

Incentive Guidelines

Investment Aid for Energy Efficiency Projects



MALTAENTERPRISE

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<http://support.maltaenterprise.com>

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

Contents

1.	Introduction	2
2.	Definitions	3
3.	Eligibility	5
4.	The Incentive	7
5.	Application	7
6.	Adjudication	8
7.	Claims	9
8.	Additional Provisions	10
9.	State Aid Rules and Obligations	11
10.	Contact Details	12

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 up to one hundred (100) 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 tax credit which may be utilised against tax payable by the beneficiary.

1.1 Duration of Support Measure

The Corporation shall receive applications for support until 31st December 2020 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 this 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

Malta Enterprise 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. Malta Enterprise 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 S.L. 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 Incentive Entitlement Certificate (IEC)

An Incentive Entitlement Certificate (IEC) means a certificate issued in terms of Part VI of the Malta Enterprise Act, outlining the support granted including relative terms and conditions.

2.2 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.

2.3 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.

2.4 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 an adequate premises from where to conduct an eligible economic activity in the region of Malta;
- and

¹ OJ L 24, 29.1.2008, p. 8.

- 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.

2.5 Undertaking in Difficulty

For the purpose of these 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 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.

2.6 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 are engaged in one of the Eligible Core Activities as determined in Section 3.2 and which adhere to the applicable State Aid regulations (vide Section 9). Should the undertaking be engaged in other activities in addition to the Eligible Core Activities, the proposed project must focus and result in energy efficiency in the operation of the Eligible Core Activities.

3.1 Eligible Projects

1. Investment in substitution or upgrading of equipment and installations to reduce energy consumption in manufacturing processes.
2. Renovation or upgrading of equipment of existing installation for heating (or cooling) systems in the industrial or hotel sector.
3. The improvement of energy efficiency of existing illumination systems.
4. Any other action not contemplated in the above mentioned projects which is expected to have an energy saving of at least 20%.
5. A minimum investment of €25,000 in eligible costs is required.

3.2 Eligible Core Activities

To be considered eligible for this incentive, the submitted project should relate to savings in the carrying out of one of the following activities:

a) Manufacturing

Production, manufacture, improvement, assembly, preservation and processing of goods, materials, commodities, equipment, plant and machinery. The activity carried out should result in product(s) that are clearly distinct from the materials and components utilised.

b) Repair, overhaul or maintenance

The repair, overhaul or maintenance of aircraft, industrial electromechanical equipment

c) Information hosting and/or processing

The hosting and/or processing of data for public or private third parties such as web hosting, streaming services, application hosting, application service provisioning, data mining, cloud services and general time-share provision of mainframe (or computing) facilities.

d) Waste treatment

The treatment of Waste Treatment through physical, thermal, chemical or biological processes which change the characteristics of the waste in order to reduce the volume or the hazardous nature of waste so as to facilitate its handling or enhance recovery.

e) Health Service

The provision of human health services in designated facilities such as clinics and hospitals, including also the provision of short or long term residential care.

f) Hospitality

The operating of hotels, hostels, guest houses and similar establishment and their amenities

g) Other Activities

The Corporation may consider supporting projects in any other sector as long as such project constitutes an investment of at least €25,000 and achieves an energy saving of 20% compared to the alternative option or the current installation. Activities excluded from receiving aid under the General Block Exemption Regulation may not be supported.

3.3 Determination of Core Activity

As a primary verification of the activity of the applicant, the Corporation will use the official NACE classification attributed to the applicant by the National Statistics Office (NSO). The primary NACE code of the applicant should be within categories specified in section 3.2.

The Corporation may in addition use other resources and carry out its own verifications to verify that the applicant is mainly engaged in an Eligible Core Activity.

4. Investment Aid for Energy Efficiency Measures

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 buildings even if such investments may result in improving energy efficiency.

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 approach is allowable under international accounting standards.

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

²According 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)".

5. Application

5.1 When to apply

Applicants must submit their application form prior to work on the project or activity starts. Beneficiaries would need to be in possession of an Investment Entitlement Certificate (IEC) issued by the Corporation prior to carrying out the investment. Any cost committed prior to the issuing of the IEC will not be considered as eligible.

Applicants should submit a complete Application Form to the Corporation. The official documentation may be downloaded from the Corporation's website and submitted by email to the following address: energy@maltaenterprise.com

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 an 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.

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 warranted engineer 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. The submission should clearly identify the proposed project and its expected benefits.

6. Adjudication

Applications will be processed in line with the criteria 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 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.

In order to verify the activity of the applicant, the Corporation will use the official NACE classification attributed to the applicant by the National Statistics Office (NSO), based on NACE Rev. 2.02.

The Corporation shall issue an IEC in favour of the project, if approved.

²Nace Rev 2: Statistical classification of economic activities in the European Community

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.
2. Copies of invoices³ 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:
 - i. the name and details of the supplier and beneficiary;
 - ii. date of supply;
 - iii. a clear description of the item/s purchased; and
 - iv. the VAT numbers of both the suppliers and beneficiary.
3. 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.

7.2 Claim Processing

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

- i. conduct on site 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.

³Local Invoices should be in line with the 12th Schedule of the VAT Act Chapter 406 of the Laws of Malta.

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 to the IEC. 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 commit to submit an annual Energy Savings Report to the Energy and Water 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 reserve any tax credits awarded and request the Beneficiary to reimburse any fiscal advantages 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 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.

The incentive is not applicable to the following:

- a. Activities listed down in Article 1 (2), (3), (4) and (5) of Commission Regulation No 651/2014 of 17 June 2014.
- b. Undertakings in difficulty defined in terms of the Commission Regulation (EU) No 651/2014 of 17 June 2014. Such firms are excluded from benefiting from assistance under this incentive.

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 should be excluded from the scope of this measure.

9.2 Rules on Cumulation of Aid

Rule on cumulation of aid shall be in line with Article 8 of the Commission Regulation (EU) No 651/2014 of 17th June 2014.

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.

Contact at Malta Enterprise

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