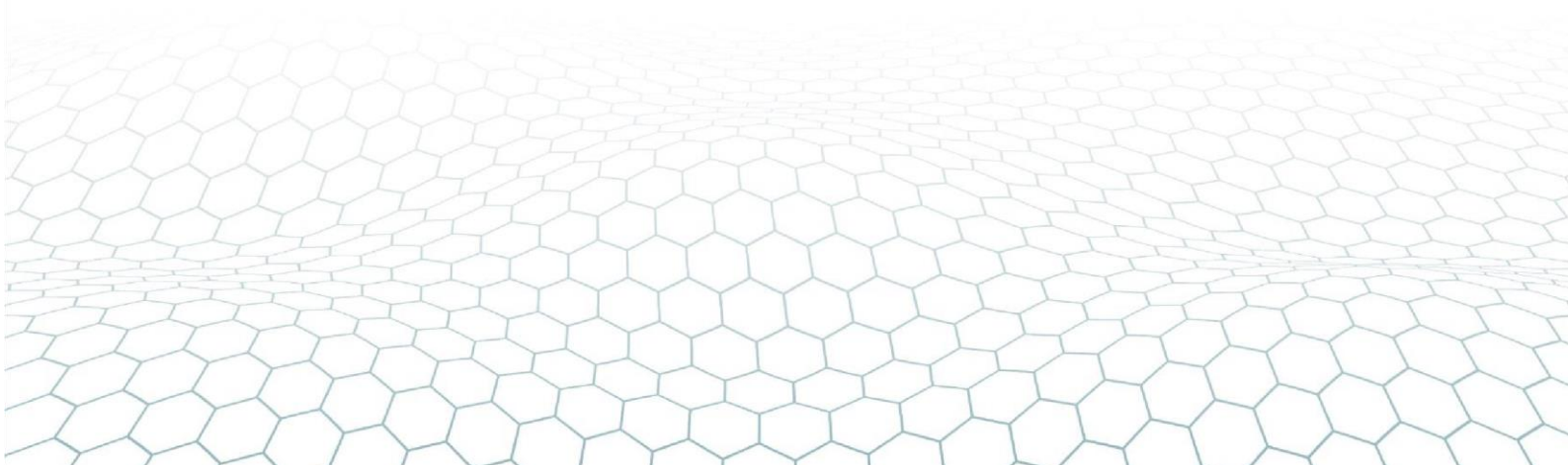




MALTA ENTERPRISE

## INCENTIVE GUIDELINES

**Support for the Construction Industry to Replace Existing machinery with new, more environmentally friendly machinery and equipment**



Issue Date: 1<sup>st</sup> December 2020

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

## Contents

1.	Introduction	1
2.	Definitions	1-2
3.	Eligibility	2-3
4.	Incentive Description	3
5.	Application and Assignment of Aid	4
6.	Claims	5
7.	State Aid Rules & Obligations	5
8.	Applicability of Aid	6
9.	Contact Details	7

# 1. Introduction

1.1 Malta Enterprise is encouraging operators in the construction industry to scrap and replace old machinery and/or equipment with new machinery and/or equipment that generates less environmentally harmful emissions and to invest in equipment that has the sole purpose of reducing the environmentally harmful emissions released by the activity. The scheme will help operators replace ageing machinery and/or equipment which is still in operation with new modern machinery and/or equipment which is more efficient and has a lower impact on the environment.

## 1.2 Duration of the incentive.

1.2.1 The Corporation will receive applications until 31st May 2021. Aid under this incentive will be awarded by 31 December 2021.

## 1.3 Legal Basis

1.3.1 Malta Enterprise is enabled to issue and publish official Incentive Guidelines in terms of Article 8(3)(a) of the Malta Enterprise Act, Chapter 463 of the Laws of Malta.

1.3.2 This is an administrative measure.

## 1.4 Designated Authority

1.4.1 This incentive is administered by Malta Enterprise Corporation (hereinafter referred to as 'the Corporation').

## 1.5 Budget

1.5.1 This incentive has a budget of four million euro (€4,000,000).

# 2. Definitions

2.1 An **Applicant** is an Undertaking that has submitted a complete application for support under this scheme to the Corporation.

2.2 For the purpose of these Incentive Guidelines, an **Undertaking** shall mean any legal person established to carry out an economic activity. This includes self-employed persons, partnerships and co-operatives.

2.3 A **Beneficiary** is an Undertaking that is in possession of a Letter of Approval issued by the Corporation.

2.4 The terms **The Corporation** and **Malta Enterprise** shall mean Malta Enterprise Corporation as established by the *Malta Enterprise Act, Chapter 463 of the Laws of Malta*.

2.5 A **Letter of Approval** is a document establishing the support granted to an undertaking and stipulating any terms and conditions deemed appropriate by the Corporation.

2.6 In these guidelines, the term **machinery and/or equipment** refers to heavy equipment or heavy machinery, which is movable in nature and specifically designed for executing construction tasks as well as equipment that aids and supports construction and equipment that reduces the environmental impact of construction. The definition does not include hand tools whether these are electrically powered or not.

2.7 For the purpose of these Incentive Guidelines, the term **Single Undertaking** shall be defined as per Commission Regulation EU No 1407/2013 of 18 December 2013 on the application of the Treaty on the Functioning of the European Union to de minimis aid.

Single Undertaking includes, for the purposes of this Regulation, all enterprises having at least one (1) of the following relationships with each other:

- a) one (1) enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- b) one (1) enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- c) one (1) enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- d) one (1) enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

Enterprises having any of the relationships referred to in points (a) to (d) above through one or more other enterprises shall also be considered to be a single undertaking.

The same Regulation states that a group of linked enterprises is considered as one single undertaking for the application of the de minimis rule, but that enterprises which have no relationship with each other except for the fact that each of them has a direct link to the same public body or bodies are not treated as being linked to each other. The specific situation of enterprises controlled by the same public body or bodies, which may have an independent power of decision, is therefore taken into account.<sup>1</sup>

## 3. Eligibility

### 3.1 Eligible Undertakings

3.1.1 The scheme is open to limited liability companies, partnerships, self-employed or any other legal entity engaged in:-

- a) construction of immovable property, excavation and demolition contractors; or
- b) provision (renting) of equipment to businesses engaged in the construction of immovable property, excavation and demolition contractors; or
- c) transportation of material related to the construction of Immovable property, excavation and demolition contractors; or
- d) owners/operators of quarries and batching plants; or
- e) building and finishing contractors.

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<sup>1</sup> Commission Regulation (EU) No 1407/2013 of 18th December 2013

## 3.2 Exclusions

- 3.2.1 Public entities defined as: “Ministries, Departments, Entities, Authorities, Public Commissions, Public Sector Foundations and similar organisations that carry out a public or regulatory function which does not involve the carrying out of an economic activity, whether or not such organisations are established by law” and Commercial undertakings in which Government has a direct or indirect holding of more than 25%, are not eligible.
- 3.2.2 Undertakings engaged in activities specifically excluded under the de minimis Regulation (vide Section 8) are not eligible for this incentive.
- 3.2.3 Applicants having dues related to VAT, Income Tax, and Social Security which are older than twelve (12) months.

## 4. Incentive Description

- 4.0.1 The Corporation may award a cash grant covering up to forty percent (40%) of the costs incurred by the eligible undertaking to replace machinery and/or equipment used in construction activities and that was manufactured prior to 2015, with new machinery and/or equipment that is equivalent or better and which will result in a reduction in harmful emissions. The Corporation shall consider additional support of up to:
- a) twenty percent (20%) if the new machinery and/or equipment is powered by an electric engine (battery);  
or
  - b) ten percent (10%) if the new machinery and/or equipment is powered by a hybrid engine.
- 4.0.2 The Corporation may award a cash grant covering up to forty percent (40%) of the costs incurred by the eligible undertaking to procure new machinery and/or equipment used exclusively to reduce harmful emissions generated by construction activities.
- 4.0.3 The Corporation may award a cash grant covering up to twenty-five percent (25%) of the costs incurred by the eligible undertaking to replace machinery and/or equipment used in construction activities and that was manufactured prior to 2015, with second hand machinery and/or equipment that is equivalent or better and which will result in a reduction in harmful emissions, provided that such equipment:
- a) has been manufactured after 2016; and
  - b) has not been previously used in Malta; and
  - c) is certified to meet the original environmental parameters as manufactured by a certified engineer.
- 4.0.4 Machinery and/or equipment procured with the support provided through this measure, must be retained and maintained operational by the beneficiary for a period of at least three (3) years from the date it is commissioned.

- 4.0.5 The Corporation shall have the right to recover part or all the assistance awarded if it is informed by a competent authority within three (3) years of awarding aid under this measure that:-
- a) the procured machinery and / or equipment was not compliant to National or European Union Standards applicable at the time of award.
  - b) a modification (or modifications) not endorsed by the manufacturer has been implemented on the procured machinery and / or equipment.
  - c) the beneficiary has failed to operate within any regulatory, planning and environmental permits.
  - d) the replaced equipment had not been destroyed in accordance with the applicable environmental standards.

## 5. Application and Assignment of Aid

- 5.0.1 Aid under this incentive is subject to approval and is awarded at the sole discretion of the Corporation.
- 5.0.2 As part of the application process, a warranted engineer must provide an estimate of the reduction in emissions (for different airborne pollutant):
- a) based on a typical use of the machinery being replaced through a comparison between the new equipment and the one being replaced This comparison should be based on the official manufacturer specification and/or actual testing (such as VRT test data or data gathered from environmental monitoring equipment).
- or
- b) where the equipment purchased will have the sole purpose of reducing the environmentally harmful emissions released by the construction activity, the estimate must take into consideration the expected activities of the applicant where the equipment will be used over twelve months.
- 5.0.3 Except in instances where the equipment to be purchased will have the sole purpose of reducing the environmentally harmful emissions released by the construction activity, the applicant will also be required to provide a copy of the VRT test report or an engineer's report (maintenance & test inspection report) issued between 1<sup>st</sup> December 2019 and 30<sup>th</sup> November 2020. A copy of the insurance policy for the equipment being replaced is also to be submitted.
- 5.0.4 Once a project is approved, a Letter of Approval shall be issued detailing the conditions of the award which may impose further restrictions beyond those specified in these Guidelines. The Letter of approval shall indicate the value of aid approved.

## 6. Claims

### 6.1 Claim Submission

6.1.1 Undertakings shall claim the eligible costs as approved by the Corporation. All costs must be covered by the appropriate fiscal documentation and proof of payment. For each transaction, the beneficiary shall provide a copy of the encashed cheque image or a bank statement clearly identifying the bank transaction confirming the transfer of funds to the recipient. Any procurement must be covered by fiscal invoice/receipt as required by Maltese legislation.

6.1.2 At claim stage the beneficiary would be required to submit a destruction certificate issued by a licensed destruction facility for scrapping of the machinery / equipment that was replaced. The certificate must clearly indicate that the equipment identified in the application was destroyed. The machinery / equipment must be taken to a destruction facility duly authorised by a competent authority.

### 6.2 Additional requirements

6.2.1 Any expenditure claimed shall meet all the following conditions:

- a) All costs claimed must exclude VAT and other recoverable taxes.
- b) The supported expenditure may not be reimbursed or otherwise recoverable through other sources.
- c) Where the beneficiary may benefit from any other State Aid in respect of expenditure incurred in the carrying out the approved project, the beneficiary must ensure that any rules governing the cumulation of aid are respected.

## 7. Monitoring

7.0.1 Applicants will be subject to monitoring to ensure that the project is being or was implemented according to:

- a) These Incentive Guidelines;
- b) The terms and conditions set in the Letter of Approval issued by the Corporation;
- c) Commission Regulation (EU) No 1407/2013 of 18th December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis Aid, as amended by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments (the de minimis Regulation).

7.0.2 The Corporation reserves the right to effect spot-checks at the support site. These spot checks may be administered by third parties entrusted by the Corporation to carry out such tasks.

7.0.3 If a Beneficiary breaches the terms and conditions set in these Incentive Guidelines, the Regulation or the Letter of Approval, the Corporation reserves the right to revoke, suspend or recover any aid awarded.



## 8. State Aid Rules and Obligations

### 8.1 Applicable State Aid

- 8.1.1 These Incentive Guidelines are in line with Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (the de minimis Regulation), as amended by Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments.
- 8.1.2 The total amount of de minimis aid granted to a single undertaking shall not exceed the amount of €200,000 (or €100,000 in the case of single undertakings performing road freight transport for hire or reward) over any period of three consecutive fiscal years.
- 8.1.3 This aggregate maximum threshold applies in principle to all economic sectors with the exception of the agriculture and fisheries sectors for which different thresholds and criteria apply. The term 'single undertaking' includes also all companies in a group (which fall under the direct or indirect ownership or control of the same ultimate parent company) and relevant partner and linked enterprises as defined in Annex I of Commission Regulation (EU) No 651/2014 of 17th June 2014. This period covers the fiscal year concerned as well as the previous two fiscal years. 'Fiscal year' means the fiscal year as used for tax purposes by the undertaking concerned.
- 8.1.4 This maximum threshold would include all State aid granted under this aid scheme and any other State aid measure granted under the de minimis rule including that received from any entity other than Malta Enterprise. Any de minimis aid received in excess of the established threshold will have to be recovered, with interest, from the undertaking receiving the aid.
- 8.1.5 The de minimis declaration form must be filled in and submitted together with the application form. The de minimis Aid Declaration can be accessed from the Corporation's client portal.

### 8.2 Applicability of the Aid

- 8.2.1 Assistance approved under this aid scheme is NOT:
- a. Aid granted to undertakings active in the fishery and aquaculture sector, as covered by Council Regulation (EC) No. 104/2000;
  - b. Aid granted to undertakings active in the primary production of agricultural products;
  - c. Aid granted to undertakings active in the sector of processing and marketing of agricultural products, in the following cases:
    - i. Where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned;
    - ii. Where the aid is conditional on being partly or entirely passed on to primary producers;
  - d. Aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
  - e. Aid contingent upon the use of domestic over imported goods;
  - f. Aid for the acquisition of road freight transport vehicles granted to undertakings performing road freight transport for hire or reward.

- 8.2.2 Where an undertaking is active in the sectors referred to in points (a), (b) and (c) above as well as in other sectors falling within the scope of the de minimis Regulation, the Corporation will ensure a separation of the activities or distinction of costs. Only those sectors eligible for assistance under the de minimis Regulation will be assisted. Activities in the sectors excluded from the scope of the de minimis Regulation will not benefit from assistance under this aid scheme.

### 8.3 Cumulation

- 8.3.1 In terms of Article 5 of the de minimis Regulation, de minimis aid granted under this incentive may be cumulated with de minimis aid granted in accordance with Commission Regulation (EU) No 360/2012 up to the ceiling laid down in that Regulation. It may be cumulated with de minimis aid granted in accordance with other de minimis regulations up to the relevant ceiling fixed in terms of these Incentive Guidelines.
- 8.3.2 De minimis aid approved under this scheme shall not be cumulated with State aid in relation to the same eligible costs or with State aid for the same risk finance measure, if such cumulation would exceed the highest relevant aid intensity or aid amount fixed in the specific circumstances of each case by a block exemption regulation or a decision adopted by the European Commission. De minimis aid which is not granted for or attributable to specific eligible costs may be cumulated with other State aid granted under a block exemption regulation or a decision adopted by the Commission.

## 9. 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 Malta Enterprise during office hours.

Postal Address: Malta Enterprise  
Gwardamangia Hill,  
Pieta`, MEC 0001  
Malta.

Tel: 144

Websites: [www.maltaenterprise.com](http://www.maltaenterprise.com)

The official Incentive Guidelines are published at:  
<https://www.maltaenterprise.com/support>

Email: [info@businessfirst.com.mt](mailto:info@businessfirst.com.mt)