhere to the applicable State Aid regulations (vide Section 9).

3.1 Eligible Projects

Projects must have the aim of improving energy efficiency and may include:

- a. Investment in substitution or upgrading of equipment and installations to reduce energy consumption
- b. Renovation or upgrading of equipment of existing installation for heating (or cooling) systems
- c. The improvement of energy efficiency of existing illumination systems.

For a project to be considered eligible:

- a. The project must entail an investment of at least twenty-five thousand Euro (€25,000) that is directly related to achieving energy savings;

and

- b. Provide a corroborated justification from a competent person that the resultant estimated energy saving to be achieved as a result of implementing the proposed investment will be of at least 10%.

Investments related to the generation of electricity such as PV installations are not eligible.

4. The Incentive

4.1 Eligible Costs

The Corporation may support investments in tangible assets procured as part of a project carried out by an eligible undertaking to achieve a higher level of energy efficiency (as defined in Section 2). The project must be supported either by an energy audit or a specific proposal assessment prepared by a certified energy auditor or a warranted engineer who would clearly describe and identify the proposed project and its expected benefits.

Only costs directly linked to the achievement of a higher level of energy efficiency shall be considered eligible.

The eligible costs shall be the extra investment costs necessary to achieve the higher level of energy efficiency. They shall be determined as follows:

- a. where the costs of investing in energy efficiency can be identified in the total investment cost as a separate investment, this energy efficiency-related cost shall constitute the eligible costs;
- b. in all other cases, the costs of investing in energy efficiency are identified by reference to a similar, less energy efficient investment that would have been credibly carried out without the aid. The difference between the costs of both investments identifies the energy efficiency-related cost and constitutes the eligible costs.

The costs not directly linked to the achievement of a higher level of energy efficiency shall not be eligible.²

Aid shall not be granted where investment and/or improvements are undertaken to comply with Union standards already adopted, even if they are not yet in force.

Aid shall not be granted to investment in new buildings or extensions of existing buildings.

Costs incurred from third parties related directly to the procurement and installation of an eligible investment shall be considered as part of the investment if such transaction is carried out at arm's length.

² According to Article 38(3)(b) of Regulation (EU) No 651/2014, the reference investment should be a "similar, less energy-efficient investment". This should be read in light of the purpose of the provision. The purpose of comparing the reference investment should be similar in terms of size and capacity. In this respect, point 73 of the Guidelines on State Aid for Environmental Protection and Energy (EEAG) and in particular footnote 49 clarify that the reference investment should be "a technically comparable investment", meaning "an investment with the same production capacity and all other technical characteristics (except those directly related to the extra investment for the targeted objective)".

4.2 Aid Intensity

The total aid may not exceed the maximum aid intensity allowable in relation to the size of the undertaking receiving the support as established in the table below:

| Type of Undertaking | % |
|---------------------|----|
| Small | 50 |
| Medium | 40 |
| Large | 30 |

The investment aid will not exceed €15 million per undertaking per investment project.

On the basis of available funds, expected results and other technical and financial considerations, the Corporation, in collaboration with the Agency may award support in the form of a cash grant if the annual energy savings to be achieved exceed:

$$= \frac{(30\% \text{ of eligible cost})}{\text{Rate per unit} * \text{expected lifetime}}$$

Where:

Rate per unit is equal to 0.07 Euro per KWhr; and *Expected lifetime* is equal to 7 years.

Applications where the annual energy savings does not exceed the resultant of the above equation will still be eligible for tax credits for the eligible cost.

5. Application

5.1 When to Apply

Applicants must submit their application form prior to the start of works.

The application must be submitted through the Corporation's client portal which may be accessed from <https://clientportal.maltaenterprise.com/login>

Applications shall be processed on a first-come first-served basis, until the budget allocated for this measure is fully utilised.

5.2 Application requirements

The application must include an energy audit carried out by a certified energy auditor or where applicable a specific proposal assessment prepared by a warranted engineer.

The energy audit or a specific proposal assessment should include:

- a. a baseline of present energy consumption of the current operation;
- b. a recommendation for pursuing the proposed investments;
- c. an analysis of the expected saving following the implementation of the proposed investment; and
- d. a detailed report of the new system that includes deemed energy savings, validated by the energy auditor or warranted engineer.

The applicant will be required to identify between investment costs where: -

- a. The energy-efficiency-related cost shall constitute the eligible costs as provided under Section 4.1. In such instances, the applicant will need to justify that such an investment cost is a separate investment solely and directly related to energy efficiency. A quotation of the equipment to be purchased shall be included with the application.
- b. The eligible cost is determined in reference to similar investments, the applicant would need to submit a review by a warranted engineer or certified energy auditor of both the proposed energy efficient system and an equivalent, non-energy efficient system, providing specifications and price quotations for both systems.

As part of the application, the applicant will be required to provide a full list of assets (including the specifications) being purchased, any additional eligible costs and evidence of the energy efficiency results expected.

The application form must be endorsed by a warranted engineer or certified energy auditor. The submission should clearly identify the proposed project and its expected benefits.



6. Adjudication

Applications will be processed in line with the criteria as explained below:

6.1 Requests for additional information

During the application process, the Corporation or the Agency may request further information and clarifications beyond the information requested in the application so as to determine whether the support should be awarded.

6.2 Adjudication process

The Corporation, in collaboration with the Agency, shall determine whether the application meets the requirements established within the Incentive Guidelines and whether the proposed investment is deemed to meet the scope of this measure. The Corporation reserves the right to refuse any application submitted even if the application meets all the parameters established in these Incentive Guidelines.

The applicant must ensure that the Start of Works only happen after a Letter of Approval confirming the support has been issued by the Corporation. No support shall be disbursed if the Start of Works occur prior to the Corporation's approval.

The Corporation may withhold the assistance if the undertaking (at group level) is subject to an outstanding recovery in respect to any other incentive awarded by the Corporation.

7. Claims

7.1 Claim Submission

In relation to the approved investment, the undertaking may only claim cost items identified and approved at application stage.

The claim should include:

1. An Investment Assessment Report which must be certified by a warranted engineer or certified energy auditor.
2. A declaration by a Certified Public Accountant that the costs claimed have been paid or are in the process of being paid within an agreement between the undertaking and the supplier that is irreversible (as is the case if procurement is carried out through a finance lease).
3. Tax credits or cash grants awarded under this incentive may be claimed in line with the conditions specified in the Corporation's approval. For each transaction the beneficiary will be required to submit:
 - a. Copies of invoices and/or receipts (an original fiscal receipt is required unless a VAT invoice is presented).
 - b. Transaction documentation providing evidence that any transaction was conducted through a licensed financial intermediary (such as a bank), such as copies of the encashed cheques or bank advice documents showing the payments effected in relation to the claimed costs.
4. Copies of invoices issued from the respective supplier of each cost claimed. The Corporation shall reserve the right to reject invoices where the following information is not included or illegible:
 - a. name and details of the supplier and beneficiary;
 - b. date of supply;
 - c. a clear description of the item/s purchased; and
 - d. the VAT numbers of both the suppliers and beneficiary.

Claims may be made against actual costs incurred, hence for assets financed to a lease agreement, claims shall be submitted *pari passu* with the lease payments even if these extend beyond the project completion date.

Once the Corporation verifies the claim documentation it will notify the beneficiary of the amount of tax credits that have been awarded or issue a reimbursement if the aid has been awarded as a grant.



7.2 Claim Processing

When processing claims the Corporation and/or the Agency may:

- i. conduct onsite verification visits;
- ii. request further information and clarifications beyond the information requested in the application or claim form.

The Corporation reserves the right to reject any claim submitted.

7.3 Tax Credits

Any tax credits approved will be notified to the beneficiary in a Tax Credit Certificate establishing the value of the tax credit and from when the tax credits may be utilised. Tax credits can only be issued to the beneficiary and may not be transferred to other entities even within the same group.

8. Additional Provisions

8.1 Revocation and suspension of aid

The assistance may be revoked or suspended if the beneficiary does not adhere to the conditions established in these Incentive Guidelines and the approval issued by the Corporation. Furthermore, the Corporation may withhold all or part of the assistance if the undertaking (at group level) is subject to a recovery in respect to any other incentive awarded by the Corporation.

8.2 Utilisation of Tax Credits

No tax credit shall be due to an undertaking for a year of assessment unless the beneficiary:

- a. Claims the tax credit in the appropriate section of a tax return submitted by electronic means.
- b. The tax credit awarded may not be utilised to settle tax arrears.
- c. Any amount not absorbed by the tax payable for that year of assessment may be carried forward to be allowed as a tax credit for the subsequent years of assessment. In this respect, any tax credits not utilised shall be accumulated with any other tax credits awarded to the undertaking.

8.3 Annual Reporting

Every beneficiary shall be required to submit an annual Energy Savings Report to the Agency following the implementation of approved projects for the three (3) full calendar years following the completion of the project. A template will be provided by the Agency as guidance. The Corporation may reverse any tax credits awarded and request the Beneficiary to reimburse any fiscal advantages and recover cash grants if the Beneficiary fails to adhere to this condition.

9. State Aid Rules and Obligations

9.1 Applicable State Aid

The terms and conditions set out in these guidelines are in line with the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Commission Regulation (EU) No 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs, and as may be subsequently amended [herein after referred to as the General Block Exemption Regulation].

The incentive is not applicable to the following:

- a. Activities listed down in Articles 1 (2), (3), (4) and (5) of the General Block Exemption Regulation (where applicable).
- b. Undertakings in difficulty defined in terms of the General Block Exemption Regulation.

Furthermore, assistance may not be granted if the aid is:

- i. related to export activities towards third countries or Member States, namely aid directly linked to quantities exported, to the establishment and operation of a distribution network or to the other current expenditure linked to export activity.
- ii. contingent upon the use of domestic in preference to imported goods.
- iii. in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by Malta illegal and incompatible with the internal market.

9.2 Rules on Cumulation of Aid

Rules on cumulation of aid shall be in line with Article 8 of the General Block Exemption Regulation.

9.3 Publication

In line with Article 9(1)(c) of the General Block Exemption Regulation, information regarding any individual aid awards that exceed €500,000 is to be made publicly available on the national State aid website.

10. Contact Details

Further information on the scheme, as well as information and guidance on the filling in of the application form may be obtained by contacting Business First during office hours.

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