

**Guidance Note on the carrying out of 2019 statutory energy audit
by non-SMEs pursuant to
L.N. 196/2014 transposing the Energy Efficiency Directive 2012/27/EU.**

1. Introduction

Regulation 10 of L.N. 196 of 2014 makes it mandatory for, and the responsibility of, non-SMEs registered and doing business in Malta¹ to carry out energy audits to the established **quality level and frequency**. The next audit is due by December 2019.

This guidance note is addressed primarily to enterprises which qualify or are near qualifying² for the statutory energy audit to assist in the discharge of this responsibility. It is obviously also very relevant to auditors who may be entrusted with the carrying out of such audits. This note supersedes that issued in 2015.

It benefits from and builds upon the experience of the first audit program of 2015.

2. Enterprises qualifying for mandatory audits – Non-SMEs.

An entity qualifying for mandatory energy audits ('non-SME') is one that while engaged³ in economic activity in Malta,

- a) has at least 250 employees⁴, or
- b) employs fewer than 250 people but has an annual turnover of more than 50 million Euro and an annual balance sheet total of 43 million Euro, or
- c) is part of a corporate group⁵ which meets the above criteria.

It is the responsibility of entities to determine whether they fall within this category of eligibility for mandatory audits, and if so, discharge this responsibility without the need of any further notice from any competent authorities.

The Energy and Water Agency within the Ministry for Energy and Water Management may request that an entity that 'prima facie' could be deemed to be a non-SME or near that

¹Large companies and subsidiaries of large companies in Malta and Maltese subsidiaries of large foreign companies.

² See Para 4 for entities which do not presently qualify as non-SMEs but expect to do so in the near future.

³The reference period to which data on staffing and financial figures is referred for the purpose of this paragraph shall be the last audited annual accounts of the entity.

⁴These thresholds (of staffing level and certain financial figures) are established in Article 2 of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003 concerning the definition of small and medium sized enterprises.

⁵'User guide to the SME definition' published by the European Commission shall be used as a general guide to interpret the definition and to determine how to treat particular relationships of the enterprise with other enterprises or investors when calculating the enterprise's staff and financial figures for comparison with the established thresholds.

category to furnish it with a copy of the self-assessment analysis that it carried out to determine whether it qualifies as a non-SME or not.

3. *Competent authorities and their responsibilities.*

The Energy and Water Agency (herein referred to as E&WA) will be coordinating and supervising the 2019 statutory energy audit initiative. Correspondence should be addressed to the Chief Executive Officer, the Energy and Water Agency, WSC, Qormi Road, Luqa.

The E&WA will be co-operating with the Regulator for Energy and Water Services (REWS) where appropriate and as indicated in the paragraphs below.

To eliminate avoidable bureaucracy, while respecting applicable data protection and confidentiality legislation, each non-SME will be asked to signify its specific consent to the possible exchange of information and referral of correspondence relevant to this project between E&WA and REWS.

4. *Date of completion of the 2019 Audit.*

The 2019 statutory audit must be completed by the 5th December 2019 at the latest⁶. Failure to send the completed audit report by the 5th December 2019 may lead to enforcement action, which may include the imposition of administrative fines.

Non-SMEs are cautioned to commence the carrying out of the audit sufficiently early to allow adequate time for a good quality audit to be completed by the due date.

In the case of companies that do not presently qualify for mandatory audits according to their last audited annual accounts but do so at a later date, their first audit shall be due on the next deadline as established in the Energy Efficiency and Cogeneration Regulations.

5. *Meetings and communication between the non-SME and the Energy and Water Agency.*

The E&WA will be organising meetings with non-SME on the 2019 audit initiative. Besides these meetings, the non-SME may request individual meetings with the E&WA on the quality of the first (2015) audit⁷, or any other matter relevant to the 2019 audit.

The officer representing the non-SME may be assisted by other persons as may be required.

Enterprises may request clarifications on the requirements of the L.N. 196/2014 and this Guidance Note to E&WA at any time until the delivery date of the audit approaches. However, pending clearing of clarifications will not be accepted as a valid reason for failure to meet

⁶ See section 10 for reporting to E&WA.

⁷ Attention is drawn to correct evaluation of savings. E.g. Possibility of double-counting and overlap between savings from the recommended measures should be considered, and eliminated.

deadlines.

Information given in answer to these clarifications that is of general interest may be published in a generalised format by the E&WA and REWS on their websites without mention of the identity and commercial interests of the enterprisemaking the original request for clarification.

6. Audit experts: Qualification and/or accreditation and independence.

Audits must be carried out under the responsibility of internal or external experts. The non-SME selects its own auditor/s⁸.

1. External expert/s

An external expert employed to conduct an energy audit for the purpose of L.N. 196/2014 must be:

- i. a person listed on the website of the Regulator for Energy and Water Services as an energy auditor or accepted as an energy auditor in another EU Member States. Evidence of such acceptance must be provided.

OR

- ii. if a suitable registration scheme is not established in another Member State where the auditor/s are based, a person qualified to MQF level 6 or higher in Engineering or a relevant applied science discipline⁹ and has followed an appropriate training course as in G.N. 13024. Evidence of the qualifications and training claimed must be provided.

OR

- iii. If a firm is engaged to conduct the audit, it must be reputable in the industry with expertise and a track record in energy management and/or energy auditing. The audit must be signed by a person qualified and accepted as above 1(i) and (ii).

2. In-house experts

In-house experts may carry out or be members of the team carrying out an audit required by L.N. 196/2014 provided that: -

⁸ ISO 50002:2014 Section 4.1 and 4.2

⁹ Acceptance or otherwise of persons qualified in an applied science discipline 'related to engineering' wishing to conduct a statutory energy audit will be decided by REWS on a case by case basis and upon application by the person concerned.

- i. They qualify as in para. (i) and (ii) above.
- ii. No one expert is directly engaged in the activity being audited.
- iii. The experts act in an independent manner in the performance of the audit.

The selected energy auditors must have access to the necessary energy monitoring tools/equipment to measure data as requested by the minimum criteria of the energy audits and the support of other experts in different fields of engineering applicable to the enterprise being audited.

3. The energy audit of a non-SME many times requires the support of experts in different fields of engineering applicable to the enterprise being audited. One energy auditor, as defined in points (1) and (2) of this section is to act as Lead Auditor having the responsibility to manage the audit and lead the other experts ensuring compliance to ISO 50002. The list of other auditors/experts giving input to the final report is to be forwarded in the template annexed to this Guidance Note.

7. Energy Audit Quality

The audits shall meet the following minimum criteria:

- (a) be based on up-to-date, measured, traceable operational data on energy consumption and (for electricity) load profiles;
- (b) comprise a detailed review of the energy consumption profile of buildings or groups of buildings, industrial operations or installations, including transportation;
- (c) build, whenever possible, on life-cycle cost analysis (LCCA) instead of Simple Payback Periods (SPP) in order to take account of long-term savings, residual values of long-term investments and discount rates;
- (d) be proportionate, and sufficiently representative to permit the drawing of a reliable picture of overall energy performance and the reliable identification of the most significant opportunities for improvement.

Energy audits shall allow detailed and validated calculations for the proposed measures so as to provide clear information on potential savings. The data used in energy audits shall be storable for historical analysis and tracking performance.

8. The 2019 Audit.

A 2019 statutory energy audit must be compliant with ISO 50002:2014 or EN 16247 and the

criteria for energy audits set out in Part 2 of the Fifth schedule of L.N. 196/2014.

The report must be written in the English or Maltese language.

While the level of detail of the audit is specific to the organisation and is decided between the non-SME and the auditor, it is pointed out that a Type 1 audit is not sufficient. ISO 50002¹⁰ describes a type 1 audit as a 'preliminary audit for larger organisations or facilities'.

The E&WA does not require the automatic delivery of a full audit report to it on the closing date. It only requires a summary report as detailed in Section 11 below through a thorough completion of the attached template. E&WA may at some point demand and require at short notice a copy of the full audit report to fulfil its statutory obligation to administer the national scheme 'to assure and check their (the audit's) quality, including, if appropriate, an annual random selection of at least a statistically significant percentage of all the energy audits carried out'.

It is the intention of E&WA to examine in detail a percentage of the energy audit reports, chosen at random with the condition of including a minimum of one submission from every energy auditor. The Agency may also examine the full reports of audits that, judging by the summary reports delivered to it, would require further investigation.

Should E&WA determine, as a result of a detailed examination, that a statutory energy audit does not meet the minimum criteria for acceptability, then the Agency shall notify the non-SME of the deficiencies. It shall also request that the necessary up-grading of the report be completed by not later than three months following the date of E&WA's notification. Should, in the opinion of E&WA, material shortcomings in the audit are still present as to render the conclusions of the audit insufficient or unreliable as a 'guide for potential savings', then E&WA will consult REWS on the issue. Should REWS concur with E&WA's opinion, it will proceed according to the provisions of Legal Notice 196/2014.

9. Exemptions in whole or in part and inclusions in the 2019 audit.

Exemptions.

(1) Enterprises which otherwise qualify for a mandatory audit under LN 196/2014 maybe exempt¹¹ from this obligation if:

- a) They are implementing an energy or environmental management system certified by an independent body according to the relevant European or International standards such as EN ISO 50001 or EN 16247-1 or EN ISO14001 if it includes an energy audit at least to the same standard as in L.N. 196/2014.

¹⁰ ISO 50002:2014 (E) Table A.1 – Indicative details of energy audit types.

¹¹The Energy and Water Agency alone has the authority to grant exemptions in whole or in part from this obligation.

b) Their energy consumption is below 50,000kWh (4,3 toe) per annum.

(2) Enterprises may also be granted the following exemptions from the audit:

- a) That part of the enterprise – e.g. building envelope/s – that are already covered by other statutory audits such as certification and/or inspections under the Energy Performance in Buildings Directive.
- b) That part of the process covered by other certification schemes so long as the equivalence in standards and criteria of these schemes to those in L.N. 196/2014 are demonstrated by the enterprise.
- c) Building and civil engineering projects in construction.

(3) Enterprises claiming exemption as in paragraph 9(1) and 9(2) above should submit their application for exemption to the E&WA in writing clearly explaining the basis of their claim and provide supporting documents and certifications to justify it. The E&WA will take a decision on the grant or otherwise of an exemption and notify the applicant within fifteen days of receipt of the application, provided that sufficient supporting information is submitted by the applicant.

It is the responsibility of the applicant to ensure that requests for exemption are made in sufficient time to allow for timely completion of the audit in the event of the request for exemption not being admissible.

(4) Auditing a number of similar items. A non-SME may adopt a sampling method for the audit of a number of similar operations and/or buildings that would otherwise require individual auditing (e.g. branch offices). A statistically significant sample of such items may be audited and the results reasonably extrapolated.

The extrapolation and the sampling method adopted according to the above paragraph are to be explained and justified in the audit report.

10. Inclusions.

In the 2019 audit, E&WA requires that consideration, followed if appropriate by an assessment of the technical and economic feasibility of communal (centralised building) heating and cooling system based on chillers/heat pumps, possibly with a building energy management system and incorporating combined heat and power technology be given.

11. Reporting to the Energy and Water Agency, via the summary template provided

Consistent with its obligations to propose national energy policies and also to supervise the quality of energy efficiency statutory audits, as described in Section 7 above, E&WA requires

summary reports of statutory audits carried out by non-SMEs for the 2019 program. Attached to this 'Guidance Note' is a template for standardising the format of these reports. This template must be diligently completed and delivered to E&WA by the 5th December 2019.

The outputs of the audits, taken in aggregate, may be used by the E&WA as part of the knowledge-base for developing national policy and for assessing progress towards the national Energy Efficiency targets and to consider whether any national support scheme for implementing recommendations of the energy audits, without prejudice to State Aid Law, is justified. The E&WA and REWS may publish the data provided in the summary reports in aggregate format (e.g. by sector or national totals) but will not divulge the identity of the enterprise and/or any individual data.

12. Penalties

Penalties may apply for failure to comply with the requirements of L.N. 196/2014.

13. Legal import of this guidance note.

This note is intended to guide non-SME's and certain other enterprises in the discharge of the Energy Audit obligations pursuant to L.N. 196/2014.

It does not alter the legal effects of L.N. 196/2014 or of any other legislation and is without prejudice to any direction that the competent authorities might give in the future.

**Template for the reporting of the results of the 2019 Energy Audits
by non-SMEs to the Energy and Water Agency
pursuant to L.N. 196/2014 transposing the Energy Efficiency Directive
2012/27/EU.**

SHEET 1

To be filled by an authorised representative of the non-SME.

This sheet covers general information on the sites being audited and details of the audit team.

The name of the Enterprise/Group/Holding Company and contact details for communication:

Name:

Address:

Phone:

E-mail:

Main Activity at the site (or NACE Code):

Identifying the entities within the above Grouping being covered by one audit report.

List the entities (branches, companies, sites, etc.) and the major activity carried out. No other detail is required here.

<i>Branch/company/site or other</i>	<i>Activity carried out</i>

No of employees (full time equivalent) at the site:

Identification of the members of the audit team and their credentials.

External or In-house auditors

- External In-house Combination

Name and address of audit firm (if applicable)

Names and qualifications of the Lead Auditor and other members, if any, of the audit team:

Lead Auditor (Name and qualifications):

Other Auditors (Name and qualifications):

Evidence of qualifications of auditors provided in main Audit Report.

Yes No

The Directors of the non-SME confirm the independence of the audit team

Yes No

Please attach a statement from each member of the audit team certifying that no conflict of interest, whether personal, professional or other, exists in the performance of this audit.

Statements attached

Yes No

Entity's consent for E&WA to share information with REWS.

The management of the enterprise consents to the exchange of information and referral of correspondence relevant to this energy audit between E&WA and REWS, in full respect of applicable data protection and confidentiality legislation.

Yes No

Signature of Legal Representative:

Name: _____

ID. No.: _____

Signature of Contact Person at Enterprise:

Name: _____

Id No.: _____

Position: _____

E-mail: _____

Phone: _____

Date: _____

SHEET 2

- To be filled in by the Lead Auditor.
- This sheet covers general information on the sites being audited, the audit process, energy consumption, achieved savings and potential.
- A separate sheet 2 is to be used for each individual site when multiple sites within a group are being audited.

<u>The Audit Process</u>
<u>General high-level comments, if any, on the audit or its findings.</u>
<u>The Audit scope and boundary</u>
<u>The Auditor confirms that:</u> <ul style="list-style-type: none">- the audit complies with L.N. 196/2014 and ISO50002:2014. <input type="checkbox"/> Yes <input type="checkbox"/> No- this reporting template is fully completed and faithfully reports the findings of the audit. <input type="checkbox"/> Yes <input type="checkbox"/> No

Criteria for ranking opportunities e.g. Life-cycle analysis (please state relevant economic parameters used and describe methodology).

Calculations of savings and other parameters have been done transparently, based on an analysis made to sufficient technical detail, assumptions and estimates declared, uncertainties are considered and are documented in the full report.

Yes

No

Main Performance indicators (description and value) as below:

(Comparison with 2015 audit, if available)

Which renewable energy sources, co-generation and other forms of clean energy have been considered for possible adoption, if any?

The Building Envelope audit

Is part of this audit. Has been done separately.

Copy of the Building Envelope Audit Report / Compliance Certificate is to be attached to main report.

Building details required.

Built area(offices; process/production area, m²)

Breakdown of energy use¹²

i. Details of energy consumption

Overall annual energy consumption.

Type and quantity of energy consumed annually:

Electricity: _____ (units)

Transport Diesel: _____ (units)

Petrol: _____ (units)

Gas Oil: _____ (units)

LPG: _____ (units)

Other Fuel: _____ (units)

Describe Other Fuel:

¹² As defined in Section 3.12 of ISO 50002:2014 (E). For ease of aggregating data by E&WA for obtaining a national assessment of energy potential, it would be useful if categories in definition 3.12 and similar are adhered to as much as possible in reporting in this template.

Cost of the above energy to the entity.

Electricity: _____ euro

Diesel: _____ euro

Petrol: _____ euro

LHO: _____ euro

LPG: _____ euro

Other: _____ euro

Overall annual water consumption.

Type and quantity of water consumed annually:

Mains (WSC): _____ cubic meters.

RO water: _____ cubic meters.

Brought in by tanker (first/second class): _____ cubic meters.

Grey water (own production/imported): _____ cubic meters.

Cost of the above water to the entity.

Mains (WSC): _____ euro.

RO water: _____ euro.

Brought in by tanker(first/second class): _____ euro.

Grey water(own production/imported): _____ euro.

<u>ii) Savings achieved in 2016 to 2018 and expected savings for 2019 to 2020</u>									
a) <i>Savings achieved 2016 – 2017 - 2018</i>									
<u>Measure</u>	<u>Savings achieved (in physical unitskWh of elec, litres of LPG, tons of fuel, etc.)</u>			<u>Savings achieved (in euro)</u>			<u>Remaining lifetime of measure (years)</u>		
	2016	2017	2018	2016	2017	2018			
1)									
2)									
3)									
4)									
<i>Extend as necessary</i>									
b) <i>Estimated Savings for 2019 – 2020 - 2021</i>									
<u>Opportunities for improvement / Recommendations</u>	<u>Expected Lifetime of measure (years)</u>	<u>Cost to implement. (euro)</u>	<u>Payback (years)</u>	<u>Expected Savings (in physical units¹³)</u>			<u>Expected Savings (in euro)</u>		
				2019	2020	2021	2019	2020	2021
1)									

¹³ E.g. Kwh of elec, litres of LPG, tons of fuel, etc. Savings in more than one form of energy from one measure (e.g. a measure in the HVAC category may yield savings in electricity and fuel) are to be reported separately. For CHP, one of the 'savings' may be negative.

2)									
3)									
4)									
<i>Extend necessary</i>	<i>as</i>								

Signature of Lead Auditor:

Name:

Id No.:

Date:
