

- WORKING PAPER -

**INDICATIVE PROPOSALS FOR IMPROVEMENT OF EUROPEAN FUNDS ABSORPTION**

**A. 2007 – 2013 programming period**

No.	Existing Institutional Obstacles	Relief Measures
	<b>General Aspects</b>	
1.	The operational hurdles within the institutions in charge of the monitoring/assessment and audit of reimbursement applications are likely to significantly reduce the absorption rate of available European Funds.	Amendment of institutional procedures currently applied, through the transfer of activities performed by institutions responsible for the assessment of reimbursement applications, to external independent international experts benefiting from local experience and extended capabilities
2.	The deadlock reached by Operational Program “Increase of Economic Competitiveness” Priority Axes 1, is likely to severely impair the business and operational activities of beneficiaries (small and medium enterprises), to prevent them from ensuring project co-financing due to expiry of bridge financing agreements and from purchasing the equipment falling under the projects scope.	Amendment and screening of staff schemes in effect in the institutions in charge of the assessment and management of European funds, so as to attract and integrate a sufficient number of top-ranking experts within the Management Authority and the Intermediate Bodies for a determined period of time (till the end of 2015), aimed at the correct implementation of procedures for the assessment of reimbursement applications and on-site audit procedures.
3.	The institutional deadlock reached by the Sectoral Operational Program Human Resources Development is likely to forestall the increase in the absorption rate of available European funds due to accumulation of outstanding payments owed to European funds beneficiaries.	Urgent centralization of the Management Authority’s and Intermediate Bodies’ respective human resources for the immediate clearance of Operational Programs facing sever delays in the reimbursement, assessment and screening of applications submitted by beneficiaries of non-reimbursable EU funds.
4.	The existence of a secondary legal framework likely to duplicate the assessment by the beneficiaries of non-reimbursable European funds of awarding procedures.	Urgent amendment of the current legal framework applicable to institutions responsible for the audit of public procurement processes, and correlation with the legal provisions governing institutions responsible for the screening/assessment of reimbursement applications, in order to cut on red-tape, remove duplication of responsibilities and implement unitary procedural obligations to be met by beneficiaries of non-reimbursable EU funds.
	<b>Project transparency</b>	
5.	<ul style="list-style-type: none"> <li>Absence of an integrated communication system that should allow the authorities in charge of the audit, assessment and monitoring of EU funds as well as the beneficiaries of non-reimbursable European funds to trace the projects in course of being implemented,</li> </ul>	<ul style="list-style-type: none"> <li>Implementation of an integrated, operational monitoring system, accessible to the authorities in charge of the audit, assessment and monitoring of EU funds as well as to the beneficiaries of non-reimbursable European funds, to allow for the traceability of projects in course of</li> </ul>

	<p>assessed and monitored;</p>	<p>implementation, assessment and monitoring (e.g. the SMIS-Codes should allow beneficiaries to trace the status of their projects during evaluation, requests for reimbursement, etc. with a password on the site of the Management Authority). Public announcement with regard to the completion of different process stages would allow banks to offer their financing products;</p> <p>In addition, increased transparency related to the payments made to the beneficiaries – based on the model applied by SOP IEC – an updated version of the list of payments to the beneficiaries is published on MA SOP IEC website next day after the payments are made – the bank could help the client to manage the fund received and to make the next payment to the suppliers.</p>
<p><b>Public Procurement</b></p>		
<p>6.</p>	<ul style="list-style-type: none"> <li>• Public procurement procedures impede project implementation by private beneficiaries;</li> <li>• High number of claims during the tendering process, leading to delays in signing the contracts;</li> <li>• Low quality consultants/contractors</li> <li>• Tender documents are incomplete or contain errors.</li> <li>• The awarding timeline is often not observed.</li> <li>• The contracting terms are often not negotiable.</li> <li>• The commencement of the works is often delayed for extensive periods of time, due to</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminate public procurement procedures for private beneficiaries (as far as EU-legislation allows);</li> <li>• Putting in place standard formats for similar tender documents (including standard formats for qualification criteria-“fisa de date”); reduce the maximum duration for claims evaluation by CNSC and/or Court of Appeal; increase the penalty cost in case of unjustified claims;</li> <li>• Eliminate the the “lowest price” criterion; evaluate and score the technical proposals; for service contracts (where expert quality is crucial) introduce gradual evaluation of the relevant CVs. The minimum qualification criteria for experts should be scored 0 points (qualified only) and a gradual scoring of the CVs should be introduced for specific experience; the price should have a limited weight in the total score (not more than 30%).</li> <li>• Increased attention to detail in preparing the relevant tender documents.</li> <li>• Cancellation of procedures not awarded within the set time limits.</li> <li>• Increased flexibility as contracts are usually provided in the tender documentation as templates subject to discussions.</li> <li>• Tendering should start once the Client has all the</li> </ul>



	<p>Client's lack of funding and/or the required approvals/permits.</p> <ul style="list-style-type: none"> <li>• Too many subjective evaluation criteria, leading to inconsistent results</li> </ul>	<p>necessary operational requirements in place.</p> <ul style="list-style-type: none"> <li>• Eliminate as many subjective evaluation criteria as possible – FEADR-programs are a good example that this can be done; Replacing subjective criteria in the project evaluation grid with evaluation criteria of a yes / no type (similar to the evaluation model used by Hungary)</li> </ul>
7.	<p>Small projects require the same amount of information at submission stage as large projects do, which in many cases increases costs for the beneficiaries.</p>	<p>Launching of separate programs for SME's and agriculture that require grants less than 50.000 Euro. The documentation submitted for these grants should be extremely standardized and simplified so that evaluation can be done quickly.</p>
<b>Procedural/Operational Aspects</b>		
8.	<p><b>Projects' time-line:</b></p> <ul style="list-style-type: none"> <li>a. Long evaluation and contracting processes leading to implementation delays</li> <li>b. Significant reduction of the project evaluation period</li> </ul>	<ul style="list-style-type: none"> <li>a. Start of implementation as soon as a project is being submitted/declared eligible</li> <li>b. Limiting project assessment time to maximum 3 months (including the review of administrative, eligibility, technical and economic aspects) of all projects submitted in the frame of financing programs, so as to avoid registration of delays that can lead to loss of business opportunities for projects included in the application submitted.</li> </ul> <p><b>Suggested solution:</b> The tender documents should include a statement whereby the candidate confirms it complies with <u>the relevant</u> qualification criteria (e.g. including financial, economic, etc) with no other qualification documents to be included in the proposal at this stage. The evaluation committee considers qualified each applicant who has signed the statement. The evaluation committee then performs the technical evaluation and ranks the proposals according to the evaluation criteria. The evaluation committee requires the qualification documents from the highest ranked applicant and performs a thorough evaluation thereof, asking for clarifications, if the case. If the applicant submits all required documents proving its eligibility, it will be awarded the contract. If not, it will be rejected and the following best ranked applicant will be evaluated in the same manner.</p>
9.	<p>Letters of Comfort are being circumvented</p>	<p>Develop an alternative to Letters of Comfort that cannot be easily circumvented by small banks and</p>



		does not imply high costs for the beneficiaries.
10	Submission periods are frequently announced without being launched, are being postponed or launched with very short notice.	Reliable and timely announcements of submission periods.
11	“First come – first served” applications cannot assure that the best projects are being funded and usually end up being a lottery of who has timely access to the server of the Ministry in charge and who has not.	Exclude the “first come – first served” criterion (also for national programs).
12	Programs that do not foresee a reasonable financial participation of the beneficiary tend to attract high risk projects.	No more than 70% of the eligible costs for private beneficiaries (refers also to national programs).
13	Technical changes during implementation – caused by the long delay between submission and launch of a project – are hardly ever accepted by the Management Authorities.	More flexibility regarding technical changes during the implementation phase.
14	Due to the fact that, at the time of submission of a project, beneficiaries have no possibility of knowing in which month the implementation will start, they frequently end up with an implementation calendar that foresees construction activities in December – March.	More flexibility regarding the duration of the implementation period.
15	Extremely short response times for beneficiaries regarding clarifications or other requests (currently, usually five days – not sufficient to draft a text, have it signed and stamped by the project manager and submit the original to the Management Authority – especially if the beneficiary is abroad).	Shorter response time for authorities, longer response time for beneficiaries.
16	Some explanations concerning the results of the evaluation refer to non-public internal rules or notes.	All internal rules or notes relevant to the projects have to be published before submission of applications.
17	Evaluators and project officers often refuse to cooperate with consultants and request the presence or signature of the beneficiary who frequently is physically not in Romania, does not speak Romanian and certainly does not want to know all the detailed rules and procedures requested by the Management Authority (this is what he pays the consultant for).	Consultants have to be accepted as representatives of the beneficiaries.
18	EU-funds are blocked by contracts that have been signed, but the start of the implementation period is repeatedly postponed.	Beneficiaries should be obliged to start implementing their projects within a period of X months after signing the financing contract, otherwise the contract will be dissolved (and the funds can be used for other projects on the waiting list).

19	Securing the needed co-financing to EU grants is often a problem.	Setting up dedicated co-financing schemes (e.g. SMEs; smaller municipalities), structured on commercial basis, would facilitate the needed cash-flow for project implementation.
20	Limited 'in-house' expertise in evaluation of EU applications and tenders.	Outsourcing of these activities to experts, based on EU co-financed contracts.
21	Payment mechanism is particularly long time consuming; subsequent approvals by various bodies (some of them not having the necessary experience to understand the nature of works) generate additional delays in implementation.	Simplification of procedures by reducing the number of approvals and by taking into account the role of the FIDIC engineer (who is responsible to approve the works).
22	Contractual non-compliance penalties	The introduction and implementation of relevant measures and clear sanctions for failures by the parties involved in accessing European funds, (both beneficiaries and Management Authorities or Intermediate Bodies).
23		Simplifying the payment flow for the public & private beneficiaries of EU projects, the transfer of money to be done in 1-2 days through bank/s. Conclude framework agreements between the Management Authority and the bank/s in the case of the lack of state budget financing, based on which the bank will pay to the beneficiaries the requested amounts; these amounts will be reimbursed afterwards by the state to the bank/s in certain conditions.
24	"Save the environment"	-reduce the amount of paper documents and perform only in electronic format (upload proposals in SEAP); -any control/audit body should ask exclusively for documents in electronic format.
25	High number of SMIS codes	Reduce the number of SMIS codes as much as possible. This will make the financial management easier and will reduce the time lost to reallocate funds between different SMIS codes (such a reallocation implies addenda to the financing contracts). There is no benefit to have many detailed SMIS codes.
26	Long time needed to sign addenda to financing agreements (currently 3 months for various operational programs)	Reduce to maximum 1 month the time needed to sign various addenda to financing agreements (acte aditionale la contractele de finantare).
27	Reallocation of funds between SMIS codes.	Reallocation of funds between different SMIS codes, without modifying the total financing agreements value, should be done by an administrative order issued by the contracting authority and should not be subject to an addendum to the financing agreement.

28	An update of the “general estimate” of the feasibility study during the implementation phase is required very often (before launching each contract under a project in case the design included minor changes; at the signature of each contract included in a project; if there are modifications during the implementation phase; at the finalization of each contract; etc).	-the “general estimate” of the feasibility study should be updated only when all contracts within a project are implemented. Modify the national law which requires updates of the feasibility study in specific cases. Once a design is performed based on a feasibility study, the technical specifications, quantities, works, etc. included in the design should prevail and should become the basis execution, acceptance of works performed, payment by the contracting authority, and control by different bodies.
29	Flexibility for works contracts in case of infrastructure projects.	A flexible system should be accepted for the implementation of the works contracts. FIDIC conditions are pretty flexible; however, these are usually overruled by rigid and inflexible approach by the management authorities, control/audit bodies, etc. Variation orders, additional works required, reduction of works required, optimization works should not lead to ineligible quantities, as long as they are approved by the Engineer and accepted by the contracting authority.
30	Financial corrections – very often applied without real and legal justification, high percentage (almost always 25%).	-financial corrections should be very well justified and only according to the law in force at the time the fact took place. -financial corrections should be gradually quantified, depending on the specific case. It is unfair to apply a high financial correction of 25% irrespective of the reason. -the financial corrections should be deducted from the last payments performed by the management authority to the contracting authority and not from the current payments (especially in case the contracting authority does not agree with the financial correction and takes to court the managing authority).
31	Similar problems in various operational programs with different solutions given (if any!) by the management authorities	-usually there are similar problems in various operational programs (for example infrastructure projects in transport, regional development, environment sectors). Same solutions should be applied and the solutions should be given under “instructions” published on the management authorities’ websites.
32	The need to implement programs tailored to socio-economic realities of the country. See MDI 4.2 Rehabilitation of unused polluted industrial sites	Coordination with the general strategy of development and socio-economic realities.



	and preparation for new activities.	
33	Guides that change rules during project preparation	Stopping this practice for those who want to know the rules to access funds from the beginning.
34	Low level of professional evaluators who often do not understand the project idea, nor the economic and financial indicators and do not require additional information.	Contracting of evaluators with a higher professional level. Establish clear rules for evaluation.
35	Payments are often delayed by the Clients' financial problems or conditioned by obtaining certain approvals which in certain situations are given with significant delay.	Establish clear rules regarding Client's payment obligations
36	The Clients' staff, especially those in key positions, is often changed. This fluctuation causes instability and delays in decision making.	Decrease staff fluctuation at Client level.
<b>Financing Aspects</b>		
37	The need for clear, uniform and unequivocal provisions for financing banks on the establishment of guarantees on assets arising from projects.	Removing restrictions mentioned in the GD 606/2010 on maximum value of the facilities to be granted on the basis of assets acquired within the project. Reformulation of contractual clauses in the sense that mortgage of an asset purchased under the project in favor of banks is possible only for the implementation period. Mortgage itself can be established, indeed, only during implementation phase, but its validity will be the same as the maturity of the related loans (generally 3-7 years, but depending on the type and value, credit may be granted for longer periods).

## B. 2014-2020 programming period

No	Existing Institutional Obstacles	Relief Measures
38	Until the implementation of Government	Further support adoption of new financial



	Emergency Ordinance no. 27/2013, under the current programming period, the main stakeholders have been reluctant to the introduction of financial instruments and financial measures, to be used in order to increase absorption of non-reimbursable. Additionally, little progress has been made with regard to the implementation of the cooperation memorandum executed with the international financial institutions.	instruments to uphold an increased absorption of non-reimbursable European funds as well as implementation of measures set forth under the cooperation memorandum with international financial institutions aimed at securing support to Romania for the preparation and implementation of the future multiannual financial framework.
39	During the 2007-2013 programming period, the norms and guidelines regulating the projects' assessment activity did not provide clear schedules and timeframes allocated to such activity, which consequently led to significant delays in the projects' assessment and approval.	Initiation and upholding of legislative proposals to limit the timeframe for the assessment of projects for non-reimbursable European funds, laying down monetary and disciplinary sanctions for the staff in charge, in the event of failure to meet relevant procedural deadlines.
40	During the 2007-2013 programming period, the insufficient visibility of project calls as well as the low predictability of calls for submission of projects by beneficiaries of non-reimbursable European funds led to an insufficient project pool under some Sectoral Programs.	Higher predictability of calls for submission of projects by beneficiaries of non-reimbursable European funds.
41	The lack of project prioritization and focus on the strategic national projects, allowing financing by non-reimbursable European funds, led to a delay in the commencement and implementation of several major national projects.	Allocation of non-reimbursable European funds to priority development areas at national level, so as to foster major, viable projects with an impact on Romania's competitiveness, to be contracted by governmental authorities.
42	The currently implemented Management Authorities and Intermediate Bodies' structure faces numerous operational hurdles caused mainly by the insufficient human resources available, as well as by the un-optimized internal procedures governing the activity of such bodies.	Amendment of existing institutional framework via total or partial outsourcing of activities carried on by the Management Authority and Intermediate Bodies.
43	Not very qualified UCVAP staff.	UCVAP staff should be intensively trained in order to be able to have an active and positive contribution to the procurement and contracting process.
44		The programs have to be better targeted at realistic socio-economic needs and deficits. During the period 2007-2013, too many programs were insufficiently "market-oriented"
45		Establish very clear eligibility criteria that restrict access to programs from the very beginning, rather than selecting a small number of projects from a large number of submitted projects.





46		We see the need of a really efficient and competent Help Desk, or even a Clearing House to offer relevant and legally binding information to beneficiaries, provide guidance regarding questions that are not covered by the guidelines and eventually solve conflicts between the beneficiaries and the Management Authorities.
47	Implementation handbooks are too long and complicated	Implementation handbooks have to be simplified (now they have hundreds of pages each), standardized; and harmonized with the contracts of some programs (at the moment there are several contradictorily rules).
48	Efficient use of financial instruments	Higher use of the financial engineering instruments, in line with the new EC regulations, for enhancing the access to financing; these instruments assure an efficient and quick use of the available grants for SMEs, as well as a leverage effect within a certain period of time, with significant impact on the overall economic environment ( ex. Jeremie instruments: FLGP, Risk Sharing funded, venture capital, JASMINE micro-financing, etc)
49	Proposals related documentation required for accessing EU funds. Uniform guidelines and forms in all the Operational Programs.	Develop, in cooperation with the financing banks, a format of an eligibility guide for private beneficiaries, common to all programs. Standardization, differentiated for public and private sector, of the forms used on all programs (applications for funding grant agreements, progress reports, reimbursement requests, etc.). This standardization will result in the reduction of assessment of EU documentation time and creating conditions to increase the absorption.
50	Reliable and timely announcements of submission periods	An annual calendar of calls for proposals launch will allow potential beneficiaries of EU funds to have a better planning in place, which will help complete documentation for European funds in time for each call for proposals with a high quality level, including obtaining all necessary approvals in a timely manner. In order to have a higher absorption start then 2007-2013 period, it would be useful to publish such a calendar by the end of 2014 for all sessions for submitting projects to be opened in 2015.
51	The involvement of banks in the management of EU funds. Ex-ante evaluation of the projects, undertaken by the Bank.	Banks analyze and approve the necessary loans for the project and the beneficiary shall attach to the application form the loan agreement signed with the bank. During evaluation, the beneficiary will receive extra



		<p>points if it attaches a credit contract or, otherwise, it will not be assessed from technical economical point of view, but only for administrative and eligibility criteria.</p> <p>This model would only work if the deadline for project selection will be a maximum of 3 months and, in particular, in the case of continuous submission sessions.</p>
52	The involvement of banks in the administration of grant schemes	<p>Implement the financial engineering instruments through banking institutions: open tenders for banks interested in carrying in different kinds of financing schemes dedicated to SMEs, from amounts allocated from the structural funds, under <i>de minimis</i> or state aid schemes, such as:</p> <ul style="list-style-type: none"> <li>▪ mixed grant-loan schemes (similar to the Phare 2000 Social and Economic Cohesion - Credit line for SMEs pre-accession program)</li> <li>▪ mixed subsidized interest-state guarantee schemes (similar to the Kogalniceanu Program, Jeremie)</li> </ul> <p>Administration of the grant schemes by commercial banks will result in a faster implementation of the projects - on the one hand banks using their expertise in the rapid evaluation of projects and on the other hand beneficiaries are going to work with a single entity in the implementation of projects (related to payments and grant reimbursements, lending, monitoring ongoing projects). A revolving nature of these schemes will have a multiplying effect – credit reimbursed can be used by other beneficiaries in the same Programming period.</p>
53		<p>The best practices from existing period like payment flow through banks, simplified procurements, increased transparency related to projects status and reimbursements received etc. to be applied also for the next period.</p>
54	Insolvency. Contracting authorities are not allowed to terminate contracts in case a contractor is declared “insolvent” and does not perform according to contractual provisions (unable to secure the needed cash-flow, lack of manpower, equipment, materials, unable to pay the subcontractors, etc.). The contract is blocked in this case and the risk not to be finalized until the expiry	<p>Amend the “insolvency law” by allowing the contracting authorities to terminate contracts in case the contractors are declared insolvent and do not perform according to the implementation plan for 3 consecutive months.</p>



	date of the contract is very high.	
55	Accept of the Management Authority for the divestiture of amounts receivable arising from the grant contracts.	Currently, as specified by the Management Authority, the divestiture is not possible, the arguments being based on European regulations in force. Considering that these documents will soon be subject to amendments in for the future programming period, our proposal is to check to what extent such a query can be accommodated in the new regulations.

