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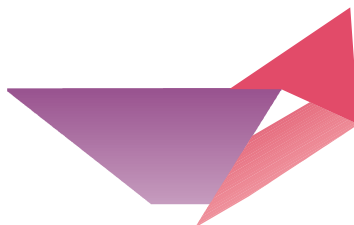
European Regional Development Fund



EUROPEAN UNION

PROJECT IMPLEMENTATION MANUAL

Version 1/04.2018



GOVERNMENT OF ROMANIA

www.interreg-rohu.eu

Partnership for a better future



HUNGARIAN
GOVERNMENT

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ABBREVIATIONS

AA	Audit Authority
AWG	Assessment Working Group
BRECO	Oradea Regional Office for Cross-Border Cooperation
CA	Certifying Authority (Managing Authority took the role of CA)
CBC Programme	Cross-Border Cooperation Programme
CN	Concept Note
CP	Cooperation Programme
EC	European Commission
eMS	Electronic Monitoring System
ERDF	European Regional Development Fund
ETC	European Territorial Cooperation
EU	European Union
FA	Full Application
FLC	First level control
GBER	General Block Exemption Regulation
GfA	Guide for Applicants
HU	Hungary
HUF	Hungarian forint
IP	Info Point units in Hungary
JS	Joint Secretariat
LA	Lead Applicant
LB	Lead Beneficiary
MA	Managing Authority
MC	Monitoring Committee

MRDPA	Ministry of Regional Development and Public Administration
Mol	Memorandum of Implementation – Arrangements between MS participating in the Interreg V-A Romania-Hungary Programme
MS	Member State of the EU
NA	National Authority
NGO	non-governmental organization
PA	Partnership Agreement
PB	Project Beneficiary
PPR	Project Progress Report
PR	Partner Report
RC	Reimbursement claim
RO	Romania
RON	Romanian leu
SC	ERDF Subsidy Contract
SGEI	Service of General Economic Interest
SZPO	Széchenyi Programme Office Consulting and Service Nonprofit Limited Liability Company (Hungary)
SME	Small and medium-sized enterprise
TEN-T	Trans-European Transport Network

1. INTRODUCTION

The Project Implementation Manual is intended to guide Lead Beneficiaries (LB) and Project Beneficiaries (PB) of operations in the implementation phase of their projects from ERDF and state-co-financing contracting to project closure on questions related to administrative and financial management, on monitoring, reporting and control procedures and on other requirements. It gives advice on questions of general importance to all operations on whole project level, as well as PB level.

The Project Implementation Manual and its annexes can be amended / updated whenever major changes in the Programme implementation system occur. Thus, it is recommended to follow the latest version of the Project Implementation Manual, available on the Programme website: <http://interreg-rohu.eu>.

For specific problems related to your particular operation please contact the responsible Joint Secretariat (JS) or Info Point Hungary (IP) for advice. For questions related to the validation of expenditure on PB level please contact the FLC body in your country. You can find the contact details on the above mentioned official website.

2. CONTRACTING

2.1 Pre-contracting stage

Flow-chart for pre-contracting process

	Activity	Document	Responsible	Deadline
1	Notifying the Lead Applicant regarding the selection of the project	AWG Notification letter	AWG President	3 working days after MC decision

2	Notifying the JS on the acceptance /refusal of financing	LA confirmation letter	LA legal representative	As specified in the AWG Notification letter
3	Requesting pre-contracting documents	Notification letter regarding pre-contracting documents	JS expert	Next day after LA confirmation letter
4	Modifying the application form into eMS, according to AWG conditions/recommendations, if the case		LB representative, JS expert	A commonly agreed term
5	Uploading the pre-contracting documents into eMS/ Requesting the extension of the deadline (if dully justified)	Letter regarding deadline extension – if the case	LB representative	5 days after the status of the application in the eMS is updated to “Approved”
5.1	Notifying the LB on the new deadline for uploading the pre-contracting documents	Notification letter on extended deadline	JS expert	2 days after receiving the Letter regarding deadline extension
5.2	Uploading the pre-contracting documents into eMS	-	LB representative	5 days after receiving the Notification letter on extended deadline
6	Verifying the uploaded documents and requesting clarifications, if the case	Clarification letter 1	JS/IP expert	5 days after LB uploaded the documents

6.1.	Uploading the requested clarifications	-	LB representative	5 days after receiving the clarification letter
6.2	Verifying the uploaded clarifications and requesting new clarifications, if the case	Clarification letter 2	JS/PI expert	2 days after LB uploaded the clarifications
6.3	Uploading the new clarifications	-	LB representative	3 days after receiving the Clarification letter 2
6.4.	Verifying the new clarifications	-	JS/PI expert	2 days after LB uploaded the new clarifications
7	Approving the pre-contracting documentation		JS/PI expert	2 days after pre-contracting documentation is complete
7.1	Proposal regarding the refusal of financing, if the case	Notification letter to MA	Head of JS	2 days after pre-contracting documentation is complete

The Monitoring Committee is the body which approves the final list of project proposals selected to be supported for financing. The decision of the MC is communicated in writing, by the JS to the Lead Applicants (LA).

Within maximum **3 working days** from the issuance of the decision of the MC for the selected projects, the JS will inform you via online notification letters on the selection of your project.

The notification letter will include information regarding any recommendations the MC/Assessment Working Group has issued for the respective project, if the case.

Such recommendations will be operated using the eMS applicant user and may refer to, among others, reduction of the project budget, removal/revision of a particular activity, revision of indicators etc. The notification letter will also include the invitation for the LA to express their consent to enter a Subsidy Contract. The JS will verify if the LA respected and modified the application according to the recommendations.

Attention! *The starting date for the eligibility of expenditures, except for preparation costs, is the next day following the receipt by the LA of MC Decision regarding the approval of the project. This means that beneficiaries can proceed with expenditures, which are eligible from this date, provided the subsidy contract is signed with the Managing Authority.*

*Please be advised that the **MA may refuse the contracting of a project** and propose to the MC the rejection of the project from contracting. Therefore, expenditures made by the beneficiaries before the signing of the subsidy contract are made at the **risk of the beneficiaries** and in case the subsidy contract is not signed, these expenditures shall not be reimbursed by the Programme.*

If a beneficiary decides to **refuse the grant**, the respective beneficiary must notify the JS within **3 working days** from the date the notification letter on the MC decision was received.

During this stage, a notification letter will be sent to the selected Lead Beneficiaries which previously expressed their agreement on concluding a Subsidy Contract. Through the notification letter, the LB will be requested to prepare and upload in the eMS a set of documents¹ for all partners in the project. Later-on, after concluding of the Subsidy Contract, the LB² will fill-in in eMS "Supplementary Information"

¹ The list and templates of the necessary documents can be found on the Programme's website www.interreg-rohu.eu

²Conditioned by the configuration of the LB user in the eMS

section of the Application Form (with info such as: Project management, Bank Information, Physical location of the Documents, Partnership Agreement, User Assignment).

Attention! *Please be advised that in case any of the beneficiaries has **debts** towards the Hungary-Romania Cross-Border Cooperation Programme 2007-2013 and/or Interreg V-A Romania-Hungary Programme, the project shall not be contracted until these debts are repaid.*

After approval of the project proposal, the Lead Applicant, at this stage becoming the Lead Beneficiary, will sign:

- **The Partnership Agreement (PA)**, stipulating the rights and duties of each beneficiary (tasks, reporting, etc.), the sound financial management of the funds allocated to the project, the arrangements for recovering amounts unduly paid etc. A signed copy of the PA must be uploaded in the e-MS in the Application Form "Supplementary Information" section – Partnership Agreement, thus being presented to the JS during the pre-contracting phase. The LB and its partners may decide to include additional provisions, with prior agreement of the MA, but these should not contradict the rules of the Programme or the applicable European/national legislation.

Attention! *Signing the PA is a precondition for signing the SC and the receipt of funds from the Programme.*

- **The Subsidy Contract (SC)**, stipulating the rights and duties of the LB in relation with the MA. During the pre-contractual phase, it is the LB's responsibility to ensure that all documents necessary for signing the SC are presented to the JS/uploaded in the eMS.

Attention! *Please read carefully the provisions of the SC, PA and Co-financing contracts, with regards to rights and duties of LB and PBs. Indicative templates of these documents are available on the Programme's website: www.interreg-rohu.eu.*

One key document that has to be submitted during the pre-contracting stage is the **Schedule³ for spending forecast**. This document is very important during the implementation of the project and **failure to comply with the provisioned forecast at the half of the implementation period may lead to loss of project funds**. Therefore, it is very important to plan ahead very carefully when filling-in this document. Please take into consideration that the reporting of the projects will be done exclusively through the eMS and that the total amount⁴ each beneficiary commits to spend and request for First Level Control by the end of the month marking the half of the implementation period. The schedule shall include information regarding the reporting periods⁵ and related committed amounts that will be requested for FLC for each beneficiary.

During the pre-contracting period, the LB together with the project partners shall draft and submit to the JS a graphic for defining partners' spending target at half implementation period the e-MS reporting periods (for projects under Call 1 and Call 2)/partners target at half implementation period (for projects under call 3).

Attention! *It is extremely important to pay attention when drafting this graphic/targets, as it will reflect the total amount each partner commits to spend and request for first level control by the end of the month marking the half of the*

³ The template of the schedule is available on Programme's website.

⁴ The amount should be estimated as realistic as possible. See chapter 3.6

⁵ The beneficiary will specify the number of the implementing month not the calendar one. E.g. for the first reporting period: month 3, respectively month 4 (depending on the duration of the implementing period) of the implementation period.

implementation period and the financial performance of each partner in spending its budget will be judged based on this amount.

The beneficiaries shall upload to the eMS the documents requested by the JS⁶. The LB will have **5 working days** for uploading the documents. In duly justified cases, the LB may request an additional term yet **not exceeding 5 working days**.

Attention! *When a **project is selected under certain conditions**, it is very important for LB to provide all the requirements of the MC, within the deadline mentioned. For example, if you didn't submit a Title Deed in case of land acquisition (purchase/expropriation) when you applied, **you have to provide the Title Deed in maximum 3 months** after the notification of approval for financing, or otherwise the Subsidy and co-financing contracts will not be concluded.*

Attention! All documents requested during pre-contracting period, for all beneficiaries, should be submitted within the deadlines⁷ specified by the JS in the notification/clarification letters. The pre-contracting period also includes the requests for clarifications. In case the deadlines⁸ are not respected, your project may not be contracted.

The rejection may be proposed also in case the pre-contracting documents fail to comply with the Programme rules. Please be advised that this is not an exhaustive enumeration.

2.2 Contracting

⁶ The LB shall assume full responsibility regarding the conformity of the uploaded documents with the originals.

⁷ The common practice is to set a maximum 5 working days deadline, for any clarification / completion request. However, in justified cases, these deadlines can be either extended or shortened.

⁸ Normally the pre-contracting period, which starts after the approval in eMS of all modifications resulted from the assessment process, will not exceed 27 working days. See the flow-chart above.

The rate of the ERDF financing within a project budget is maximum 85% of the total eligible budget.

The rate of the national state budget co-financing is maximum 13% of the total eligible budget for Romanian beneficiaries, other than central public authorities that are financed through the Romanian state budget, and maximum 10% or 15% for Hungarian beneficiaries, in line with national legislation.

Also, each beneficiary has to bring an own contribution to the budget, of minimum 2% of the total budget in case of RO beneficiaries and 5% for HU beneficiaries⁹.

The **Subsidy Contract** is the legal document signed between the MA and the LB, on the basis of which the ERDF is transferred to the LB.

Attention! *Please be advised that following the verification of the contracting documents by the MA, additional clarifications may be requested. The LB and project beneficiaries have the obligation to provide the requested clarifications within the set deadlines¹⁰.*

Once signed by the MA's representative, the SC will be signed by the LB within **5 working days** after receiving it. The LB shall keep one original exemplar and return the other exemplars to the MA. Please note that the contracts need to be dated.

The three copies of the subsidy contract dossier are to be distributed as follows:

- one for the LB;
- one (with internal MRDPA visas) for the MA;
- one for the JS (to be archived and kept according to relevant procedure).

Note: *Please note that after signing the subsidy contract, the LB has **10 working days**,*

⁹Exceptions are the central budgetary organs, in both Member States.

¹⁰ The common practice is to set a maximum 5 working days deadline, for any clarification / completion request. However, in justified cases, these deadlines can be either extended or shortened.

starting from the signing date, in order to scan and upload the contracts with all the annexes in the electronic system, in the "Attachments" section of the Application.

After the subsidy contracts have been signed by both parties, the Romanian beneficiaries will be able to sign the **co-financing contracts** with MRDPA - please see chapter 2.3 of this Manual. For Hungarian beneficiaries the SZPO, on behalf of the Prime Minister's Office, will sign the co-financing contracts. The process is described in chapter 2.4 of this Manual.

Note: *Please note that after signing the co-financing contracts, the LB has **10 working days**, starting from the signing date, in order to scan and upload the contracts with all the annexes in the electronic system, in the "Attachments" section of the Application*

Over-contracting

Applications scored above the minimum threshold (65 points) are selected by the MC on reserve lists. Within the financial limits, these applications may be over-contracted. The signing of specific financing contracts will follow the standard contracting procedure.

The Lead Applicant (after consultation with the partners) will notify the JS regarding the acceptance or refusal in **maximum 3 working days**¹¹. In case of refusal, the JS will address the invitation to the next project on the approved reserve list, for the relevant Investment priority.

Attention! *Details regarding over-contracting conditions are to be found in the respective SC indicative template, available on Programme's website.*

2.3 Concluding the State Co-financing Contract for RO Beneficiary

The procedure regarding the conclusion of the co-financing contract will be handled

¹¹ In case the LB needs more time to take a decision, the deadline can be extended, if proper justification is provided by the LB through notification letter sent to the JS/ MA, within 3 working days.

by the RO FLC Unit. The co-financing contracting process will be performed in parallel with the contracting of the ERDF, but can be finalized only after the subsidy contract is signed by the MA.

After signing the co-financing contract by the MA, the beneficiary will receive two original copies. One signed copy (with MRDPA internal visas) will be returned to MA.

Requests for advanced payments

After the co-financing contract is signed, but before submitting the first project report, each Romanian beneficiary may send to the MA an advance payment request for maximum **80% of the value of its co-financing contract**. This request will be submitted in original and shall stipulate the percentage, the amount and the bank account where the funds should be transferred to – according to financial identification form issued by the relevant bank, uploaded in eMS in the section “Supplementary Information”/ “Bank Information”. The MA will ensure the availability of advance payments based on the financial flows drafted on the basis of the concluded co-financing contracts.

The request is verified in **maximum 15 days** from the registration date at the MA (this deadline may be suspended in case additional information is needed). The amount corresponding to the advance payment shall be transferred by the MA to the Romanian beneficiaries within **maximum 10 days** from the date of the approval of the advance payment request.

2.4 Concluding the State Co-financing Contract for HU Beneficiary

Hungarian beneficiaries of projects selected for co-financing from the Union budget receive the national co-financing automatically, without any further application procedure. Hungarian co-financing is provided by the Prime Minister’s Office, acting as National Authority in the ROHU Programme.

The maximum amount of the national co-financing is defined in the national co-financing contract in euro and it is paid to the beneficiaries in euro, based on the budget table of the subsidy contract. The rate of co-financing (max 10% or 15%) depends on the type of the organization: organizations financed from the central budget, as well as directly or indirectly state-owned organizations (universities, national parks, etc.) receive 15% co-financing, while all other types of organizations receive 10% co-financing¹².

The procedure of the preparation of co-financing contracts for signature can be started after the approval of the list of supported projects by the MC of the ROHU Programme, followed by a notification sent by the NA to SZPO based on the list of selected projects.

Co-financing contracts with Hungarian beneficiaries are signed by SZPO, on behalf of the NA. The preparation of contracts is the task of the Control Department within the International and European Cooperation Programmes Directorate of SZPO. Responsible organizational units are the same as the ones implementing FLC activities.

The main preconditions for the conclusion of national co-financing contracts:

- SC signed between the MA and the LB of the project;
- PA signed by all beneficiaries participating in the project.

Based on the list of projects sent by the NA, SZPO notifies Hungarian beneficiaries on the availability of the national co-financing and the documents to be submitted for the conclusion of contracts. After the submission of the necessary documents by the beneficiary, SZPO may ask for completion (if needed – in case the documentation is not complete). When all documents are available at SZPO, the contract template

¹² Please, consult Hungarian Government Decree No. 126/2016 (VI.7.) on the implementation of certain cross-border co-operation programmes financed under the European Regional Development Fund and the Instrument for Pre-accession Assistance in the 2014-2020 programming period.

is filled in and the necessary annexes are added to the contract. The draft contract is then sent to the beneficiary for signature. The beneficiary returns the signed contracts to SZPO, where it is also signed by the responsible persons. Once the contract is signed by both parties, the transfer of the national co-financing to the beneficiary is initiated – as 100% pre-financing.

2.5 Amendment of the ERDF subsidy contract, other project changes

1. Modifications of the contract at the initiative of the LB/beneficiaries

No matter how well a project is planned and prepared, during implementation, changes that require the modification of the project may occur. Nevertheless, considering that the initial Application Form has been evaluated and selected by the MC *it is strongly advised that beneficiaries limit the number of project changes.*

Table no.1. Possible modifications

Type of modification	Object of modification	Supporting documents	Responsible body
Notification without approval	<ul style="list-style-type: none"> -Contact data (address, registered office, etc.) change of the LB or of the project beneficiaries- "Modification Request" needed in eMS; -Replacement of the legal representative- "Modification Request" needed in eMS; -Replacement of the contact person-"Modification Request" needed in eMS; - Changes in the Schedule for spending forecast and 	<ul style="list-style-type: none"> -Notification of modification, including justification for the modification (signed by LB) in 1 original; -Revised (section of the) contract annex(es), subject to change (if the case) in 1original; -Supporting documents in 1 original copy. 	LP

	<p>reimbursement claims; beneficiaries have the possibility to change the estimated data mentioned in the schedule, except for the total amount foreseen by each beneficiary to be requested for FLC at half of the implementation period-</p> <p>"Modification Request" needed in eMS;</p> <p>-Change of the bank account of the LB-No "Modification Request" needed in eMS;</p> <p>Minor changes in the AF: they may be related either to:</p> <ul style="list-style-type: none"> - a change of format of a single activity- "Modification Request" needed in eMS; - an implementation timeline of a single activity (e.g. postponement of a conference)- No "Modification Request" needed in eMS - change in the location of the planned workshop- <p>"Modification Request" needed in eMS. These changes should not have an impact on the main objectives of the project-</p>		
Notification with approval	- Technical modifications of documents elaborated during the implementation of the project (feasibility study, DAIW	-Request for modification, including justification for the modification (signed by LB) in 2 originals;	LP JS/IP

	<p>for RO applicants and Feasibility Study/ Documentations for approval of intervention works for HU applicants)- No "Modification Request" needed in eMS;</p> <p>- Budgetary reallocations within the budgetary line, in the limit of 20%, without changing the total amount of the budgetary line (with properly documented market research)- "Modification Request" needed in eMS;</p> <p>- Modification of the project implementation team position- "Modification Request" needed in eMS.</p>	<p>-Revised (section of the contract annex(es), subject to change (if the case) in 2 originals;</p> <p>-Supporting documents in 2 originals or copies.</p>	
Addendum	<p>-a) changes in the project partner organizations (with the exception of modifications following legal updates in the case of public institutions)- "Modification Request" needed in eMS;</p> <p>- Changes in the partnership- "Modification Request" needed in eMS;</p> <p>- Budget reallocation between Project Beneficiaries- "Modification Request" needed in eMS;</p>	<p>- Request for modification, including justification for the modification (signed by LB);</p> <p>- 2 originals of the revised (sections of the) Annexes of the contract, subject to modification (marked with "Revised via Addendum no... and the project code on each page);</p> <p>- supporting documents in 2 originals or copies.</p>	LP JS/IP MA/ MC ¹³

¹³ If the modifications affect initial eligibility conditions, as set in the relevant GfA: e.g. modification of the initial partnership.

	<ul style="list-style-type: none"> - Budgetary reallocations between the budgetary lines- "Modification Request" needed in eMS; - Budgetary reallocations within the budgetary line, over the limit of 20%, without changing the total amount of the budgetary line- "Modification Request" needed in eMS; - Technical modifications compared to the documents within the approved application form (feasibility study, DAIW for RO applicants and Feasibility Study/ Documentations for approval of intervention works for HU applicants)-No "Modification Request" needed in eMS; - Extension of the implementation period until the maximum implementation period according to the GfA- "Modification Request" needed in eMS; - Modification of the emplacement/ location of the investment (including changes in the legal status of the property where the investment is foreseen to be done)- "Modification Request" needed in eMS; 		
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	- Major changes in the AF- "Modification Request" needed in eMS.		
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Attention! Please be advised that the object of modifications does not contain an exhaustive list. In either case, the LB has to inform the JS, which will decide whether the modification needs an Addendum or not.

Data, including scanned documents, introduced/uploaded to eMS is binding for all Beneficiaries. Beneficiaries will not appeal against the data and documents that they have introduced in the eMS for the concerned project. Also, please note that the modification of "Supplementary Information" section in eMS and uploading documents in "Attachments" in eMS can be done without a "Modification Request" procedure in eMS.

In case there is an "in progress" Report currently running in the eMS, it will be automatically deleted when any Modification Request is being initiated in the system. Also, work on a new partner/ project progress report is no longer possible until the Modification Request is being approved in the system.

Furthermore, any modification of subsidy contract will imply modifications of co-financing contracts. If the case, you will be notified accordingly.

A. Notification without approval

In the case of minor changes which do not affect in a significant way the approved AF, the LB has to notify the JS in writing, by means of a notification.

The list of changes which can be operated via notification (do not require a contract modification by Addendum nor approval) and the documents that need to be submitted by the LB can be found in the Table no.1 from above.

The SC modification should be initiated in writing via email (hard copy if necessary) by LB, which sends to the JS the Notification of modification and all supporting documents (scanned and/or originals).

The Notification of modification and all supporting documents must be submitted in maximum **5 working days** from the date of the change.

After notifying and contacting the JS, the LB has to operate/ask JS permission to operate the changes in eMS and upload the Notification for modification and all supporting documents in "Attachments" section of the Application Form, in maximum **3 working days**.

Attention! *Any extension of this deadline (3 working days) until the end date of the reporting period is possible based on JS approval, when a "Modification request" in eMS is necessary and especially if there is a Partner/Project Progress Report in progress in the system and the approved contract modifications have no impact on the respective Report.*

Afterwards, the JS will allow the LP to operate the necessary modifications on the Application Form in the eMS system. The necessary steps to operate modifications in the eMS system are detailed in "Reporting in eMS Manual for Lead Partners and Project Partners".

Attention! *The modification is considered valid starting from the date the change has occurred.*

B. Notification with approval

The SC modification should be initiated in writing via email and/or post (hard copy) by LP, which sends to the JS the Request for modification and all supporting documents (scanned and/or originals).

The Request for modification and all supporting documents must be submitted in maximum **10 working days** before they intend to produce effects.

The *list of changes* which can be operated via notification with approval and *the documents that need to be submitted by the LB* can be found in the Table no.1 *Possible modifications* presented above.

The Request for modification should include a justification for the changes, an explanation on their consequences for the project implementation, the solution proposed to tackle them and avoid similar deviations in the future, where applicable, and also **the date the modification is intended to produce effects**. The Request for modification has to be based on the latest approved Application Form.

Attention! *In case of investment projects, please be informed that it is mandatory to present/submit to the JS the Technical Documentation **within 5 working days** from the date when the document was delivered by the designer and accepted by the beneficiary.*

*The Technical Documentation shall be accompanied by a **statement** regarding either that there are no technical modifications compared with the documents within the approved AF (feasibility study, DAIW for RO applicants and Feasibility Study/Documentations for approval of intervention works for HU applicants), or that there are modifications which shall be presented in detail and with proper justifications.*

Examples of modifications that have to be specified in the beneficiary's **statement**:

- Modifications of the functionality of the investment or of the designed spaces/rooms within the construction, etc.;
- Modification of the functional/technological/constructive solutions;
- modification of the technical-economic indicators of the investments;

- Modification regarding measurements of the investment (for example modification of the length of the road to be modernized, modification of rooms of a building that shall be constructed, etc.).
- Modification in the number of equipment to be acquired (for example, adding a new item of equipment, 4 pieces instead of 3), without changing the budget allocation under “Equipment” costs line at the partner level.
- Modification of the project team by adding a new member/position, without changing the budget allocation under Staff costs and the original hourly wage rate, if the case, at the partner level.

Attention! *The above list is not exhaustive and all modifications changing the initial conditions set within the preliminary design phases shall be notified as mentioned above. Also, please bear in mind that the same obligations apply for beneficiaries who submitted the Technical documents along with the initial Application form, and an update of these Technical documents has occurred during the implementation period.*

The JS will analyze the request and may require additional information/clarifications and/or on site verifications can be done. The LB, together with project beneficiaries, has the obligation to respond to the clarifications within the set deadlines¹⁴.

The JS has the right to refuse the requested modifications (or part of them) for which justification was not provided and which were not considered acceptable.

In maximum **3 working days** upon receipt of approval of the Request of modification on paper, the LB has to ask JS for permission to operate the changes in eMS and upload the Notification for modification and all supporting documents in “Attachments” section of the Application Form .The necessary steps to operate the modification in the eMS are detailed in “Reporting in eMS Manual for Lead Partners and Project Partners”.

¹⁴The common practice is to set a maximum 5 working days deadline, for any clarification / completion request. However, in justified cases, these deadlines can be either extended or shortened.

Attention! *Any extension of the 3 working days deadline, until the end date of the reporting period, is possible based on JS approval, when a "Modification request" in eMS is necessary and especially if there is a Partner/Project Progress Report in progress in the system and the approved contract modifications have no impact on the respective Report.*

The JS verifies if the modification and supporting documents uploaded in the system correspond with the ones already checked on paper and, if so, it approves them in the system.

Attention! *The approved modification is considered valid from the date in which it was approved by the JS. We strongly recommend that only one notification to be submitted during each reporting period. The notification must be previously agreed by all partners involved.*

C. Modifications that require an addendum

The SC modification procedure should be initiated in writing via email and/or post (hard copy) by LP, which sends to the JS the Request for modification and all supporting documents (scanned and/or originals).

The LB has the obligation to inform the JS on the initiation of the procedure to amend the SC with addendum with **minimum 30 calendar days** before they intend to produce effects (Art. 13 (2) of SC).

The last request for modification of the SC should be submitted no later than **2 months** before the end date of the project (Art. 13 (7) of SC).

The LB has to request the modification of the SC, by addendum, in the following

cases¹⁵:

a) changes in the project partner organizations:

Structural or legal changes, such as name, headquarter, change of legal status may occur in the project partner organizations during the implementation phase. It is important to note that following the structural changes, the organization still needs to fulfill all the eligibility conditions applicable at the date of submission of the Application Form. In case of legal succession, if there will be more than one legal successor, this change will be treated as a change in the partnership and verified accordingly, with prior assessment of the partnership before submission of an addenda.

b) changes in the partnership:

The partnership is the core feature of a project and it has been approved as such by the MC of the Programme. Therefore, changes in the partnership should be well justified and all alternative solutions to solve the problem need to be considered before requesting a partnership change. Partnership changes need to be duly justified and shall be approved by the MC.

Three cases may be distinguished:

1. The beneficiary that has withdrawn is replaced by a new beneficiary. The new beneficiary shall take over the budget and activities of the withdrawn beneficiary(it is also recommended that it belongs to the same region as the withdrawn beneficiary), either:
 - Fully, thus taking in the entire budget of the respective partner. In this case, the decommitment for the respective partner shall be calculated considering the moment when the partner comes in the project (a new intermediary

¹⁵ Extension of the implementation period, changes in the partnership, and substantial changes in the content of the project are not allowed during the Concept Note implementation phase (where the case), therefore only those described at paragraphs c) and d) are possible.

target just for the respective partner can be set, in the pre-contractual phase for that partner). The exiting partner will have to pay back to the Programme all funds received;

- Partially, from the moment the previous partner decided to exit the partnership. In this case, the previous decommitment target does not apply for the new partner. While concluding a new contract, a new intermediary target can be set just for that partner, considering the moment when it comes into the partnership. The exiting partner may keep all the funds received, provided the contribution to the project was ensured. This partner, however, remains bound by the target at the half period of the implementation (in case the respective partner exits after half of implementation period).
- 2. Replacement with a new partner which takes over some of the activities, responsibilities, obligations and part of the budget of the withdrawn partner, the rest of the activities, responsibilities, obligations and remaining budget may be distributed over the other beneficiaries, involved initially in the project, on condition the new formed partnership meets the conditions for a cross-border partnership and the eligibility requirements mentioned in the Applicant's Guide, applicable for the respective project.
- 3. The budget and activities of the withdrawn beneficiary are taken over by the remaining beneficiaries¹⁶.

In any case, the project still needs to prove its cross border character, and beneficiaries from both sides of the border should be involved.

Note: *Please pay attention to the fact that amendment of the partnership by replacing a beneficiary with another or taking over of a beneficiary's activities and budget by other beneficiaries within the investment projects, in which the object of investment is owned / leased by the withdrawn, is possible only if eligibility conditions are met, as*

¹⁶ Under the condition that the eligible partnership requirement is still fulfilled.

regulated by the relevant GfA!

The new beneficiary should fulfill all the eligibility criteria mentioned in the Guide for Applicants at the time of submission of the project. The new beneficiary shall be evaluated by the JS and the final decision regarding its inclusion shall be taken by the Monitoring Committee.

Steps to be followed in cases of Partnership amendment and verification process:

In the first stage, the Lead Beneficiary will submit a Request for partnership amendment, and at least the following documents should accompany the request, in 2 originals / 2 copies marked "according to original "(where the case- e.g. legal documents):

- *Note containing information supporting the reasons for requesting the amendment;*
 - Legal documents of newly proposed partner;
 - Financial situation, situation regarding the technical, administrative and human resources capacity (in accordance with the above mentioned) of newly proposed partner;
 - Revised financing application form, at least the following sections:
 - Applicant information, only for the proposed partner and including VAT recoverability, type of partner (local/public authority), legal status, relevance of the beneficiary for the field addressed by the project and relevant previous financing history of the beneficiary – according to the format and requirements of the Application Form and Applicant Guide applicable for the respective project;
 - Revised Project activities - division of tasks within the new partnership (without altering the initial approved activity/ies and its/their main

goal/outputs) – according to the format and requirements of the Application Form and Applicant Guide applicable for the respective project;

- Revised Project activities – Description of the main equipment and services purchased - division of tasks within the new partnership (without altering the initially approved list and Description of main equipment and services purchased, with the exception of reducing the list in case the new partner declared that it already owns the necessary equipment/expertise and will use them for the project);
 - Revised Budget of the operation – according to the format and requirements of the Application Form and Applicant Guide applicable for the respective project;
 - Other revised sections of the application form, if affected by the change;
- Signed decision of the partner/partners on the project withdrawal;
 - *Partnership Declaration* in accordance with the proposed revised partnership. (it should be issued a declaration by each partner involved in the proposed partnership reflecting the componence of the partnership, as proposed); Criminal record of the legal representative of newly proposed partner;
 - Declaration of Eligibility;
 - *Declaration of Commitment* in accordance with the proposed revised partnership (only by the new partners and by the partners with proposed increase of the budget);
 - Decision for appointing the representatives in the project management team for the proposed partner (if the case);

Attention! *The drafts for addendum to the subsidy and co-financing contract (for RO partners) will not be submitted in first stage! If submitted, they will not be considered.*

Clarifications and additional documents, if necessary, may be requested by JS during the verification process. JS will draft a report that will be submitted to the MA.

After MC approval/ rejection of the Request for partnership amendment, JS will notify the Lead Beneficiary accordingly.

If the Request for partnership amendment will be approved by MC, then, after JS notification letter, there will be proceeded to the **second stage of verification**.

The second stage of verification is represented by formalizing the approved Request for partnership amendment into an addendum. Lead Beneficiary will submit a Request for addendum to JS, including the drafts for addendum to the subsidy contract, in 2 originals and co-financing contracts (for each RO beneficiary involved, in 2 originals), and partnership agreement (in 1 original), Decision regarding the availability of own resources and ensuring the temporary availability of funds until they are reimbursed by the Programme. For the new approved partner(s), within the addendums, there will be set new decommitment targets, with distinct deadlines, calculated according to methodology indicated at chapter 17. Starting with the date last party signed the addendum to the subsidy contract, the partnership amendment will be enforced. Afterwards, a Modification request in eMS will be submitted, in order to operate in the system the approved addendum related to partnership amendment.

c) budget reallocation between Project Beneficiaries:

In case of reallocation of tasks between project beneficiaries, due to, for example, financial difficulties of one of the project beneficiary, a reallocation of funds may be necessary between project beneficiaries. Under these circumstances, the co-financing contracts shall also be modified, leading to a reduction/increase of the corresponding co-financing funds;

d) budgetary reallocations between the budgetary lines:

As a general rule, the management bodies do not encourage the reallocation of funds between budgetary chapters, especially due to the changes allowed under the budget flexibility rule. However, projects may, **in exceptional and duly justified cases**, apply for reallocations of funds between budgetary chapters (only for direct costs). **The reasons for modifications have to be very well justified and the LB/beneficiaries have to prove the necessity for reallocation of funds and the impact it has** on the project implementation.

e) extension of the implementation period:

The LB can submit only Addenda to extend the implementation period, case in which the approval of the MA/MC is needed. The MA's approval is needed for extending the project implementation period with **up to 3 months**, while periods **exceeding 3 months** or exceeding the maximum eligible implementation period (as set by the relevant Guide for Applicants) need the MC's approval.

f) modification of the positions included in the project management team:

- In case the positions in the project management team are part of the annexes to the SC;
- Modification of the responsibilities for the project management team where these are stated in the annexes of the SC.

In all cases, the beneficiaries shall justify the necessity and opportunity of the staff positions/workload changes for the project implementation.

g) major changes in the Application Form:

Projects are allowed to change their approach as long as the changes do not alter the planned project outputs and results and they bring an added value as compared to the initial AF e.g. Changes of the initial conditions set within the preliminary design phases (feasibility study, DALI for Romanian beneficiaries or Documentation for

approval of intervention works for HU applicants etc.). Possible major changes may be those related to modifications of the initial conditions set within the preliminary design phases for infrastructure projects or other similar situations.

An indicative list of documents that need to be submitted to the JS in case of contract modification through an addendum can be found in the Table no.1 above.

The Request for modification has to be based on the latest approved AF and the respective parts related to the change need to be updated. The Request for modification should include a justification for the changes, an explanation on their consequences for the project implementation and the solution proposed to tackle them and avoid similar deviations in the future, where applicable.

The JS will analyze the request and may require additional information/clarifications and/or on site verifications can be done. The LB, together with its partners, has the obligation to respond to the clarifications request within the set deadlines¹⁷.

After the JS receives the clarifications (if the case) and concludes that the modification is justified, necessary for the project, appropriate and in accordance with the financing contract, it submits the proposal for approval to the MA or the MC.

The MA/MC has the right to refuse the proposed modifications by the partner (or part of them) for which justification was not provided and which were not considered acceptable. In case the proposed modification was refused by the MA, it cannot be requested again.

In maximum **3 working days** upon receipt of approval of the Request of modification in writing from MA/MC, the LB has to ask JS permission to operate the

¹⁷The common practice is to set a maximum 5 working days deadline, for any clarification / completion request. However, in justified cases, these deadlines can be either extended or shortened

changes in eMS .

After receiving and signing the Addendum, the LB will upload it to the eMS - "Attachments" section in maximum **3 working days**. The two copies of the addendum are to be distributed as follows:

- a. one for the Lead Beneficiary;
- b. one (with internal MRDPA visas) for the MA;

Attention! *Any extension of this deadline (3 working days) until the end date of the reporting period is possible based on JS approval, when a "Modification request" in eMS is necessary and especially if there is a Partner/Project Progress Report in progress in the system and the approved contract modifications have no impact on the respective Report.*

After the approval of the MA, the JS will allow the LB to operate the necessary modifications on the AF in the eMS. The changes should be operated in maximum **3 working days**. The necessary steps to operate modification in the eMS are detailed in "Reporting in eMS Manual for Lead Partners and Project Partners".

The JS verifies if the modification and supporting documents uploaded in the system correspond with the ones already checked on paper and, if so, it approves them in the system.

Attention! Addenda become effective on the day of their signing by the last party. *Modifications incurred in the respective national/European applicable legislation, with impact on the implementation of the SC, become effective from the date the respective legal act enters into force without being confirmed through addenda.*

II. Modifications of the contract at the initiative of the Managing Authority

Please be advised that the MA has the right to modify the provisions of the contract unilaterally through instructions of the Head of the MA, which will be communicated

to the Beneficiaries and posted on the Programme's website, www.interreg-rohu.eu. These instructions will become part of the contract and they become effective from the date of their communication.

These modifications may concern, for example, the procedure for Romanian private beneficiaries regarding the assignment of supplies, services and works contracts financed within Interreg V-A Romania-Hungary Programme.

III. Suspension of the implementation period

During the lifetime of a project, cases may appear, when a project beneficiary faces the impossibility of fulfilling its contractual obligations due to duly justified cases, not imputable to him. Under these conditions, the beneficiary, **through LB and with the written agreement of all beneficiaries**, may request the suspension (maximum 3 months, according to the provisions of the subsidy contracts) of the implementation period.

The LB has the obligation to inform MA in **maximum 3 days** from the date when he took notice of the situation preventing him to fulfill its SC obligations, in any written form, including the e-mail.

From the abovementioned notification to the MA, the LB shall submit within **5 working days** an official request for the suspension of the project implementation, stating the reasons, analyzing the consequences it may have on the implementation of the project, and mentioning the period for which it requires the suspension, together with a written approval of all beneficiaries.

The MA will take a decision and will communicate it to the LB.

Attention! *It is extremely important to keep in mind that during the suspension period no activity shall be performed by any of the beneficiaries. The suspension shall apply to the entire project, and not just to the beneficiary requesting it.*

If the LB does not meet the contractual obligations, unsolved irregularities have been

detected, or force majeure events have occurred, **the MA can decide on the suspension of the SC** and notify the LB regarding this decision, the duration of the suspension, the proposed corrective measures (even financial measures, if needed).

2.6 Termination of the Subsidy Contract

During the lifetime of a project, any breach of the provisions of the SC may result in the termination of the contract and in the recovery of the financing, including any interest and/or related bank charges.

Attention! *The MA is entitled to terminate the contract, in whole or in part, with a previous conciliation procedure or without any other formality, and to demand repayment of the already paid amounts in the conditions settled in the SC Art.14.*

If the MA exercises its right of termination, the LB is obliged to **transfer the reimbursed amounts to the MA**. The amounts are due **within 30 calendar days** following the date of the letter by which the MA asserts the repayment claim; the due date will be stated explicitly in the order for recovery.

In case of not respecting the deadline, penalties bigger with one and a half point than the rate applied by the Central European Bank the first working day from the month of the deadline, will be applied to the owed amounts.

The LB shall inform the MA about any situation that may cause the termination or delay in the execution of the SC, within **5 working days** from the date of acknowledgment of such a situation.

If the LB together with the Project Beneficiaries decides to withdraw from the SC, they will notify the JS about their intention together with a proper justification. The MA will take a decision and inform the LB in maximum **5 working days** after it is adopted.

2.7 Amendment the Co-financing contract

2.7.1 Modifications in Romania

The Co-financing Contract can be modified as a consequence of the modification of the SC. Co-financing Contracts may be modified in the circumstances specified in the contract.

The JS will notify the RO FLC Unit, by e-mail, about the modification of the Subsidy Contract by an additional act. If the modifications are affect the total budget of the partner, the RO FLC Unit will prepare the contract modification by Addendum. In all other cases, the modifications of the Subsidy Contract, by addendum or notification, will be attached at the Co-financing Contract without further documents being prepared.

2.7.2 Modifications in Hungary

Co-financing contracts may be modified in the circumstances specified in the contract. Hungarian beneficiaries will inform HU FLC Unit about changes in their project part – as specified in the contract. If necessary, the HU FLC Unit will prepare the contract modification and the responsible persons within SZPO will sign it.

3. PROJECT IMPLEMENTATION AND MONITORING

Congratulations! If you read this chapter, it means that you are about to sign a SC and/or the Co-financing contract, or you have already signed it.

It is very important that your project, once selected and contracted, to be successfully implemented! In this respect, for a successful implementation of your project, you must know all the provisions of the **SC (even if you are not the LB)**, the **Co-financing contract** (for the national co-financing funds) and the **PA** and what the approved **AF** contains.

Attention! *Before beginning the project implementation, we advise you to (re) read*

carefully the above mentioned documents!

Implementing a project means to carry out activities proposed in the AF with the aim to achieve project objectives and deliver results and outputs. Its success depends on many internal and external factors. No matter how good the original plan is, there might be some deviation during implementation.

Attention! *Always seek the support of the Programme's bodies when in doubt or when you foresee significant project modification (please see Chapters 2.5 and 2.7 of this Manual)!*

According to the *lead beneficiary principle*, **the overall responsibility for project implementation belongs to the LB**. Nevertheless, all beneficiaries in a project should be responsible for monitoring and implementing their own part of the work. The LP should make sure each beneficiary knows exactly what/when/how to do his part of the project.

Once the project implementation began, its **monitoring** has to be an ongoing process and not a task left for the end of the project. The monitoring is aimed at tracking the achievement of objectives both at project and Programme level, following deadlines, budget execution and the fulfillment of indicators.

The European Commission has created a number of mechanisms to ensure that in case the money is committed but is unused for more years, the programmes concerned will have their budgets cut and lose all the rights related to the unused funds. These mechanisms (de-commitment and the spending targets in the Performance Framework) operate at programme level, but if programmes lose money, it is the result of projects not spending money as forecasted and it this will also affect all projects' budgets.

3.1 General eligibility principles

Most of the eligibility criteria are set in the Guide for Applicants (GfA), Chapter 2.2.1 and are the same criteria that must be met in the project implementation period.

These criteria are related to the:

- eligibility of the beneficiaries;
- eligibility of the actions (activities/operations);
- eligibility of the costs/expenditures.

The eligibility of the beneficiaries and actions was already assessed in the assessment and selection phase.

Finally, the general eligibility of the expenditures is mentioned in the Annex III of the GfA.

Attention! *Please take into consideration that the budget in the AF under Workpackages section is an initial estimation. When planning expenditure, consider only the amounts stated in the Project Budget, as this will be the basis for validation of expenditures.*

In order to be eligible, the expenditures must be incurred after approval by the MC, within the implementation period and the costs have to be paid out at the latest in **30 calendar days** after the end of the project implementation period. In case of projects having as last day of implementation 31.12.2023, all costs must be paid by the project end date and reported in the final Project progress report, including costs for closing the project. Expenditures committed and incurred after the finalization of the implementation period shall not be eligible.

Exception to this rule is made only for **preparation costs**, which:

- must be contracted, invoiced, received and incurred between 1st of January 2014 and the date of the submission of the AF;
- must be paid out no later than **60 calendar days** after the Lead Applicant is

officially notified by the Programme with regards to the AF approval by the MC;
 - is recommended to be requested for reimbursement as early as possible after signing of the subsidy contract, only in the first reimbursement claim within Project Progress Report 0.1, dedicated exclusively to preparations costs, no later than the end date of the first reporting period.

All other categories of eligible costs applicable under Interreg V-A Romania-Hungary **will be reimbursed based on eligible costs actually incurred and paid:** preparation, staff costs, travel and accommodation, external expertise and services, equipment, infrastructure and works costs.

Attention! *Expenditures committed and incurred after the finalization of the implementation period shall not be eligible. Any ineligible expenditure will be supported from by the LB and PBs own resources, apart from the approved budget.*

Simplified Cost Options

In case of Interreg V-A Romania – Hungary, the Simplified Cost Options, consisting in flat rate, apply for Office and administrative costs. The maximum flat rate for office and administrative cost is 15% of the total eligible Staff cost.

3.2 Implementation of activities based on timing and location

In your SC and/or Co-financing contract, the start date and the period of the implementation are very clearly defined. All your project activities must be implemented in the implementation period (with any subsequent modifications)! **Exceptions** are the preparatory activities, which were implemented until the deadline for submission of your application.

Regarding the location, the activities must be implemented in the eligible area of the Programme, defined in the Cooperation Programme (ROHU). **Exceptions** from this rule are made for activities and related expenditures outside the Programme area,

but with a significant importance and impact in the Programme' area, directly implemented for the benefit of the Programme area. Total amount for such activities and expenditures, presented and accepted in the approved AF shall be limited to maximum 10% of the support from the ERDF at project level.

Other aspects that must be taken into account are:

- In compliance with the approved CP, **any newly built cross-border infrastructure will become operational right after the completion of the project and shall remain operational at least for 5 years from the financial closure of the respective project;**
- **No investment shall be placed outside the eligible area!**
- The final beneficiaries of the projects (target groups) are selected through a **transparent procedure;**
- The LB must inform and ensure that all PBs inform the public, by means of the measures laid down in Annex XII of Regulation (EU) no. 1303/2013, about the assistance obtained from the Funds (please see the dedicated Chapter 8. Information and communication of the SC and subchapter 3.4 of this Manual);
- **The necessary approvals, agreements and construction permits will be obtained within 6 months after signing the SC.**
- **Supplementary works in case of investments are not eligible.**

3.3 Public procurement

3.3.1 General rules

In the context of the Interreg V-A Romania-Hungary, all procurements will be made with respect to the national public procurement law in Romania/ Hungary. **This provision is mandatory for all types of beneficiaries, no matter of their statute (either public or private).**

Procurements shall comply with national regulations applicable at the time of the

launch of tendering procedures and, irrespective of the amount or type of beneficiary, with the principles of transparency, non-discrimination and equal treatment. Moreover, the principles of economy, efficiency and effectiveness must be respected regardless the estimated value of the procurement. All beneficiaries are obliged to take all measures it considers necessary to comply with those principles, included in the principle of sound financial management, starting from the assumption that they act in a similar manner and organize own work.

In Hungary, all bodies dealing with EU money have to comply with the national legislation on public procurement.

In Romania, public bodies must comply with the national legislation on public procurement and in case of the private bodies (NGOs) will have to comply with the special regulations described in the Project Implementation Manual, section 3.3.2 below.

Attention! *The LB / PBs / ABs or their employees cannot act as a contractor or subcontractor that provides works, services and products within the project.*

All beneficiaries have the obligation to inform the contractors that any results or rights related to the project, including author's rights and/or any other intellectual or industrial property rights, obtained from the implementation or as a result of the implementation of the contract, except the cases where such rights exist before the contract, shall represent the property of the LB and PBs, as the case may be.

-> For expenditures above EUR 2,500 (excluding VAT):

- a. The beneficiaries must comply with the relevant national legislation as presented below (for RO and HU beneficiaries).
- b. The value and the complexity of the service should be reflected in the specification and breakdown of the terms of reference, as well as in the respective offer.

- c. For ordering similar services / external expertise which has already been procured in the period of 3 months counted back at the time of the procurement, collecting of the bids (3 independent offers) is not an obligation, but the previously requested offers can be used as proof.
- d. Any procurement above EUR 2,500 net but below the national public procurement threshold will be **widely publicized**, through at least the following channels: the Programme's website, the beneficiary's website. The announcement will be published prior to launching the procurement process.

Attention! *The necessary information with reference to proper documentation of each possible step in the **procurement process** and the actions/ measures to take in order to **avoid any fraud risks** within the procurement process, can be found in **subchapter 7.2.2 of the present Manual. Please read it carefully!***

3.3.2 Specific rules in case of Romanian beneficiaries

-> **Public institutions** acting as contracting authorities according to national law, will apply the provision of Law 98/2016 on public procurement.

If the beneficiaries will purchase directly supplies, services and works outside SEAP under conditions of art. 43, paragraph (3) of GD 395/2016, they must perform and document the execution of adequate market searches: proper justification of the estimated cost, the terms of references, at least 3 valid, comparable, independent offers with the same object, indicating the exact prices and the documented summary, including the justification of the selection of the winning bid.

-> **Private beneficiaries** that purchase services or works, will apply the provision of Law 98/2016 on public procurement, hereinafter named law, if the conditions foreseen at art. 6 of law are fulfilled cumulatively. Furthermore, in case that the private beneficiaries are associated with an entity that is a contracting authority, within the meaning of article 4 paragraph (1) letter c) of law, they have the obligation

to apply the provisions of the law. If the conditions are not met, they will use the terms and definitions regulated below, taking also into consideration the provisions of subchapter 7.2.2 of this Manual.

First of all, it is mandatory for the private beneficiary to have a **Procurement Plan/ Programme for the procurements within the project**. Where in the subsidies/multiannual agreements implemented for a period longer than one calendar year, the private beneficiary will choose the method of procurement taking into account the total value of goods, services, works that are considered similar or addressing to the economic operators constantly involved in activities in a relevant profile market estimated for the entire implementation period of the project, without having to conduct a single procedure/direct procurement. If multiple procedures/direct procurement will be organized, the private beneficiary shall ensure that these activities will not generate additional administrative costs under the project. If a private beneficiary implements several financing subsidies/agreements in the same period for the election of the procurement procedure in a project, the estimated values of such subsidies/ agreements for the same type of supply/service/work is not cumulated. They will be estimated separately for each subsidy/agreement.

If the estimated value of procurement **is lower than EUR 2,500 (net price, excluding VAT)**, it will be made based on the following justifying documents:

- a. **note on estimated value**(which will include information resulted from the research of market offers -bids required, products catalogues, etc.);
- b. **justifying documents of procurement** (for example: invoice, receipt, contract, transport documents, etc);
- c. **documents proving the procurement execution, respectively products providing/services providing/works execution** (for example: payment orders,

bank statements, delivery minutes, taking over minutes, minutes of putting into operation/acceptance, activity reports, etc.).

Attention! *The procurement must not be split artificially to circumvent the EUR 2,500 threshold. A more strict approach can be applied on the national level, if provided as such by the national legislation.*

Verifications made by the authorities competent to manage the European funds will be based on the following:

No.	Elements to verify	Instructions
1.	<i>Estimated value of procurement is divided artificially to circumvent the EUR 2,500?</i>	<ul style="list-style-type: none"> - <i>It is verified if the note on determining the estimated value includes information resulted from the research of the market offers.</i> - <i>It is verified whether it was necessary to update the estimated value.</i> - <i>The estimated value/updated estimated value, if applicable, must be correlated to the value provided in the subsidy contract/project budget.</i> <p>Sanction: <i>If the procurement is divided in order to avoid the threshold, a correction of 25% of the procurement value will be applied.</i></p>
No.	Elements to verify	Instructions
2.	<i>The procurement documents are submitted</i>	<p><i>The existence of the documents is verified.</i></p> <p>Sanction: <i>If certain expenditures under</i></p>

	to the file? (impact of the missing documents)	procurement cannot be justified with proper supporting documents, a correction of 5% of the contract value will be applied.
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Attention! *If the achievement of the procurement requires a number of approvals, permits, licenses or other formalities laid down by the applicable legal provisions, the private beneficiary must ensure that the expenditures shall comply with all legal provisions in force.*

If the estimated value of a procurement **is above EUR 2,500 (net price, excluding VAT)**, it will be based on a **market price justification** (the private beneficiary has to select the contractor on the basis of at least 3 comparable bids, in written form, with the same object).

Attention! *Direct procurements of above EUR 2,500 (net price, excluding VAT) need to comply with the rules of advertising, respectively public notice should be published on Programme page, at <http://www.interreg-rohu.eu>. The Procurement file*

At the end of procedure, the procurement file will be elaborated and will contain the following justifying documents:

No.	Documents which must be inserted in the procurement file	Contract of		
		works	supply	services
1.	Technical specifications / Terms of references			
2.	Note on determining estimated value			
3.	Proof of notice/invitations/clarifications/communications of result (if applicable)			
4.	Explanatory note of award			

5.	Explanatory note on changing the dates of contracts signing (if applicable) – for the lots			
6.	Declarations on own responsibility from which it results that the successful bidder/private beneficiary did not breach the provisions related to the conflict of interests			
7.	Original bids and clarifications (if applicable)			
8.	Procurement contract			
9.	Addenda (if applicable)			
10.	Other relevant documents, including documents that prove the procurement execution (for example: minutes of services and works delivery, deliverables, minutes of delivery etc.)			
11.	Complaints (if applicable)			

For the verification of the procurements above 2,500 EUR net, the competent authorities in the management of the European funds will check the following elements:

No.	Elements to verify	Instructions
Elaboration of technical specifications / terms of references and determining the estimated value		
1.	The notice of procurement is published on the website www.interreg-rohu.eu	- Failure to publish the notice on the Programme's website (public procurement dedicated section), while sending the participation invitations - correction of 1% of the value of the procurement

		contract will be applied.
2.	a) Is the estimated value of contract lower than the value thresholds foreseen in the law (if applicable)?	It is verified if the estimated value corresponds to the value in the subsidy contract/project budget and it is based on a relevant market research.
	b) Was the contract not divided into more distinct contracts of lower value aiming at avoiding the application of the provisions of art. 6 and art. 7 paragraph (1) of law/provisions of the present procedure?	It is verified if the contract was not divided, considering the purpose and/or subject of procurement, by comparing to the project procurement plan, if applicable.
	c) Did the private beneficiary chose correctly the applicable procedure?	It is verified if the procedure was chosen correctly starting from the estimated value. If the estimated value exceeds the value threshold foreseen by art. 7 paragraph (5) of law and is not included in the provisions of art. 6 of law, the private beneficiary must apply the procedure.
	Sanction for letters a), b) and c) 1. If the private beneficiary had to apply the law provisions and applied the provisions of this procedure, the sanctions provided in Annex to GD no. 519/2014 will be applied (Part 1 - Procurement). 2. If the private beneficiary should apply this procedure and chose to purchase directly, without notice, a correction of 25% of the procurement contract will apply, due to the failure to publish the notice. The same will apply in case the	

2.	motivation on including on exceptions18 from publication is not correct.	
Market research		
1.	Was the notice published?	See above.
2.	Was free access ensured to the technical specifications?	There should not be obstacles to viewing/communicating the technical specifications. If ensured, on request, immediate and unrestricted access to this information (requests for clarification/any complaints are verified, etc.). It is verified if for the supply contracts was granted a deadline for the elaboration and submission of the bid of minimum 6 calendar days and for the service and works

¹⁸As an exception from the rule, the applicant/private beneficiary may award the contract to a certain economic operator in the following situations:

- a) the purpose of procurement is creation or purchase of a work of art or an unique artistic representation;
- b) competition is missing from technical reasons;
- c) protection of some exclusive rights, including intellectual property rights;
- d) when the products which are subject to procurement are made solely for scientific research, experimental, study or development purpose, and the procurement contract does not provide for series production of certain quantities of product in order to establish the commercial viability thereof or cost recovery of research and development;
- e) when it is necessary to purchase from the initial contractor appointed following the performance of competitive award of a supply/services/works contract of some additional quantities of products destined for partial replacement or extension of the products or existing facilities and only if change of the initial contractor would put the applicant/private beneficiary in a position to purchase products with different technical characteristics of the existing ones that would result in incompatibility or disproportionate technical difficulties in operation and maintenance;
- f) for the procurement of goods or services (which meet the necessary technical requirements) under the advantageous special conditions from an economic operator that ceases completely the business activities or is in bankruptcy, an arrangement with creditors or in a similar procedure.

		contracts minimum 10 calendar days.
3.	The explanatory note of award was elaborated correspondingly?	The explanatory note of award was duly completed, meaning that the technical and financial advantages were presented that motivate these selection of the bid for contracting in relation with the other bids received/technical specifications. In exceptional cases when publication of the notice and technical specifications is not mandatory, the explanatory note must be justified by reference to the particular technical specifications/procurement purpose.
Sanction: If the market research does not comply with the required specifications, a correction is applied according to Part 3 of Annex to GD. no. 519/2014 (proportionally).		
Signing the procurement contract		
1.	Was the contract signed with the bidder mentioned in the explanatory note of award?	The two documents are compared. Sanction – if the appointed winner is changed, and thus the related successful bid, the sanction foreseen in part 3 point 3 in the annex to GD. no. 519/2014 will apply.
2.	The winner was communicated?	An official communication was sent to all bidders. Sanction If within 5 calendar days from signing the procurement contract, the transparency of the

		procedure result was not ensured, a correction of 5% is applied of the procurement contract (part 3 point 2 of the Annex to GD no. 519/2014). Financial correction, in the case of justified typographical errors, does not apply.
3.	Is the contract accompanied by the declaration on own responsibility from which it results that the provisions related to the conflict of interests were not breached?	It is verified the existence of declarations (private beneficiary/successful bidder's declaration).

Implementation of the procurement contract

1.	Does the contract terms modifications comply with the provisions of the present procedure?	It is verified the compliance with foreseen rules. It is verified, also the impact of the changes (the changes value will be determined based on the cumulative value of the successive modifications, if any). Sanction - A correction is applied according to part 3 point 3 of Annex of GD. no. 519/2014 (proportionally).
2.	Was the price adjustment made complying with the provisions of the present procedure?	It is verified the compliance with the rules on adjustment. Sanction - If you have not complied with the requirements, a correction is applied according to Part 3 pt. 3 of Annex of GD. no. 519/2014

	(proportionally to the damage).
<p>Attention! If the achievement of the procurement subject requires a number of approvals, permits, licenses or other formalities laid down by the applicable legal provisions, the private beneficiary must make sure that making the expenditure is achieved by complying with all legal provisions in force.</p>	

According to art. 2 paragraph (1) n) of G.E.O. no. 66/2011, the principle of proportionality requires that any administrative measure that is adopted must be appropriate, necessary and appropriate to the envisaged purpose, both in terms of resources used to find irregularities and in terms of establishing the budgetary debts resulted from irregularities, taking into account the nature and frequency of irregularities and their financial impact on the respective project/program.

Art. 17 of G.E.O. no. 66/2011 states that any action taken for the purposes of determining an irregularity and establishing budgetary debts resulted from irregularities is achieved by applying the principle of proportionality, taking into account the nature and seriousness of the irregularity and its extent and its financial implications.

According to Part 3, point 3 of Annex of GD. no. 519/2014, the principle of proportionality is achieved, considering the seriousness of the deviation, the damage caused or may have caused to the European funds and to the related national public funds.

Guidelines on unitary application of the principle of proportionality¹⁹

If the value can be determined by calculating the value of the damage or possible

¹⁹Except for the cases offinding out irregularities and/or fraud, when the provisions of the norms in the field of irregularities/frauds, are applied.

damage resulting from the deviation from the provisions of the norm, the resulting value is ineligible expenditure/ debit. In this situation of the actual quantification of the damage/possible damage, the severity of the deviation is not relevant.

Examples:

- the price difference between the bid that would have won and the bid declared winner (for example: bid 1 - 100 lei and bid 2 - 120 lei, it declared winner bid 2 – it results the value of damage 20 lei, that being also the amount of correction);
- signing some addenda, without justification, that increase the contract value [for example: contract price 100 lei increased (without occurring some situations included in the modification rules) to 115 lei by addendum – it results the damage value 15 lei, this being also the correction amount].

If it cannot be determined by calculating the amount of damage or possible damage resulted from the deviation from the norm, then the damage will be calculated by applying a correction / percentage reduction that will be determined, taking into account the seriousness of the deviation. The corrections amount/percentage reductions will be determined, depending on severity, as follows:

- a) between 1% and 5% of the contract value, when the deviation is with low level of impact;
- b) between 6% and 10% of the contract value, when the deviation is with medium level of impact;
- c) between 11% and 15% of the contract value, when the deviation is with high level of impact.

Examples:

- There are bids which meet all technical specifications that fall in the estimated value, but the private beneficiary privately choose a bid with lower technical

characteristics – we are in the situation of a deviation with high level of impact and a correction/percentage reduction is applied, of 15 % of the contract in question;

- There are bids which meet all technical specifications, only some of them exceed the estimated value, but the private beneficiary choose a bid with adequate technical characteristics, but with a higher value than other bids with technical characteristics similar or superior to those required and included also in the estimated value - we are in the situation of a deviation with high level of impact and a correction/percentage reduction will apply of 15% of the value of the contract in question (if the difference is not paid from the own budget);

- There are bids which meet all technical specifications, exceeding the estimated value, but the private beneficiary choose a bid with lower technical characteristics, not exceeding the estimated value - we are in the situation of a deviation with medium level of impact and there a correction/reduction percentage will apply, of 10% of the contract in question;

- There is no bid that meets all technical specifications, but these bids do not exceed the estimated value and the private beneficiary choose the bid that complies with the most technical specifications - we are in a situation of a deviation with lower level of impact and a correction/ reduction percentage will apply, of 5% of the contract in question;

- There are bids which meet all technical specifications, but exceed the estimated value and the private beneficiary chose a bid that meets all technical requirements, but exceeds the estimated value - we are in a situation of a deviation with lower level of impact and a correction/ percentage reduction will apply, of 5% of the contract in question (if the difference is not paid from the own budget);

- Unjustified adjustment of the prioritization of the elements of selecting the bids compared to that published by the private beneficiary in the procurement documents, which causes the choice of another winning bid than that which would

result from applying the initial prioritization - we are in the situation of a deviation with high level of impact and a correction/ reduction percentage will apply, of 15% of the contract in question;

- Justified adjustment of the prioritization of the elements of selecting the bids compared to that published by the private beneficiary in the procurement documents, which causes the choice of another winning bid than that which would result from applying the initial prioritization - we are in a situation of a deviation with medium level of impact and a correction/percentage reduction will apply, of 10% of the contract in question;

- Adjusting the prioritization of the elements of selecting the bids, that does not determine the choice of another winning bid than that which would result from applying the initial prioritization - we are in a situation of a deviation, with lower level of impact and a correction/percentage reduction will apply, of 5% of the contract in question.

In the situation of some particularly serious deviations, the authorities competent in managing the European funds can apply corrections/percentage reductions contained between 16% and 25%, justifying the inconsistency in the situations at point 2.2.

Example:

- in situations exempt from the procedure (competition lacks from technical reasons) it is found out that the justification of the exception is not supported by an appropriate documentation (there are obviously alternative solutions) – we are in a situation of particularly serious deviation and a correction/percentage reduction will apply of up to 25% of the contract in question

3.3.3 Specific rules in case of Hungarian beneficiaries/ private applicants/ beneficiaries

- If the procurement falls under the scope of the Act CXLI of 2015 on public procurement the beneficiary has to respect the rules of the Act. In this case all documents of the public procurement procedure have to be submitted to the FLC for control.
- If the procurement does not fall under the scope of the Act CXLI of 2015 on public procurement but the estimated value of the procurement equals or exceeds EUR 2,500 (net price, excluding VAT) the market price must be justified. The project beneficiary has to select the contractor on the basis of at least 3 comparable bids in written form with the same object, indicating the exact prices. In case „in-house contracting” 3 comparable bids also have to be presented not including the offer of the in-house contractor.
- The project beneficiary has to select either the lowest price or the best in its entirety, based on the value for money principle. In this latter case the price always has to be evaluated. Project beneficiary always has to substantiate its selection.
- The project beneficiary must take all the necessary measures in order to avoid the situations that might cause conflicts of interests within the procurement procedure. Rules of conflict of interest shall be observed during the whole procedure (from request to price offer to signing the contract).
- In order to ensure a real prospection of the market conditions, the project beneficiary shall pay special attention to the impartiality of the bidders, ensuring there is no relationship between the entities providing price offers.
- Project beneficiary is obliged to submit „a declaration on justification of the market price” to declare not to be affected by conflict of interest and there is no relationship between the entities providing price offers.

- If the value of the procurement is under EUR 2,500 (net price, excluding VAT) it is not an obligation to justify the market price but the rules of conflict of interest and the impartiality of the bidders must be respected. In this case the FLC in Hungary is also authorized to check the compliance with the value for money. The project beneficiary has to submit „*a declaration on the procurements under EUR 2,500*” to declare not to be affected by conflict of interest and there is no relationship between the entities providing price offers.

3.4 Implementing information and communication activities

Ex-ante approval of information and communication materials

The PBs shall request beforehand the approval of the JS (RO beneficiaries) or IP (HU beneficiaries) on all information and communication materials developed under the project, in line with the **Visual Identity Manual**.

The request for approval/ endorsement, containing the templates of the materials shall be **sent at least 15 working days prior to their release or use**. Beneficiaries shall forward templates/ visual plans of press releases, leaflets, booklets, billboards, etc., via eMS e-mail section. The responsibility for the content of materials belongs solely to the beneficiary.

The JS/IP experts will check whether the annexed materials comply with the rules of the Visual Identity Manual of the Programme.

Within **5working days** after the receipt of the request, the JS/IP experts, after verifying the materials, will either approve the annexed materials (in case they comply with all visibility rules) or, if necessary, will request/recommend modifications or improvements regarding the compliance with the rules of visibility. During the clarification process, the approval period will be interrupted/discontinued until the revised version of the materials will be resent by the beneficiary to JS/IP, via eMS e-mail.

In exceptional cases (e.g., the eMS is not operational, the system cannot be accessed over a longer period of time, etc.) the request for ex-ante approval of information and communication materials can be performed outside of the eMS. In this case,

information and communication materials can be approved by email, with respect to the same time limits as described above.

Information to be uploaded to the Programme website

Beneficiaries shall upload basic information about upcoming project events (trainings, conferences, festivals, etc.) to the designated project events calendar and information regarding launched public procurements to the project public procurement section, both available on the Programme website.

Please note that information should be provided in a timely manner, preferably **at least 2 weeks before the event**.

Furthermore, information regarding the upcoming project events or major project meetings has to be communicated towards the JS/ IP, through invitations sent out both to the relevant monitoring officer and to joint.secretariat@brecoradea.ro email address.

Attention! *In order to ensure a better visibility and wide publicity, JS communication officers shall be informed about social media/website posts and press (printed/online) appearances about the project, in order to be shared by the JS on the official Facebook page/website of the Programme.*

It is recommended to take photographs on all events organized, in order to properly document the progress of related actions and events. These can be useful in communication materials or to demonstrate to FLC controllers that visibility requirements have been met.

3.5 Partner and project reporting via eMS

The Interreg V-A Romania-Hungary Programme requires progress reporting during project implementation. The aim of the reporting process is to establish whether project objectives have been achieved, what resources have been expended, what problems have been encountered, and whether the project is expected to be completed on time and within the budget.

Note: *All your duties referring to reporting are mentioned in the SC, art 6, paragraph 10.*

The reports are submitted online in the eMS, whether they are with or without reimbursement claim, and whether they are on the beneficiary or project level. The rules stated in the [Reporting in eMS - Manual for lead partners and project partners](#) are mandatory.

Reporting tips:

- learn exactly what the Programme requires in terms of signatures, supporting documents and data before preparing your first report. It is essential that this information is communicated to the whole partnership and built into the working procedures of each of the beneficiaries;
- remind all PBs of approaching deadlines well in advance, in case you are a LB;
- consider the relevance of the information provided;
- keep in mind that your reporting has to be well documented from verifiable and reliable sources;
- do not report on *planned* activities and outputs - only on activities actually carried out and outputs delivered;
- highlight main achievements – they are needed for Programme communication;
- report on time;
- answer all written requests from the JS or other bodies involved in the implementation of the Programme within the deadline stipulated in the respective request.

Insufficient and unclear information provided in the project reports may lead to misunderstanding of your project and, as a result, to delays in project payments. If you are a LB, make sure that all PBs have a chance to review the full report before it is submitted, based on read-only rights provided by the JS, at the request of LB. This ensures that you have not misinterpreted your partner's statements.

3.5.1 Partner Report

In all cases, the process begins on the partner level, where each project beneficiary (including LB) needs to report, through the **Partner Report** the stage of implementation of activities and expenditures for which is responsible, with relevant supporting documents.

In case the Partner Report contains **expenditure**, the report is submitted to the First Level Control (FLC), who validates the eligible expenditures declared (please see Chapter 4 of this manual). All the expenditure will be converted automatically at the inforeuro exchange rate of the month when the Partner Report was first submitted in the eMS system.

The beneficiaries shall submit partner reports to the FLC every **3 months** in case of projects with project implementation period under 18 months, and every **4 months** in case of projects exceeding 18 months, in maximum 15 working days from the end date of reporting period, except for the final report which shall be submitted in maximum 30 working days.

Exceptions:

For each reporting period, a maximum number of 3 intermediary partner reports can be submitted. This rule does not apply in case of preparation costs. The partner report that does not observe the rules mentioned above will be reverted to project beneficiaries.

In the cases when PBs have omitted an expenditure from their Partner Report, it can be requested later through a new Partner Report created for the same reporting period, after LB notifies and obtains JS approval for opening another partner report for the respective period. When an expenditure from a Partner Report, suspended by the FLC (using the "sitting duck"), becomes valid after blocking issues are solved, it will be included in the next FLC certificate.

If an appeal is partially or totally approved, the related expenditure will be validated by FLC following one of the cases below:

1. Either FLC in process of verifying a new report submitted by the partner and, in case it contains the budgetary lines affected by the results of the appeal, will include the expenditure approved under the appeal and make “positive corrections” accordingly for the flat-rate for administrative costs budget line, or
2. The beneficiary will create in a new Partner Report the relevant budgetary lines as per the decision on the appeal, but with 0 expenditure requested. The FLC will validate the amounts as per the decision on the appeal (as a positive correction).

In case the Partner Report doesn’t contain expenditures, the report will be submitted directly to the LB.

All supporting documents must be attached to the Partner Report. The supporting documents related to fully / partially implemented activities could be: pictures, attendance lists, minutes, invitations, contracts, invoices, etc. The information regarding the supporting documents related to expenditures can be found in [*Reporting in eMS - Manual for lead partners and project partners*](#).

The beneficiaries shall pay special attention also on **reporting the progress of the planned activities, not only related with the expenditures**, and ensure that their part of the reported activities/expected results/indicators is in compliance with the approved AF and SC. This also applies, of course, to the LB, because the LB is at the same time a partner/beneficiary in the project.

3.5.2 Project Progress Report

The activities, outputs and validated costs are summarized and aggregated in the **Project Progress Report** prepared by the LB, on the basis of the Partner Reports, who will submit it to the JS for verification. Specific details on how to fill in and submit a project progress report may be found in the [*Reporting in eMS - Manual for lead*](#)

partners and project partners.

In general, the LB prepares and submits the project progress reports to JS in **maximum 3 months** from the end date of the reporting period. The Project Progress Report has 2 parts: a financial part and a technical one.

However, LB has the possibility to submit an intermediary Project Progress Report (containing only the financial part), **at any given time**, with the condition that **the expenditure claimed for reimbursement is not lower than EUR 10,000 ERDF**. These type of reports will be created by LB only by attaching the available FLC certificates. No other sections required by the project progress report template will be filled in.

As a consequence, within a reporting period, there can be maximum 2 intermediary Project Progress Reports (of at least EUR 10,000 ERDF, each).

The last Project Progress Report within a reporting period must contain **the technical part, concerning the achievement of the physical progress of the activities, project indicators and results, according to the established schedule for reporting the consolidated progress of activities at project level.**

The Project Progress Reports are to be filled in the eMS, in the format provided by the system and the LB will attach the partners' FLC certificates (if the case). When the Project Progress Report is finalized, the LB will print, sign and upload it in the "Attachment" section of the Project Progress Report in eMS.

Attention! *Project Progress Report 0.1 must contain exclusively all the preparation costs incurred and must be the first submitted, as soon as possible after signing the Subsidy Contract, until the end of the first reporting period. In case the preparation costs are not requested for reimbursement in Project Progress Report 0.1 they become non-eligible expenditure*

3.5.3 Final Project Progress Report

The Final Project Progress Report has to be submitted by LB to the JS in maximum **5 months** after the end date of the implementation period of the project.

The Final Project Progress Report contains information such as: what was realized, where, by whom, what objectives/ results/ outputs have been achieved/reached, what resources have been used, what problems have been encountered, etc. The Final Project Progress Report, compiling data for the entire project implementation period, is submitted on paper, using the template provided, in 2 original copies and has to be signed by the legal representative of the LB. After its approval, it has to be uploaded in the eMS.

Through the Final Report, the Programme learns about the projects achievements, and also acknowledges progress towards the Programme's own aim and objectives. The achievements of a project are of equal interest to both project and Programme, since the success of the latter depends on the success of its projects.

At the end of the implementation, in case the project contribution to indicators is lower compared to the application form, the MA is entitled to decommit project funds by reducing the original project budget and the corresponding ERDF contribution, as follows:

- a) 10% decommitment will apply to the budget of the beneficiaries in case the project indicators were reached lower than 75% of the initial project indicators (average at project level considering all indicators)
- b) 25% decommitment will apply to the budget of the beneficiaries in case the project indicators were reached lower than 50% of the initial project indicators (average at project level, considering all indicators)

3.5.4. Verification and payments of the Project Progress Reports

The JS performs an administrative verification of each project progress report within **20 working days**. This deadline may be suspended in case the Project Progress/Partner Report are reverted, or requests for clarification are submitted to the beneficiaries or to the FLC. The clarifications must be answered/supporting documents submitted within maximum **5 working days**.

JS may decide to perform on-the-spot visits to the headquarters and/or project implementation location of any of the beneficiaries during project report verifications, in order to check the achievement of the project purpose and objectives, according to the financing terms and conditions. In this case, the deadline for the verification of the project progress report performed by the JS is suspended, depending on the number of the beneficiaries where the visit takes place and on their location.

Notification of the LB/ PBs concerning on-the-spot visits is usually done **at least 5 working days in advance**.

The staff that should be available during the day in which on-the-spot visit is performed includes: project manager, person(s) responsible for project implementation, person responsible for carrying out financial registrations at the project level.

Responsibilities of the LB and other beneficiaries during on-the-spot visits and audit/control missions are to:

- Provide access to all the documents related to the project implementation.
- Cooperate with the JS
- MA/NA representatives can also attend on-the-spot visits.

Following the on-the-spot visits, the JS draws up a monitoring visit report and makes recommendations for project implementation (if the case). After the verifications are

performed, the JS submits the project reports to the MA, via eMS.

MA verifies the claim for reimbursement included in the Project Progress Report submitted by the JS **in maximum 30 days from official registration at the MA**(this deadline may be suspended in case additional clarifications/documents are needed).

Payment is done in **maximum 10 working days** from the authorizing process of the Project Progress Report is completed, and the ERDF and RO co financing is transferred to the LB and respectively Romanian partners.

Also, the MA notifies the LB, JS and NA on the ERDF amounts which have been authorized and paid, as well as the corresponding co-financing amounts (national and private) split down by project beneficiaries, corresponding to the expenditure each beneficiary included in the respective project report, only after the transfer of funds was done.

The Romanian national co-financing amounts authorized for the project progress report are deducted entirely until the full recovery of the entire advance.

After complete recovery of the advance payment, the national co-financing amounts are paid directly to:

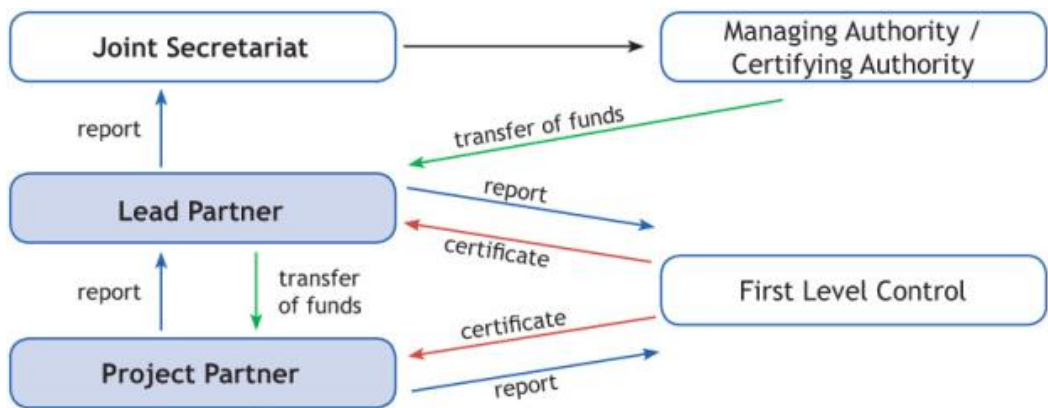
- a. the Romanian beneficiaries by the MRDPA from Romania;
- b. the Hungarian beneficiaries by the Prime Minister's Office in Hungary.

It is the responsibility of the LB that the amounts received from the Programme are transferred to project beneficiaries in full within **5 working days** as of cashing in the amounts from the MA and receiving the Information regarding payment and will make no deduction, retention or further specific charge from the ERDF amounts it receives.

The ERDF funds are reimbursed in Euro and will be transferred into a **special bank account indicated by the LB**. The LB can use the same bank account for more

projects subject to have a proper analytical system for each project. The expenditure resulted from the exchange rate risk are non-eligible expenditure for the project.

The claim for reimbursement from the Final Project Progress Report shall go over the same steps of procedure as the previous included within project progress reports, except that the authorized ERDF amounts will only be paid after the advance co-financing payment and/or possible debts are entirely recovered. In this respect, a notification will be sent to the LB/ PBs indicating the co-financing amount to be reimbursed, as well as the bank account where the amount should be paid. Also, the total amount of the final project progress report will be diminished in case of correction on project indicators. The LB/ PBs should proceed with the payment within maximum **15 days** as of receiving the notification. The deadline will also be indicated in the notification letter.



The figure above indicates that there are two main information streams in the reporting process: from the beneficiaries to the LB, and from the LB to the JS. In this process the LB is the central figure with an important coordination and mediation role. In terms of reporting the LB is seen as the practical link between the partnership and Programme bodies.

3.6 Project level decommitment

During the pre-contracting period, the LB together with the PBs will draft and submit to the JS a schedule for defining the eMS reporting periods.

Attention! *It is extremely important to pay attention when drafting this schedule , as it will reflect the total amount each partner commits to spend and request for first level control by the end of the month marking the half of the implementation period and the financial performance of each partner in spending its budget will be judged based on this amount.*

In case the total amounts requested for FLC verification are lower compared to the total amounts forecasted for the half of the implementation period at the level of each beneficiary, **the MA is entitled to decommit project funds by reducing the original project budget and the corresponding ERDF contribution**, as follows:

- **10% budget reduction** for the beneficiaries with amounts requested for FLC less than 75% compared to the forecasted amounts;
- **25% budget reduction** for the beneficiaries with amounts requested for FLC less than 50% compared to the forecasted amounts.

The JS/MA will analyze the financial performance of each partner after half of the implementation period. At this point an analysis will be done by comparing the total amounts estimated by each partner to be requested for FLC and the amounts actually requested. Please note that only expenditures requested for FLC, connected to the project and which fulfill the Programme's conditions for being requested to the FLC shall be taken into consideration (for example expenditures not paid by the beneficiaries but included in partner reports, will not be considered).

Example of how the **deadline** for half implementation period is calculated:

If a project started implementation on 01.05.2018 with implementation period of 12

months, there will be taken into consideration expenditures included in partner reports that were submitted to FLC - in the eMS system – until 21.11.2018 (the end of the month marking the half of the implementation period). Let's suppose that LB has requested by the end of the 6th month of implementation EUR 18,000 for FLC (therefore, respecting its schedule), P2 has requested EUR 15,000. (Therefore, the P2 have failed to respect their schedule). The calculation of the decommitment is summarized in the following table:

		LP	P2
1	Partner's total budget	40,000	50,000
2	Total amount to be requested for FLC	20,000	25,000
3	Total amount actually requested	18,000	15,000
4	Percentage of spending (3)/(2)	90%	60%
5	Amount to be decommitted $10\% \times (1)$	-	5,000
	Partner new budget after decommitment	40,000	45,000

Although LB has not managed to respect the initial schedule, a decommitment shall not be applied, as the deviation of spending from the initial forecast is of only 10%. Considering that P2 has managed to respect his initial estimation of the total amounts to be requested for FLC by the end of the 6th month in a percentage of

60%, a decommitment of 10% will apply, reducing the partner's budget with EUR 5,000.

Attention! *If the exact half of the project implementation does not coincide with the end of a reporting period, the deadline will be extended until the end date of the reporting period covering it, plus another 15 working days, the deadline for submitting the Partner Report to FLC. JS will inform LB about this deadline at the beginning of the relevant reporting period.*

Following this analysis, which will be performed at Programme level for each project and partner, the LB will be notified by the MA/JS, regarding the amounts to be decommitted for each partner. This analysis may also be performed beforehand by each partner as the information is available also to it.

The **LB has the obligation** to forward the notification to all partners and to submit a revised budget, reflecting the decommitment, in the specific section from the AF, in 2 originals, each of them signed and stamped by the legal representative of the LB, if the case, within **2 weeks** following the receipt of MA's/JS's notification. Therefore, the partners affected by the decommitment have to make a thorough analysis of their activities and budget and decide which budgetary lines may be reduced for covering the decommitment.

The revised documents have to be submitted to the LB in due time in order to respect the deadline communicated by the MA. This is an important decision in the lifetime of a project, and it is advised that a joint meeting of the partners is organized in case this situation occurs in order to analyze the implementation of the project and take the necessary measures to put it back on track.

Attention! *Please pay attention to the fact that it is very important to respect the deadline for submission of the revised documents. In case of failure to respect the deadline, the MA shall apply the decommitment proportionally to all budgetary lines of the concerned partners.*

In case a decision is taken by the MA to reduce the budget proportionally to all budgetary lines, a thorough analysis will be done by the MA/ JS regarding the balance of each budgetary line for the concerned beneficiary/ies. When calculating the balance for each budgetary line, the amounts requested for FLC for each budgetary line shall be taken into consideration. Once the balance is calculated, the amount to be decommitted shall be reduced from each budgetary line proportionally with the proportion of each budgetary line in the approved budget. In case the balance of one budgetary line is lower than the amount to be reduced for the respective budgetary line, then the entire balance shall be reduced and the difference shall be covered equally from the rest of the budgetary lines.

Let's continue with the example mentioned above. Supposing the initial partner's budget is composed of the following budgetary lines, as per below table. According to the calculations mentioned above, the partner's budget needs to be reduced with EUR 5,000. This amount will be divided proportionally for each budgetary line, taking into consideration the proportion of each budgetary line in the total budget. Therefore, the amount that needs to be reduced for budgetary line Staff costs is EUR 500. Considering that the balance for this budgetary line is only EUR 500 (taking into consideration the requests for FLC), the amount that will be reduced is EUR 400. The rest of EUR 100 will be divided equally between the remaining direct costs (Travel and accommodation and Equipment), taking into consideration the automatically calculated amounts for Office and administrative costs.

Budgetary line	Initial approved budget	Percentage in the approved budget (%)	Amounts requested for FLC (half imp. Period)	Balance	Amounts decommitted	
					10 % applied by MA/JS	10% applied by LB/B

Staff costs	5,000	10%	2,000	3,000	500	400
Office and administrative 15% of Staff costs	750	1,5%	300	450	75	75
Travel and accommodation	1,000	2%	500	500	100	150
External expertise and services	3,250	6,5%	2,000	1,250	325	325
Equipment	40,000	80%	10,200	29,800	4,000	4,050
Total	50,000	100%	15,000	35,000	5,000	5,000

Attention! It is in the interest of each partner to provide a revised budget following the decommitment, as the reduction to be performed at MA level is artificial and can have negative consequences on the project implementation. The partners know best which budgetary lines can be reduced without jeopardizing the implementation of the project.

In either case, the modification of the contract in case of decommitment at project level shall take the form of a decision of the legal representative of the MA, which will be notified to the LB and which becomes part of the contract.

The decommitment shall be done without prejudice to partners' obligation to implement all the activities and achieve all the results, according to the approved

application form. That means that, **despite the reduction of the budget, the partners still need to implement all activities and achieve all results, as mentioned in the approved application form.**

The LB together with the PBs may decide to **give up financing**, but in this case all the funds reimbursed (including advances paid to the project partners) shall be recovered by the MA and the contract shall be terminated.

After the LB receives MA's decision on the applied decommitment, the JS will request the LB to initiate, within **5 working days**, a modification request in the eMS for altering the project budget accordingly.

3.7 Horizontal theme

Sustainable development, equal opportunities and non-discrimination, as well as equality between men and women are three major horizontal principles that constitute an integral part of EU policy. Also, the projects financed by the Programme have to promote these principles whenever possible. Projects should consider what their overall influence as regards these principles is.

Note: *The accomplishment of the minimum requirements of law in the fields of promotion of sustainable development, equal opportunities and non-discrimination and also equality between men and women is mandatory for all projects and will be monitored during project implementation!*

The projects are expected to take concrete actions at operational level more than just accomplishing the minimum required by law, but to actually have a substantial added value towards promotion of the equal opportunities and non-discrimination, equality between men and women and sustainable development. Projects' actions for the promotion of the horizontal principles will be monitored and reported in the Programme implementation reports, according to the relevant procedures.

Please note that the LB is required to draw up and submit at the JS request, based on needs, **the equal opportunities and non-discrimination questionnaire – Annex EOND** (in which they will have to explain their contribution to equal opportunities and non-discrimination – how the equal opportunities principle were anchored within the project and its activities. They will also provide data on participants in terms of gender, age, employment status, education and disabilities) and also **the questionnaire on environmental protection – Annex SDEP** (in which the beneficiaries will have to describe the way the projects respected the cross border legislation on environment and contributed to sustainable development and how the sustainable development principles were reflected in the activities).

a. Sustainable development

Sustainable development stands for meeting the needs of present generations without jeopardizing the ability of future generations to meet their own needs – in other words, a better quality of life for everyone, now and for generations to come.

Choosing the sustainable way means to commit to preserve and protect the environment from potential harmful effects of human interventions and to enforce the safeguard of social, environmental and climate benefits. It requires everyone to make decisions in a way that the economic, ecological and social effects of each decision are taken into account.

There are several examples on how projects can implement sustainability on the operational level:

- Carefully consider the impact of the project activities on the economical, ecological and social aspects within the project targeted eligible area.
- Consider giving priority to using “green infrastructure” solutions over “grey solutions” whenever this is possible:
 - Communication of the EC on Green Infrastructure
<http://eurlex.europa.eu/resource.html?uri=cellar:d41348f2-01d5-4abe->

[b817-4c73e6f1b2df.0014.03/DOC_1&format=PDF](http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_fiche_biodiversity_n2000.pdf)

- EC Thematic Guidance for Biodiversity, Green Infrastructure, Ecosystem Services and NATURA 2000
http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_fiche_biodiversity_n2000.pdf
- EC Thematic Guidance for Climate Change Adaptation, Risk Prevention and Management
http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_fiche_climat_change.pdf
- Practice to make your daily working choices the sustainable way – whether it is about buying office equipment or supplies, planning of meetings and business trips, preparing of printed publications and information material, contracting external service providers at fair conditions or other activities.
- Rethink your meeting habits in order to minimize environmental impact. Although meeting people and talking to each other is at the heart of cross-border cooperation, travelling, in particular flying, has negative environmental impact as concerns the CO2 emission. Therefore, it is important to consider the following options when arranging a meeting:
 - Is it necessary to meet face-to-face or will an online meeting be enough? Online tools for meetings can replace some face-to-face meetings. Several services are free of charge or not very costly.
 - Can different meetings be combined in one place? Is the location accessible for participants without using a plane and/or car? Is travel without plane/car possible and realistic?
- Buy green – analyze options for green procurement and reduction of waste generation. Please consult the information sources available to help you make the green choices in your everyday activities, out of which some can be consulted at the following links:
 - Green public procurement website (European Commission): useful links,

publications and reliable sources

http://ec.europa.eu/environment/gpp/faq_en.htm#general1

- Handbook on green public procurement (European Commission)
<http://ec.europa.eu/environment/gpp/pdf/handbook.pdf>
- Public procurement for a better environment (Communication of the European Commission) <http://eur-lex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:52008DC0400&from=EN>

b. Equal opportunities and non-discrimination

In line with EU policies the Programme promotes equal opportunities and encourages the prevention of any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Beneficiaries have to consider their project impacts along these principles and follow them through in project implementation.

Namely, at operational level, whenever it is possible, projects should:

- ensure that no discriminative action is carried out within projects and concerning any third parties (e.g. contractors, suppliers, etc.);
- ensure equal opportunities for all interested parties and avoid limiting or discriminating with requirements or criteria when selecting service providers, suppliers or contractors;
- use gender-neutral language in the websites, brochures, information materials;
- take into account the needs of the various target groups at risk of discrimination;
- deliver solutions that help promote equal opportunities and non-discrimination, e.g. ensuring accessibility for persons with disabilities, making website accessible for persons with disabilities, actions directed towards reducing disparities and ensuring equal treatments to all groups and communities, designing transport solutions for areas that are geographically

remote or have limited accessibility;

- include in the target groups ethnic minorities facing disadvantages.

c. Equality between men and women

Ensuring equality between men and women means in principle to make possible that everyone, regardless of gender, has the right to work and support themselves, to balance career and family life, and to live without the fear of abuse or violence.

Gender equality implies not only equal distribution between men and women in all domains of society. It is also about the qualitative aspects, ensuring that the knowledge and experience of both men and women are used to promote progress in all aspects of society, placing equal value and emphasis on the knowledge and skills of both men and women, including ensuring equal pay for work of equal value.

Beneficiaries have to consider their project impacts along this principle and follow the principle through in project implementation.

Projects are expected to address the gender equality principle on the operational level and integrate the gender perspective in their activities, whenever this is possible. For instance:

- When building management and steering structures, projects should try to ensure the equal representation of men and women, as well as equal involvement in decision making. The project should also ensure equal pay for men and women.
- Implement activities that respect gender equality, such as equal participation of women in the target groups and the promotion of the principle of gender equality.
- Encourage the adjustment of the working conditions such that they suit both men and women.

3.8 Indicators

At each Partner / Project Progress Report the LB will have to report to the MA the status of reaching the goals you set as contribution to the Programme indicators, as selected in the application form (one or more output indicators and one or more result indicators).

For **output indicators**, the tasks are relatively simple, the partners will have to report the units achieved as contribution in the reporting period (bear in mind that this is not necessarily linked to financial status of your project).

Example: In the application form it was mentioned that the project will contribute with 1500 to the PA 1 output indicator: "Increase in expected number of visits to supported sites of cultural and natural heritage and attraction".

Therefore, in every project report, the partner(s) will report the number of visits to supported sites of cultural and natural heritage attraction your project has managed to achieve.

Attention! *The reporting has to be well documented from verifiable and reliable sources.*

For **result indicators**, the contribution to the indicator is done at Programme level, by Programme bodies. However, in the AF it was stated that the actions contribute to these result indicators and explained accordingly.

Therefore, in the Partner/Project Progress Reports the partner(s) will also have to mention what the status is of those actions contributing to our Programme result indicators.

Attention! *In the Final Report the project have to reach entirely the contribution to Programme output/ result indicator, as envisaged by the project. This also has to be supported by verifiable data.*

EG. You are stating that you will contribute with 200.000 persons by the end of your project (Dec. 2019). If in March 2020 you're reporting as achieved this contribution, but the national public available data show that only an increase of 150.0000 was obtained, the data is not correct.

For the evaluation and reporting of the indicators please use clear and reliable sources for monitoring and evaluation.

3.9 After project finalization

In this phase, the project main activities should be completed and all outputs delivered, however **the project outputs and results are intended to continue producing value**. Also, **beneficiaries' responsibilities do not end with the project closure**. Project beneficiaries should be familiar with the specific requirements regarding sustainability and ownership of the project outputs, availability of documents and record keeping after closure of projects and the submission of the Final Progress Report. Also, ex-post visits will be carried out by JS in order to check projects sustainability.

Durability and ownership of the projects outputs

The ownership of the outputs having the character of investments in infrastructure or productive investments, produced during the project implementation must remain with the LB or project beneficiaries for at least **5 years** after the financial closure of the project.

In this regards, the projects must avoid:

- a cessation or relocation of a productive activity outside the Programme area;
- a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
- a substantial change affecting the nature, objectives or implementation conditions which would result in undermining its original objective.

Availability of documents and accounting records

All accounting and supporting documents (e.g. SC, project AF, service/work contracts, public procurement documentation, rental agreements/contracts, important communications with project beneficiaries/MA/JS etc.), documents related to the expenditure, controls and audits, and documents required to ensure an adequate audit trail must be accessible.

What does a LB have to do after the project is finalized?

Any substantial modification of the project or of the outputs **within 5 years after the project closure must be avoided**. In this regard, according to the contracting provisions, the LB:

1. Cannot mortgage or impose any other form of bank guarantee on the goods purchased from the financing 5 years after the financial closure of the project.
2. In case of projects comprising investment in infrastructure or productive investment, the LB shall reimburse the MA the amounts received if within 5 years of the financial closure it is subject to any of the following:
 - a cessation or relocation of a productive activity outside the Programme area;
 - a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
 - a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.
3. The LB or any project beneficiary cannot wholly or partly sell or transfer in any form the right of property of the infrastructure invested in/goods purchased from financing, including under the conditions of article 71 from Regulation 1303/2013.
4. Within 5 years after the final payment to the beneficiary, must be avoided any modification (result of a change in the nature of the property/ ceasing/ change of the location of the project) that affects the implementation conditions/ create for a

third party an unjustified advantage.

5. The LB and its project beneficiaries, are at all times obliged to retain for audit purposes all files, documents and data about the project on customary data storage media in a safe and orderly manner.

6. During the implementation period of the project, as well as until the end of a 3 years period after the official closure of the Interreg V-A Romania-Hungary Programme, the LB has the obligation to preserve and to present, to the JS, MA, NA CA, AA, EC, European Court of Auditors and any other body designated to perform controls on the use of the financing, all project documents, including the inventory for the actives gained as a result of using the funds. The time period shall be interrupted either in the case of legal proceedings or by a duly justified request of the Commission. The documents must be properly archived. Also, the MA must be informed on the location of these documents.

7. The recommendations received after an audit control, must be implemented otherwise the MA has the right to terminate the contract. The LB ensures that the project fulfill this obligation.

What does a project beneficiary have to do after the end of the implementation period of the project?

According to the PA, the beneficiary:

1. The project beneficiaries will produce all documents required for the audit, control or evaluation, provide necessary information and give access to its business premises.

2. The project beneficiaries must implement the measures included in the action plan, at the stipulated deadlines, set by the Lead Beneficiary/MA/JS, according to the recommendations resulted from the audit missions of the European Commission, Audit Authority or other empowered audit and control bodies.

3. During the implementation period of the project as well as after the end of the implementation period for a 3 years period after the official closure of Interreg V-A Romania-Hungary Programme, all beneficiaries have the obligation to preserve and to present, to the JS, MA, NA, CA, AA, EC, European Court of Auditors and any other body designated to perform controls on the use of the financing, all project related documents, including the inventory for the actives gained as a result of using the funds. The time period shall be interrupted either in the case of legal proceedings or by a duly justified request of the Commission.

Having in mind the previous mentioned information, after the implementation period of the project ends, it is important to be aware of the following:

- all information and publicity actions developed by the project beneficiaries (including the LB) must be in line the Visual Identity Manual;
- any substantial modification of the project **within 5 years** from the end date of project implementation period must be avoided;
- the Partnership must be responsible for ownership and further maintenance and use of the outputs and results.

Availability of documents

The LB is at all times obliged to retain all files, documents and data about the project on customary data storage media in a safe and orderly manner for control and audit purposes **at least 3 years** after the official closure of the Programme. The LB guarantees that all of its project beneficiaries fulfil this duty.

The MA shall inform the LB regarding the official date of closure of the Programme within **5 working days** from the date of receipt of the Commission's official notification in this respect.

4. VALIDATION OF ELIGIBLE EXPENDITURES

4.1 Overview of the control process

First Level Control of projects implemented within the frame of the Interreg V-A Romania-Hungary Programme shall be performed at national level for each project beneficiary according to their nationality. In line with the provisions of Regulation (EU) No. 1299/2013, article 23(4), in order to perform the verifications as provided for under article 125(4)(a) of Regulation (EU) No. 1303/2013, "each Member State (...) shall designate the body or person responsible for carrying out such verifications in relation to beneficiaries on its territory ('controller(s)')... Each Member State or third country shall be responsible for verifications carried out on its territory".

In Romania, the FLC Unit is set up within the Cross Border Cooperation Regional Office Oradea for Romania-Hungary Border in line with Government Decree No 274/2015.

The FLC for Hungarian project beneficiaries will be ensured by Széchenyi Programme Office in line with Government Decree No 126/2016 (VI.7) on the implementation of programmes financed by the European Regional Development Fund and the Instrument for Pre-accession funds in connection with the European territorial co-operation in the 2014-2020 programming period.

Attention! *Each project beneficiary (including the Lead beneficiary - LB) has the obligation to ensure that its expenditure are checked and validated by the controllers from the state on whose territory it is located, before the Project Progress Report (PPR) is submitted. Therefore, each project beneficiary (including PB) completes and submits by eMS the Partner Report (PR) together with the notification/request for first level control and all supporting documents (administrative, financial and technical) for the declared expenditures, including those correlating the expenditures with the project activities, (see 4.3.1 and Reporting in eMS - Manual for lead partners and project partners).*

4.2 Validation of expenditures

Beneficiaries shall request performing the FLC in maximum **15 working days** from the end of the reporting period, respectively in maximum **30 working days** from the end of the reporting period for the final report.

The FLC performs desk verifications and on-the-spot checks (site visit) of project expenditures, delivery of products, infrastructure works and services, and releases FLC Reports and FLC Certificates²⁰, in maximum **30 working days** after the submission of the partner report. The verifications will cover administrative, financial, technical and physical (only for the on the-spot checks) aspects of the projects.

Attention! *This deadline will be suspended when additional documents and/or clarifications will be requested from the beneficiaries.*

The controllers verify, based on own procedures and Common FLC Manual²¹, 100% of the expenditures incurred and paid within the reporting period, on the basis of invoices, payrolls, other supporting documents with equivalent probative value, in order to reach a conclusion regarding the efficiency and effectiveness of the usage of funds, correctness of the Partner Reports, the observation of the national and community legislation and Programme rules.

All the original financial documents, *such as: invoices, receipts, travel orders or other supporting documents with equivalent probative value* **will be stamped by the beneficiary with Programme name, project code, number of the Partner Report and the value of expenditure requested (in the currency of the invoice).**

In case the report is not appropriate in terms of formal/administrative or content aspects the controllers will ask in writing the PB to complete the missing parts or, if needed, additional documents will be requested.

²⁰ FLC Report and FLC Certificate are annexes to Common FLC Manual

²¹ Common FLC Manual is available at www.interreg-rohu.eu.

The PBs will have **5 working days to respond** upon receipt of the clarification letter. In case the clarifications are not submitted within the deadline, or the documentation is not complete, the controller will send a new notification letter by giving a new deadline for submission (another 5 working days, upon receipt). Overall, the PBs **shall have overall maximum 10 working days to submit the documents**.

Attention! *If the second notification is also unsuccessful, the partner report may be rejected, or it can be accepted but without the items which were not properly justified.*

Note: *If an expenditure is not included in the relevant Partner Report, the PB can request the JS the opening of a new Report, for the same period of expenditure, for which proper justification is provided²².*

Note: *The FLC Controllers can choose NOT to verify an expenditure item (e.g. needs further clarification). Any item that is NOT ticked 'Verified by FLC', is NOT included in the current FLC Report and Certificate. By not ticking the checkbox 'Verified by FLC', FLC controllers generate an item that is neither accepted nor rejected and waits in the system to be verified ('Sitting Duck') and decided upon in later reports.*

The FLC will check the following:

- the eligibility of expenditures (reality, legality and regularity), compliance with the subsidy contract, with the European regulations, the Programme' rules and the national legislation, based on the partner report and the justifying documents supporting each expenditure requested for reimbursement in the partner report;
- the delivery of services, goods and works (products/goods purchased are physically available on the premises of the project beneficiary and are used in line with the project purpose, and infrastructure and works exists, are in progress or have been completed);
- double financing;

²² More details will be found in Electronic Monitoring System (eMS) Manual.

- whether the operations are compliant with the European and national requirements regarding information and communication, fair competition, equal opportunities, protection of the environment, public procurement, state aid;
- the generation of net revenue.

Attention! *Declared costs for each reporting period and each budgetary line must be incurred and paid in the given reporting period. In case of the final reporting period the costs shall be paid within maximum 30 days after the end of implementing period, but not later than 31 December 2023.*

Note: *After the controls are finalized, the LB will aggregate the partner reports from all the project beneficiaries (including its own report) in order to submit to the JS the project progress report (PPR).*

After the verification is finalized, FLC Certificate becomes available in e-MS²³.

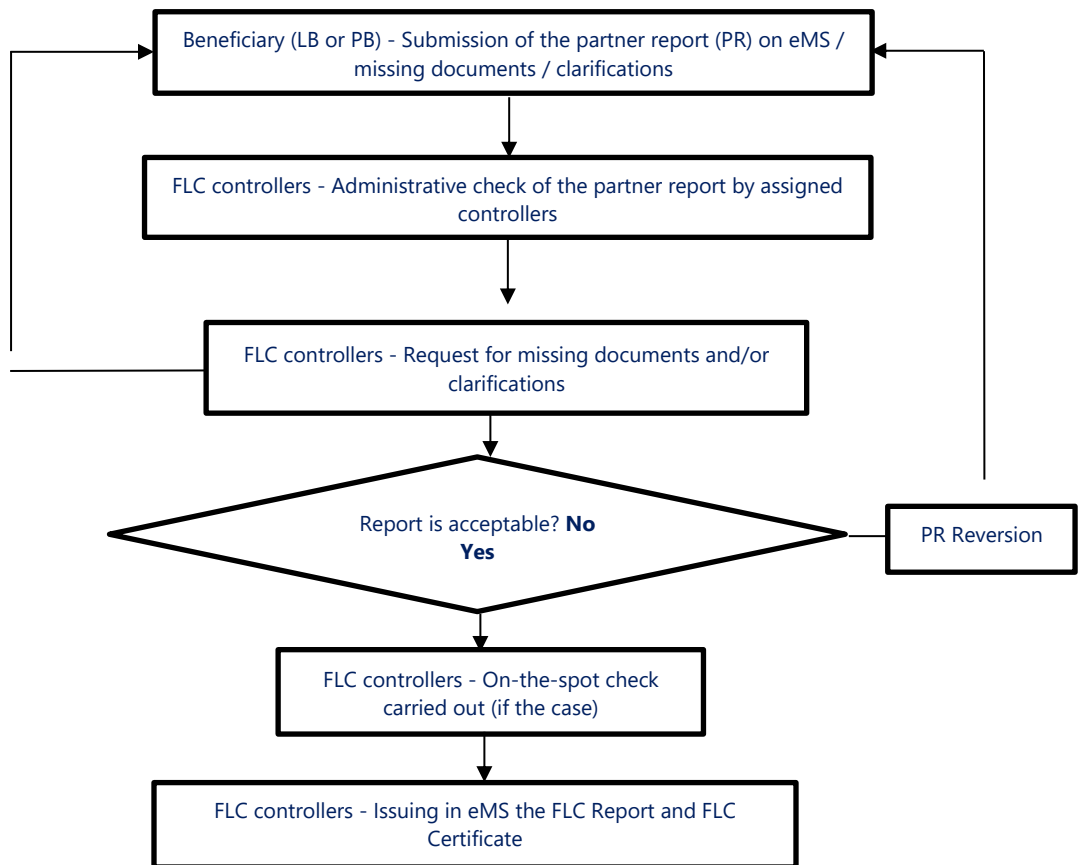
4.3 Validation of eligible expenditures in Romania

In order to draw up the partner reports, all beneficiaries should use the *Reporting in the eMS Manual for LB and PB*²⁴.

²³ FLC checklist is annex to the Common FLC Manual.

²⁴ The Manual is available on the Programme website.

The first level control process is carried out in the following steps:



Romanian beneficiaries can find the notification/request ("Solicitare efectuare CPN") together with two types of declarations (on VAT and horizontal principles) at the following link: <http://interreg-rohu.eu/en/first-level-control/>. The request for FLC (signed by the legal representative and scanned) will be uploaded by the beneficiary in the eMS under the Attachment section of each Partner Report and before that will be sent to the FLC Coordinator of RO FLC Unit by-mail, using control@brecoradea.ro.

4.3.1 Eligible costs and the required supporting documents

The following cost categories, presented in the project budget as main budgetary lines, are considered eligible²⁵:

- preparation cost;
- staff cost;
- office and administrative expenditure;
- travel and accommodation cost;
- external expertise and services costs;
- equipment expenditure;
- infrastructure and works.

The verification of the expenditure of LB/PB should be carried out based on the documents²⁶ mentioned in the *Reporting in the eMS Manual for LB and PB*.

4.3.2 Verification of procurement

The purchase of goods and services, as well as the contracting of works, by project beneficiaries, is subject to national, Community and Programme rules. The procurement rules aim at securing transparent and fair conditions for competing on the common market and should be respected by the project beneficiaries when commissioning the above services, works or supplies. Rules differ depending on the type of goods and/or services to be purchased, as well on their value.

National regulatory frameworks, transposing the EU Directives and regulations on public procurements, shall be applied by any legal entity acting as contracting authority. If any deficiencies will be identified the controllers could apply financial correction for the Public Romanian beneficiaries according to OUG nr.66/2011.

²⁵ According to Guide for Applicants for relevant Call for Proposals. Please also see the Programme general rules on eligibility, attached to each Guide for Applicants.

²⁶ The documents will be uploaded in eMS for each type of expenditure, and the files name must clearly indicate the content of the files.

For Romanian beneficiaries not acting as a contracting authority, see chapter 3.3. Public procurement from this Manual. The controllers could apply the financial correction mentioned in that chapter 3.3.

4.3.3 The rules of the on-the-spot checks

According to the Article 125(5) and (6) of regulation No. 1303/2013 the verifications shall include on-the-spot verification of operations. The controllers are responsible for conducting on-the-spot checks to all beneficiaries at least once during the project life cycle and if the case according to national rules/legislation.

In case of Romanian project beneficiaries in the following situations validation of expenditures will only be conducted, together with the on-the-spot-check:

- in case the PR is the final one;
- if there are equipment (in case the equipment reported expenditure is equal or above EUR 5,000) or works to be checked on-site by controllers.

During the on-the-spot checks, the controllers will verify the actual implementation of the project, whether the delivery of the product/service is in full compliance with the terms and conditions of the Subsidy Contract and the physical progress. The main purpose of the on-the-spot checks is to verify the compliance of the submitted reports and supporting documents with the actual implementation of activities and with original documents.

Generally, notification of the on-the-spot checks should be sent to PBs in advance (**minimum 5 days**), in order to ensure that the relevant staff (e.g. project manager, engineer, accounting staff) and documents (in particular, financial records including account statements and original invoices) are made available by the PBs during the check.

Information gathered during on-the-spot check is documented in the On-the-spot

Report²⁷ and FLC Checklist²⁸. In case on-the-spot verification is not performed for a PR.

4.3.4 Appeal against the first level control report

If the beneficiary, subject of the FLC, does not agree with the expenditure declared non-eligible by the controllers, a duly justified appeal against the first level control report can be submitted.

The appeal must be submitted within **15 working days** after FLC Certificate is issued in eMS. A single appeal can be submitted for an expenditure requested for first level control.

The appeal must specify at least the following information:

1. The identification data of the beneficiary submitting the appeal.
2. The number of the financing contract and the title of the project.
3. The purpose of the appeal, including the data regarding the documents and/or the public procurement procedures subject to appeal.
4. The budgetary chapter in which the expenditure is enclosed.
5. The nature of the expenditure and the amount contested.
6. The motivation and justification of the appeal.
7. Justifying documents (if applicable).

The appeals submitted after the deadline specified above or those that do not contain enough elements in order to identify the subject to appeal, will not be analyzed.

The appeal will be analyzed/re-evaluated by the FLC Unit, within **20 working days**, starting with the next day after the receiving date of the appeal through eMS mailing system.

²⁷ Each FLC Unit will use own form for on-the-spot check report.

²⁸ Annex 1 at the Common FLC Manual.

After receiving the appeal, the FLC Coordinator shall designate the controllers who will analyze the appeal, others than the ones who performed the control.

If the first level controllers send clarification request, the project beneficiary must submit all the requested documents within the established time frame, the deadline for the resolution being suspended in this period. In this case, the appeal will be analyzed only based on the documents provided in the established timeframe. The first level controllers will not take into consideration the documents that were not issued before the registration date of the first level control request.

The controllers shall conclude the analysis of the appeal by issuing a resolution, which will detail the appealed expenditures and the reason for approval/rejection. If an appeal is partially or totally approved, the respective expenditures shall be included by the LB in the next PPR, together with the documents of the appeal (the resolution issued by the designated controllers and the supporting documents).

For an appeal submitted, the beneficiary will receive either:

- the Decision of the FLC Unit and the Validation Notice for the new validated expenditures, if the appeal is partially/entirely approved;
- or the Decision of the FLC Unit if the appeal is entirely rejected.

If an appeal is partially or totally approved, the related expenditure will be validated by FLC following one of the cases below:

1. Either FLC in process of verifying a new report submitted by the partner and, in case it contains the budgetary lines affected by the results of the appeal, will include the expenditure approved under the appeal and make "positive corrections" accordingly for the flat-rate budget lines, or
2. The beneficiary will create in a new Partner Report the relevant budgetary lines as per the decision on the appeal, but with 0 expenditure requested. The FLC

will validate the amounts as per the decision on the appeal (as a positive correction).

In both cases, the FLC will upload in the system the documents related to the appeal (appeal submitted by the partner, the FLC Decision on the appeal, on-the-spot report, etc).

4.4 Validation of eligible expenditures in Hungary

According to Gov. Decree 238/2015 (IX.4.), control activities in Hungary related to the Interreg V-A Romania-Hungary Cooperation Programme are carried out by Széchenyi Programme Office Nonprofit Ltd. within SZPO, precisely the Control Department is responsible for carrying out these tasks. The actual verification of expenditures will be implemented by the East-Hungarian Control Unit in Békéscsaba and Mátészalka, being part of International and European Cooperation Programmes Directorate Control Department of SZPO. They will be involved in the verification of expenditures and will be responsible for issuing FLC Report and FLC Certificate for the HU PR of the Interreg RO-HU Programme.

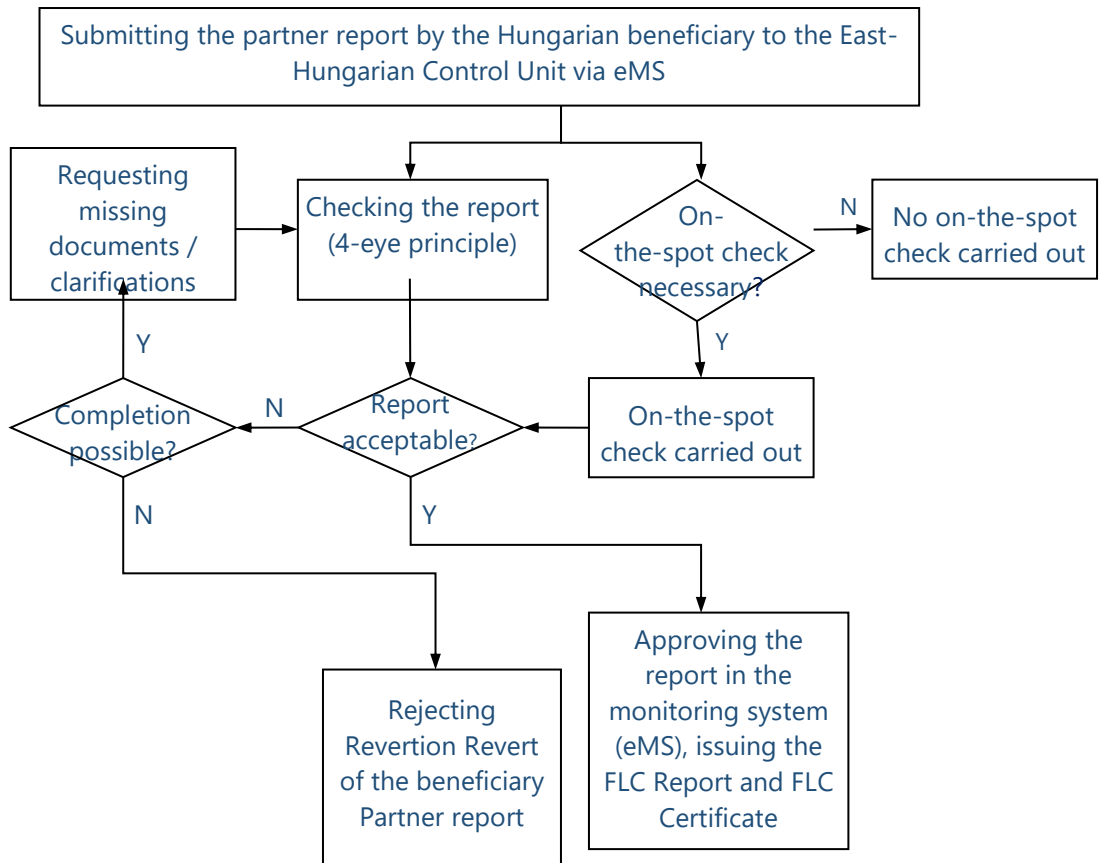
The first level control performs desk-based verifications and on-the-spot checks for the operations implemented by the beneficiaries, project expenditures, delivery of products, infrastructure works and services, and issues FLC Reports and FLC Certificates. The verifications will cover administrative, financial, technical and physical (only for the on the-spot checks) aspects of the projects.

SZPO as Control Body:

- Receives the partner report and all invoices with supporting documents of the project part for the reporting period concerned from the Hungarian beneficiary electronically, via the monitoring system of the programme (eMS) (part of the document (i.e. invoices, public procurement documentation) will be requested in paper copy as well));

- Checks the activity report: checks the proper implementation of the project part by the content as approved in the subsidy contract and in the application form;
- Checks the financial report: checks if the expenditure reported is within the budget lines of the approved application, comparing the expenses of the project part with the activities;
- Checks the invoices and other documents of equivalent probative value (if the expenditures are eligible and paid, the invoices are formally compliant to Hungarian regulations);
- Checks – based on check-lists – whether the reported activities comply with national and joint eligibility rules, whether state aid and public procurement rules are respected and checks the fulfillment of requirements related to publicity;
- Declares the total eligible expenditure (ERDF contribution, state contribution and own contribution) for the project part and reporting period concerned;
- Issues the FLC Report and FLC Certificate concerning the project part and reporting period concerned and other FLC documents (on the spot check, FLC Check, procurement Checklist if the case).

Flowchart of FLC Procedures:



4.4.1 Eligible costs and the required supporting documents

The following cost categories, presented in the project budget as main budgetary lines, are considered eligible²⁹:

- preparation cost;
- staff cost;

²⁹ According to Guide for Applicants for relevant Call for Proposals.

- office and administrative expenditure;
- travel and accommodation cost;
- external expertise and services costs;
- equipment expenditure;
- infrastructure and works.

The verification of the expenditure of LB/PB should be carried out based on the documents mentioned below.

Note: *Please note that the list below is not exhaustive. The Lead Beneficiary or Project Beneficiary shall provide all the documents and information required by the controllers in accordance with the provisions of the subsidy contract.*

1. Preparation Costs - the following main documents must be available for control purposes:

- Contract for services or other supporting documents requested by the relevant national legislation and necessary for the legality of the cost type;
- Performance report (about the fulfilment of the task, the project manager signs it);
- Employment contract valid at the time when the cost of travel and accommodation incurred;
- Invoice;
- Bank statement or payment evidence;
- Proof of delivery, like the complete/finished documentation or plan, translated documents, etc.;
- Supporting documentation for the necessity and eligibility of the meeting, travel and accommodation costs;
- Evidence of the selection process, in line with the applicable procurement rules or national public procurement rules depending on the amount contracted.

2. Staff Cost - the following main documents must be available for control purposes:

- Employment contract or an appointment decision/contract considered as an employment document;
- Job description (the project related tasks of the employee must be included in the job description);
- Description of the calculation method of staff costs;
- Detailed table of staff costs for Hungarian Beneficiaries (by using the template provided by SZPO);
- Transparent time records/ timesheets signed by the person claiming to have spent the hours working on the project and his/her supervisor;
- Salary slip, with detailed information about the salary (including any overtime pay and social contributions, wage taxes, total working time, net salary, etc.);
- Proof of payment of salaries, related taxes and employer's contribution: payment order and account statement or, in case of cash payment, the receipt and cash book, with the declaration of the authorized representative of the PB on the amount of bank transfer of all the public dues related to the salaries of the concerned employee.

3. Office and administrative expenditure: by applying the flat rate option on direct staff costs, beneficiary do not need to document that the expenditure has been incurred and paid, or that the flat rate corresponds to the reality.

4. Travel and accommodation cost, per diem - the following main documents must be available for control purposes:

- Employment contract/ appointment decision for the project (administrative order determining staff members);
- Travel orders filled-in with all requested information on travel and per diems and signed by the authorized person, with all the settlement documents, attached, depending on which payments were made: train tickets, bus tickets, accommodation invoice, etc.;

- Calculation table for Hungarian beneficiaries with the details of the per diems, travel costs (up to 100 EUR) and costs of travelling by car:
 - *In case of travelling by car:*
 - travel expense claim based on the applicable consumption norm and fuel prices determined by National Tax and Customs Administration Office – NAV- Calculation table contains these costs;
 - and a registration certificate of the car.
 - *In case of travelling by public transport:*
 - train ticket, bus ticket, plane ticket (boarding card) etc. (The original invoices have to be submitted if above 100 EUR).
 - *In case of per diems:*
 - Salary slip, with detailed information about the per diem.
- Business trip report/mission report signed by the traveling person and approved by the project manager/legal representative (for each travelling inland and abroad as well). The report shall include: the names of travelling persons, travelling time (starting date, end date, hour border crossing at exit and entrance), travel aim and results achieved;
- Other documentation as proof of travelling (invitations, agenda, minutes, photos, attendance sheets, etc.);
- Proof of payment: account statement or, in case of cash payment, the cash book;
- In case of per diems, the document certifying the disbursement of per diem related taxes and contributions.

5. External expertise and services costs - the following main documents must be available for control purposes:

- Evidence of the selection process, in line with the applicable procurement rules or national / EU / other public procurement rules depending on the amount contracted and the type of beneficiary;

- Contract or a written agreement laying down the services to be provided with a clear reference to the project. For experts paid on the basis of a daily fee, the daily rate together with the number of days contracted and the total amount of the contract must be provided;
- Invoice or a request of reimbursement providing all relevant information in line with the applicable accountancy rules, or payroll (in case of mandatory contracts);
- Outputs of the work of external experts or service deliverables, with the beneficiary's proof of acceptance (timesheet, activity reports, etc.);
- If the service has a tangible outcome (e.g.: study, brochure, etc) – a sample must be submitted;
- In case of studies a declaration of the expert that the study or any part of it has never been accounted in any other community or nationally financed application;
- Proof of service delivery: list of participants, agenda/detailed programme, attendance sheet, evaluation forms, copies of written materials, photos, etc.;
- Performance report (about the fulfilment of the task, with the signature of the project manager);
- Proof of payment (payment order and account statement or, in case of cash payment, the receipt and cash book). Evidence on the payment of the salary related taxes and social contributions in case of mandatory contracts.

6. Equipment expenditure - the following main documents must be available for control purposes:

- Evidence of the selection process, in line with the applicable procurement rules or national / EU / other public procurement rules depending on the amount contracted and the type of beneficiary;
- Contract or other supporting documents requested by the relevant national legislation and necessary for the legality of the cost type;
- Photo of the purchased equipment;
- Stock-taking certificate;

- Tangible asset register;
- Proof of delivery;
- Invoice(s) and proof of payment (payment order and account statement or, in case of cash payment, the receipt and cash book).

7. Infrastructure and works - the following main documents must be available for control purposes:

- Evidence of the procurement process (announcement, selection, award, etc.) in line with the applicable national procurement rules or the national/ EU / other public procurement rules depending on the amount contracted and the type of beneficiary;
- Contract;
- Building permit;
- Construction plan;
- Title deed;
- All documents related to the works carried out;
- Performance report;
- Proof of the technical acceptance;
- Stock-taking certificate;
- Photos;
- Invoice;
- Proof of payment (payment order and account statement or, in case of cash payment, the receipt and cash book);
- Other permits requested by the relevant national legislation, other supporting documents.

4.4.2 Verification of procurement

The purchase of goods and services, as well as the contracting of works, by project beneficiaries, are subject to Community, national, and Programme rules. The procurement rules aim at securing transparent and fair conditions for competing on

the common market and should be followed by the project beneficiaries when procuring the above services, works or supplies. Rules differ depending on the kind of goods and/or services to be purchased, as well as the value of the purchase. During verification if the procurement falls under the scope of the **Public Procurement Act** the purchase of goods and services as well as the contracting of works will be checked in line with it; the other procurements out of the scope of the Public Procurement Act will be controlled along the rules available in the state co-financing contract/other programme documents.

4.4.3 The rules of the on-the-spot checks

According to the Article 125(5) and (6) of regulation No. 1303/2013 the verifications shall include on-the-spot verification operations. The controllers are responsible for conducting of on-the-spot checks to 100% of all beneficiaries at least once during the total project life cycle and if the case according to national rules/legislation.

In Hungary, the main rules for implementing on-the-spot checks are set out in the Government Decree no 126 of 7 June 2016.

On-the-spot checks will be performed by SZPO staff and if necessary, by external experts contracted by SZPO according to the following methodology:

An on-the-spot check of each project part will be compulsory. Further on-the-spot checks are carried out according to the followings:

- in case the total subsidy of the project part (including the EU contribution and the state contribution as well) is below EUR 200.000, further on-the-spot check(s) will be carried out on a sample basis, only if deemed necessary based on the results of risk assessment;
- in case the total subsidy of the project part is between EUR 200.000 and 1.000.000, at least one further on-the-spot check will be carried out; further on-the-spot check(s) will be carried out only if deemed necessary based on the results of risk assessment;

- in case the total subsidy of the project part exceeds EUR 1.000.000, on-the-spot checks will be carried out before the acceptance of each beneficiary report. However, this rule can be disregarded in case an on-the-spot check had been carried out within 12 months prior to the acceptance of the partner report concerned. Further on-the-spot checks will be carried out only if deemed necessary based on the results of risk assessment.

Further risk analysis of each project part (beneficiary) will be executed after receiving the partner reports. Documents on the risk level of project parts will be kept in the beneficiary dossier together with other relevant documentation.

On-the-spot checks will be carried out primarily by the controllers of SZPO; however, in case special expertise not possessed by the controllers is indispensable, the involvement of external experts will be possible. These external experts will participate in the on-the-spot checks along with the controllers. Their activities are closely supervised by the control body.

Generally, notification of the on-the-spot checks should be given to PBs in time in advance (**minimum 5 days**), in order to ensure that the relevant staff (e.g. project manager, engineer, accounting staff) and documentation (in particular, financial records including account statements and original invoices) are made available by the PBs during the check.

Information gathered during on-the-spot check is documented in the on-the-spot check report and in the FLC Checklist.

4.4.4 Appeal against the first level control report

If the beneficiary, subject to the first level control, does not agree with the non-eligible expenditures stated by the controllers, a duly justified appeal against the first level control report can be submitted to NA for HU partners.

In that case the amounts subject to appeal shall be mentioned distinctively by LB when submitting the PPR in section "Problems and solutions found" (if known by the time of elaboration of the PPR).

Attention! *According to the Gov. Decree No. 126/2016, the appeal must be submitted within **8 days** after receiving the first level control report/FLC Certificate is issued in eMS) to the NA. A single appeal can be submitted for an expenditure requested for first level control.*

The appeal must specify at least the following information:

1. The identification data of the beneficiary submitting the appeal.
2. The number of the financing contract and the title of the project.
3. The purpose of the appeal, including the data regarding the documents and/or the public procurement procedures subject to appeal.
4. The budgetary chapter in which the expenditure is enclosed.
5. The nature of the expenditure and the amount contested.
6. The motivation and justification of the appeal.
7. Justifying documents (if applicable).

The appeals submitted after the deadline specified above or those that do not contain enough elements in order to identify the subject to appeal, will not be analyzed.

In Hungary, the NA analyses the appeal and informs the Beneficiary on the decision in 15 days, starting with the next day after the receiving date of the appeal through eMS mailing system. In case the NA accepts the appeal, a new Declaration on Validation of Costs will be issued by the FLC Unit.

If an appeal is partially or totally approved, the related expenditure will be validated by FLC following one of the cases below:

1. Either FLC in process of verifying a new report submitted by the partner and, in case it contains the budgetary lines affected by the results of the appeal, will

include the expenditure approved under the appeal and make “positive corrections” accordingly for the flat-rate budget lines, or

2. The beneficiary will create in a new Partner Report the relevant budgetary lines as per the decision on the appeal, but with 0 expenditure requested. The FLC will validate the amounts as per the decision on the appeal (as a positive correction)

In both cases, the FLC will upload in the system the documents related to the appeal (appeal submitted by the partner, the FLC Decision on the appeal, on-the-spot report, etc)

4.5 Availability of documents and accounting records

All accounting and supporting documents (e.g. subsidy contract, project application form, service/work contracts, public procurement documentation, rental agreements/contracts, important communications with project beneficiaries/MA/JS etc.), documents related to the expenditure, controls and audits, and documents required to ensure an adequate audit trail must be accessible.

During the implementation period of the project as well as after the end of the implementation period of the project, for a **3 years** period after the official closure of the Interreg V-A Romania-Hungary Programme, the LB/PB has the obligation to preserve and to present, to the JS, MA, NA, Certifying Authority, Audit, European Commission (EC), European Court of Auditors and any other body designated to perform controls on the use of the financing, all project documents, including the inventory for the actives gained as a result of using the funds. The time period shall be interrupted either in the case of legal proceedings or by a duly justified request of the Commission. The documents must be properly archived. The MA must be informed on the location of these documents and any modification of this location during the period mentioned above.

4.6 Verification of project net revenues

As a general rule, the grant shall not have the purpose or effect of producing a profit for PBs and, consequently, it must be restricted to the amount required to balance income and expenditure for the project. This being said, *all revenues generated by project activities during the implementation of the project must be deducted from the eligible costs claimed.*

Revenue means cash in-flows directly paid by external users for the goods or services provided by the project. The most common sources of project revenue are entrance fees for events, charges for films, DVDs, books and publications etc. Revenue can also be generated from payments for the use of infrastructure, sale or rent of land or buildings, or payments for services provided by the project. Where revenue generating activities involve operating costs and replacement costs for short-lived equipment, these expenses can be deducted from the revenue. The resulting net revenue is then deducted from the amount to be claimed from the Programme. The basis for the calculation and reimbursement of ERDF from the Programme is always:

$$\text{Eligible costs} - (\text{net}) \text{ revenues} = \text{Net eligible costs}$$

Each time a project generate revenue, the PBs shall declare it in the Partner Report in order to let the FLC know the generated revenues. ***The revenues declared by the PB shall be deducted from the amount verified / authorized and subsequently reimbursed by the MA.***

4.7 VAT RULES

4.7.1 The eligibility of VAT in Romania

The Romanian beneficiaries will submit together with the Partner Report the Declaration on VAT status, but also that the VAT was not recovered from the other sources.

4.7.2 The eligibility of VAT in Hungary

The VAT which is reclaimable by the PB/LB is not eligible even in case the PB/LB does not exercise his right to reclaim it. The public or private status of the PB/LB is not taken into account during identifying the eligibility status of the VAT for its expenditures.

When defining the amount eligible for co-financing (ERDF + state public contribution) from the total amount of a certain invoice, it has to be taken into account if the PB/LB is entitled to reclaim the VAT or not.

The submitted invoice is subject to inverse taxation according to the respective regulations; the procedure of validation is as follows according to the specific VAT status of the Partner:

- In case the PB/LB is entitled to reclaim the VAT (the VAT is not eligible cost) the supporting documentation is enough to cover the net amount of the invoice (the VAT declaration is not necessary to be submitted, but during the site visits it can be checked)
- In case the PB/LB is generally entitled to reclaim the VAT but in respect to the given project he is not allowed to do so or deduct, the PB/LB has to submit a bank statement and warrant to prove the financial transfer of the net amount. The payment of the VAT amount to the Hungarian Tax Office (NAV) is proven by a VAT statement, where the VAT declaration will be checked during the site visits). It is important to note that the PB/LB has to be aware of the fact that the date of reimbursement of the co-financing share of the invoice and the VAT amount can be different (quarterly or yearly VAT declarations). Therefore the transfer of support is done to the same addressee but in a different date.
- If the PB/LB is not entitled to reclaim the VAT, the rules of the previous paragraph should be applied.

5. STATE AID

Attention! *State aid assessment concerns only the Calls that are under State aid incidence, respectively 2nd and 3rd Restricted Calls and 3rd Open Call, but monitoring of **State aid incidence might be performed for all projects implemented under the Programme.***

5.1 What is State Aid?

According to the provision of Article 107(1) of the TFEU “Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market”.

To be State aid, the five conditions, including undertaking capacity, have to be fulfilled on cumulative basis. In case one condition is not fulfilled, then there is no State aid:

- the applicant is an “undertaking”;
- there has been an intervention by the State or through State resources which can take a variety of forms (e.g. grants, interest and tax reliefs, guarantees, government holdings of all or part of a company, or providing goods and services on preferential terms, etc.);
- the intervention gives an advantage on a selective basis, for example to specific companies or industry sectors, or to companies located in specific regions;
- competition has been or may be distorted;
- the intervention is likely to affect trade between Member States.

In order for State aid to be present, the recipient must be an “undertaking”. Undertakings are entities engaged in an “economic activity”, regardless of their legal

status (they can be public bodies, non-governmental organizations or universities, as well as private firms) and regardless of whether they aim to make a profit or not. Accordingly, the first step concerns information about the nature of the activity to be undertaken within the project, and, specifically, whether this involves an economic activity. If the activity is not economic, the applicant is not an undertaking for State aid purposes and it can be concluded that there is no State aid. Economic activity is broadly defined as 'offering goods or services on a given market'. The key question is whether, in principle, the activity could be carried out by a private body in order to make a profit. If so, the activity will most likely be considered "economic" and thus, the partner will be considered an "undertaking".

The project activities which are identified as being "economic" (the non-economic activities of a given partner in the project are not considered further in this context), have to be assessed for their State aid relevance. The most crucial question is whether there is a selective advantage involved in supporting a certain activity, i.e. whether there is a benefit that the undertaking (partner) would not gain under 'normal market conditions' or whether it is relieved of costs that it would normally have to meet. If there is no selective advantage or benefit to the applicant, then there is no State aid. Where the activity is economic and support is regarded as constituting an advantage, support from the Programme is likely to be State aid relevant. Consideration should then be given to whether any State aid element can readily be eliminated.

5.1.1 Indirect state aid

It may also be that project beneficiaries grant State aid to third parties outside the project partnership. This is because other undertakings (i.e. entities engaged in economic activities) not included as project beneficiaries in the project partnership (e.g. associated organizations, target groups, etc.) could receive an advantage through the project's activities that they would not have received under normal market conditions. And this implies that they could be recipient of State aid. It is

worth mentioning, that even though the project beneficiary does not perform State aid relevant activities in the project thus at its level it does not mean State aid but its activities could mean an advantage for third parties outside the project partnership.

Indirect aid may happen if:

- The beneficiary transmits (part of) the aid to one/more third party/ies through a financial aid;
- The outputs of the projects are put at disposal of certain subject(s) at advantageous conditions;
- Any other situation in which an undertaking or more ends up by getting an economic advantage as a direct consequence of the project implementation.

Where a beneficiary provides State aid to end users, it will be necessary for the project beneficiary providing the advantage to calculate the value of the supportive activities.

Then, consideration should be given to eliminating any State aid element.

5.2 General principles of the State aid assessment

From **State aid viewpoint**, within Interreg V-A Romania-Hungary Programme, the Beneficiary of funding may find itself in one of the following situations:

- the beneficiary of funding is also the beneficiary of aid;
- the beneficiary of funding is the beneficiary of aid, but also transfers part of the aid/advantage to another State aid beneficiary, which is not part of the project partnership;
- the beneficiary of funding is only a vehicle and transfers the entire aid/advantage to another State aid beneficiary, which is not part of the project partnership.

The four situations identified at Programme level, as regards State aid incidence in

relation to eligible actions, are the following:

- a) activities that are State aid free;
- b) activities that imply the entrustment of a Service of General Economic Interest (SGEI) or SGEI under EU Regulation 1370/2007;
- c) activities eligible under GBER scheme (identified options: culture or local infrastructure);
- d) activities that can be financed under *De minimis* scheme.

At Programme level, two schemes, approved through Minister Order no.6510/17.10.2017 - "The exempted State aid scheme for investment priorities 6/c and 8/b" (culture and local infrastructure aid) (**GBER scheme**), **respectively** Ministry Order no.6509/17.10.2017 - "*De minimis* aid scheme for activities within investment priorities 6/c, 7/c and 8/b", (***De minimis* scheme**) - **have been developed** for the ERDF Community funding and RO national (state and local budgets) contribution representing State aid/*de minimis* aid, while for the HU national contribution, **44/2016. (III. 10.) Government Regulation** in relation with state aid rules related to the funds provided by the European Territorial Cooperation Programmes for the 2014-2020 programme period applies.

Also, in case of Ips 9/a and 7/c, there are activities implying the entrustment of a SGEI/SGEI under EC Regulation 1370/2007.

Attention! *Strategic projects, for which the Concept Note has been selected, will benefit of State aid assistance during the implementation of the Concept Note, through help-desk activities and individual meetings (one meeting per strategic project). All State aid related question, when developing the related Full Application, will be submitted to the following dedicated email address: stateaid@breacoradea.ro.*

5.3 Application of State aid instruments

Where support to a project is identified as being State aid relevant, there are the following options provided within the Interreg V-A Romania – Hungary Programme:

entrustment of a Service of General Economic Interest (SGEI), in case of Ip 9/a and for **RO beneficiaries only**; SGEI under EU Regulation 1370/2007, in case of Ip 7/c; **de minimis support**, in case of Ip 6/c, 7/c and 8/b and State aid **compatible with the General Block Exemption Regulation (GBER)**, in case of Ip 6/c and Ip 8/b.

5.3.1 Entrustment of a Service of General Economic Interest (SGEI)

SGEIs³⁰ are economic activities which deliver outcomes in the overall public good that would not be supplied (or would be supplied under different conditions in terms of objective quality, safety, affordability, equal treatment or universal access) by the market without public intervention.

- The entrustment of a SGEI, in the specific case of Investment priority 9/a, **concerns only the RO beneficiaries** and occurs at the operating stage, when the service is to be entrusted to the hospital/healthcare institution/prevention institution. It is the responsibility of the SGEI entrusting entity in keeping with the requirements mentioned below. The service has to be defined through means of a normative act, endorsed by the Romanian Competition Council (law, ordinance, emergency ordinance, Government Decision, Decision of the local authority), and shall include, according to Article 4 of the Commission Decision of 20.12.2011, in particular:
 - (a) the content and duration of the public service obligations;
 - (b) the undertaking and, where applicable, the territory concerned;
 - (c) the nature of any exclusive or special rights assigned to the undertaking by the granting authority;

³⁰Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest; Commission Decision of 20 December on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest; Communication from the Commission, European Union framework for State aid in the form of public service compensation (2011)

- (d) a description of the compensation mechanism and the parameters for calculating, controlling and reviewing the compensation;
 - (e) the arrangements for avoiding and recovering any overcompensation; and (f) a reference to the Commission Decision of 20.12.2011.
- The compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit.

Attention! *The entrustment act regarding the SGEI has to be provided **until the end of the project implementation period and before the start of the operating phase.***

In case of Hungarian beneficiaries, the projects financed under Investment priority 9/a do not fall under State aid, based on the principle of solidarity (according to paragraphs 23-24 of the Commission Notice on the Notion of State Aid and State Aid Monitoring Office letter, on 24 March 2017).

5.3.2 SGEI under EU Regulation 1370/2007

As already mentioned, Services of General Economic Interest (**SGEI**) is a specific section of State aid legislation covering the situation in which *an undertaking receives a compensation to perform a service delegated by a public authority.*

Projects including activities that are declared Services for General Economic Interest (SGEI) may be without State aid incidence subject to fulfilling all Altmark criteria (please see *Altmark Declaration*, annexed to relevant GfA), respectively with State aid incidence, based on Regulation No 1370/2007³¹.

³¹ REGULATION (EC) No 1370/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70.

In case of project's activities implying a **SGEI with State aid** under EC Regulation 1370/2007³², the discharge of public service obligations shall be done within the framework of a public service contract or general rules, which have to:

- clearly define the public service obligations for the public service operator and the geographical area concerned;
- establish in advance, in an objective and transparent manner, the parameters on the basis of which the compensation payment, if any, is to be calculated, and the nature and extent of any exclusive rights granted, in a way that prevents overcompensation;
- determine the arrangements for the allocation of costs connected with the provision of services.

Attention! *In case not submitted along with the application, the entrustment act, endorsed by the competent authority, has to be obtained **until the first reimbursement claim for the project is submitted to the JS.***

All the activities related to **transport** are to be pursued in keeping with EC Regulation no. 1370/2007. Thus, the beneficiary of SGEI on transport is committed to observe the parameters calculated and to avoid over-compensation, based on the methods stipulated in Regulation no. 1370/2007 and to observe the SGEI Regulation no. 1370/2007 for the time period of entrustment.

5.3.3 De minimis Regulation

State aid relevant projects supported under de minimis aid scheme(full text at: <http://interreg-rohu.eu/en/programme-documents/>) shall comply with all the conditions established in the **de minimis scheme**, with reference to the beneficiary, the kind of activity, the kind of costs etc.

³² See provisions of articles 3,4 and 5 of EC Regulation 1370/2007.

In case the *de minimis* option is used for an **indirect aid** (the aid beneficiary does not belong to the project partnership), the aid shall be awarded in full compliance with the *De minimis* scheme provisions and shall be regulated by the ***de minimis* awarding contract** (template will be provided by the Programme), to be signed between the beneficiary of financing and the beneficiary of *de minimis* aid. The Lead/Project beneficiary will have to check, before concluding the *de minimis* awarding contract, if the *de minimis* (final) beneficiary fulfils the eligibility criteria provided for in the *De minimis* scheme, including those related to *de minimis* threshold specified in the *de minimis* beneficiary's declaration. Further, compliance with the conditions for granting *de minimis* aid under the *de minimis* awarding contract will be subject to verification by the MA during the implementation of project and reimbursement of the expenditure. If deviations are found, they will be analyzed from the perspective of the irregularity and / or fraud point of view and the recovery of such state aid shall be ordered. In case of a transfer of aid, the signing of the *de minimis* aid awarding contract between the beneficiary of the *de minimis* aid and the Lead/Project beneficiary will be a mandatory condition for the reimbursement of the validated expenditure related to the project. The signing of the *de minimis* aid awarding contract is conditional on the *de minimis* aid beneficiary providing the *De minimis* declaration (using the template provided by the Programme).

Attention! *Each **de minimis** awarding contract, concluded between the Lead/Project beneficiary and the beneficiary of de minimis, has to be notified to the JS in maximum 5 calendar days from the date of being signed.*

5.3.4 General Block Exemption Regulation (GBER)

The MA has developed a specific **GBER scheme**, according to Commission Regulation No 651/2014 *declaring certain categories of aid compatible with the internal market* in application of Articles 107 and 108 of the Treaty and approved by

Minister Order no. 6510/17.10.2017, *defining conditions in terms of activities, costs and aid intensity*.

The full text of the scheme is available on the Programme website at: <http://interreg-rohu.eu/en/programme-documents/>.

Out of the 43 fields of exemptions provided by the Regulation, the Programme will be using 2: one related to **culture** (art. 53 - for Ip 6/c) and one for **local infrastructure** (art. 56 – for Ip 8/b).

In case of GBER scheme, the aid beneficiary cannot be an undertaking in difficulty according to the EU definition of it. Also, certain limits regarding the notification thresholds are provided for.

In case a **transfer** of aid/advantage to a State aid beneficiary outside the project partnership occurs, it shall be made in full compliance with GBER scheme provisions and shall be regulated by the **State aidawarding contract** (template will be provided by the Programme), to be signed between the Lead/Project beneficiary and the beneficiary of State aid. The fulfilment of the conditions for granting the state aid is checked by the Lead/Project beneficiary (beneficiary of the non-refundable financing). Further, compliance with the conditions for granting state aid under the state aid awarding contract will be subject to verification by the Managing Authority during the implementation of project and reimbursement of the expenditure. If deviations are found, they will be analyzed from the perspective of the irregularity and / or fraud point of view and the recovery of such state aid shall be ordered. The signing of the state aid awarding contract between the state aid beneficiary and the Lead/Project beneficiary, in case of a transfer, will be a mandatory condition for the reimbursement of the validated expenditure related to the project. The signing of the state aid awarding contract will be conditional on the state aid beneficiary providing the Declaration regarding the undertaking in difficulty.

Attention! *Each state aid awarding contract, concluded between the Lead/Project*

*beneficiary and the beneficiary of State aid, **has to be notified to the JS in maximum 5 calendar days from the date of being signed.***

5.4. Reporting and monitoring State aid

Under certain Ips/Calls, approved projects may have been assessed as having a State aid incidence. This requires a particular attention in reporting/monitoring State aid related aspect of their implementation.

However, the need to respect State aid legislation in the overall implementation of the Programme and its projects, make State aid an aspect to be taken into consideration in the reporting and monitoring of all projects.

For projects approved as having State aid incidence (including projects approved under the De minimis scheme):

For projects that, according to their subsidy contract, contain activities that have State aid relevance, the **reporting obligations** are multiple:

- communicating any important modification that may bring under the State aid incidence those activities possibly excluded from State aid, at the moment of the approval;
- reporting key information and data about the implementation of State aid related activities, based on the specific obligations foreseen for each State aid situation in the GfA and its annexes;
- adequately reporting, in detail, the implementation of all situations of indirect aid foreseen in the subsidy contract under the responsibility of the LB or other beneficiary during the project implementation, providing information about the number of aid beneficiaries, their identification, the amount of the aid awarded, the kind of expenditure covered, and all additional information needed to verify the compliance of the indirect aid with the scheme under which it was foreseen to be awarded.

If necessary, the monitoring of the State aid within the projects implemented under State aid relevant Investment priorities may be performed by external experts. For these purposes, the LB should make appropriate use of the "State aid section / Supplementary information section" section of the eMS, filling it up with the adequate level of detail, and structuring the information based on the various State aid situations present in the project, if multiple.

The content of the State aid section / Supplementary information section" section of the eMS will be analyzed by the JS/external experts, clarifications and additional information can be asked, especially in case of indirect aid and modifications to the initial situation.

Attention! *The respect of the specific State aid conditions foreseen for the activities of the project will always make the object of the monitoring visits of the JS, including the ones performed ex-post, after the closing of the project implementation. Monitoring visit will always analyze all relevant documents and information related to indirect aid – if the case – awarded under the responsibility of the LB/other project beneficiary to third parties.*

The LB has the obligation to guarantee the availability of all relevant information in the occasion of the monitoring visits of the JS.

5.5 Verification of State aid

The respect of the State aid legislation is subject to the FLC, which will ensure a sound verification on State aid, based on specific checklists.

Verification will focus mainly on the following aspects:

- for projects approved as not having State aid incidence: the respect of all the initial conditions (including declared elements and information)³³;

³³Based on an affidavit referring to the respect of all initial conditions regarding State Aid signed by the legal or mandated representative of the beneficiary.

- for projects approved with State aid specific provisions (including *de minimis*): the respect, during project implementation, of all relevant conditions related to State aid clauses foreseen in the subsidy contract, with a particular focus on the situations of indirect aid.

Note: *In case of projects falling under State incidence: the requirement regarding an open procedure should not be confused with the open tendering procedure according to the law on public procurement. In this case, this principle should be interpreted as opening up towards the competition through an appropriate degree of publicity so that all stakeholders can participate in the tender.*

For particularly complex projects "competitive dialogue" may apply, where the contracting authority is objectively unable to define the technical means best suited to its needs, or to assess what the market can offer in terms of technical, financial or legal solutions.

Note: *The two aid schemes applicable to Interreg V-A Romania-Hungary Programme are attached to this manual and they are to be regarded as an integral part of PIM. State aid schemes payment and management are to be conducted in strict compliance with the provisions of the two documents.*

6. COMMON ERRORS

In order to avoid possible problems through the implementation process please keep in mind the following:

Most common errors identified during contracting process:

- Arithmetical errors when filling-in the budget;
- Non-respect of thresholds set at Programme level;
- Modification of contract annexes - not using the last approved version of documents;

- Bad planning of project implementation leading to numerous modifications;
- Late submission of requests for modifications;
- Modification of other sections of the Application Form than the ones requested through the addendum request.

Most common errors identified during implementation process:

- Non-compliance with (public) **procurement** rules is the most common cause for errors;
- Infringement of (public) procurement rules sometimes happens due to mere misinterpretation of the (public) procurement legislation or to lack of knowledge of the correct procedures. In some cases, criminal investigations highlight intentional infringement of procurement rules that is meant to benefit a specific bidder due to corruption or a "culture of favoritism".

Such procurement errors could be: imprecise tender documents, excessively short deadlines for submission of tenders, negotiated procedure without prior publication, mix-up of selection and award criteria, discriminatory or dissuasive criteria, lack of transparency regarding evaluation of offers, unlawful splitting of contract, conflict of interests, etc.

Consequences of procurement errors on project level:

- non-eligibility of costs, or only partly validation of costs by FLC (proposal for financial corrections, in case of Romanian beneficiaries);
- delay in project implementation, problems in project financing;
- negative impact on reputation of project beneficiary.

Consequences on Programme level: high administrative efforts, action plan: corrective, investigative, preventive measures, stop of payment of EU-funds by EC.

- Calculation errors, including wrong accounting and wrong budget lines, are another important source of errors. Errors affect mostly the budget lines 'staff

costs' and 'external expertise and services'. It can be assumed that 'staff costs' are mostly affected by calculation/accounting errors, and claims for expenditure to the wrong budget line, while 'external expertise and services' are mostly affected by infringements on (public) procurement rules.

- Other significant sources of errors include non-compliance with the value-for money principle, claim of expenditures not planned in the application form and/or not relevant to the project and infringement of eligibility rules.
- Late submission of Projects Progress Reports (progress reports, reimbursement claims).
- Developing promotional materials without respecting the visual identity elements of the Programme.

Most common reasons for late submission reports:

- Difficulties within the partnership, lack of communication and/or coordination.
- Delay in receiving the information about the progress of project activities realized by the respective beneficiary, their summarizing by the lead beneficiary and submission to the JS.
- Low administrative capacity or poor coordination/communication between project beneficiaries.
- Partnership size and quality - a project with many partners makes the creation of a consolidated Project Progress Report difficult.

Who detects errors/ mistakes in practice - in order of frequency?

- FLC;
- JS/MA during verification of Progress reports/Reimbursement claims;
- Audit/control of other institutions;
- PB/LB.

7. IRREGULARITIES AND FRAUDS

7.1 Irregularities

“Irregularity” means any breach of the Union law, or of the national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union.

If the beneficiary has any knowledge of a fraud suspicion/irregularity related to the Programme, it is his responsibility to announce the management structures, by using the whistleblower system:

- For Romanian beneficiaries: sesizari.proiecte@mdrap.ro.
- For Hungarian beneficiaries: eniko.kretz@me.gov.hu and csilla.sagi@me.gov.hu, antifraud@me.gov.hu.

The MA is entitled to take the decision for **suspending/ terminating the contract**, after verifying the reasons and any relevant documents presented by the LB and/or JS and the related documents.

In case the contract shall be terminated, the MA notifies the LB regarding this decision and the related financial measures. In this case, **within 30 calendar days from receiving such notification, the LB and/or project beneficiaries shall fully return the amounts specified in the notification, without deducting any bank charges.**

Attention! *In case an irregularity is committed, the LB is responsible for repaying to the MA the amount affected by the irregularity, even if the irregularity was committed by one of the project beneficiaries.*

For the irregularities committed by a project beneficiary, the **LB is entitled to request these amounts from the responsible project beneficiary in order to be repaid to the MA.**

If the Lead Beneficiary does not manage to recover the unduly paid ERDF contribution from the project beneficiaries, it will inform the MA and will send all necessary documents for the MA to be able to take all necessary measures stipulated by the legislation in force.

In case the irregularity is discovered before the final payment, the MA is entitled to diminish the reimbursed amount starting with the next payment until the total recovery of the debt, to which the bank charges are added.

In specific cases, for irregularities discovered after payment of the final project progress report, the project beneficiaries may repay the due amounts directly to the MA, notifying the LB about this option.

Any extra payment done by the MA is considered unduly paid amount, and the LB has to repay the respective amounts within **30 calendar days** from the receipt date of such notification from the MA.

In case the irregularity resulting in an unduly paid amount is discovered after the final payment or the debt was not entirely recovered, the MA shall notify the LB regarding the unduly paid amount, and the LB has the obligation to return, within **30 calendar days** as of the receiving date of the notification, the amount, including bank charges.

In case, before the final payment, the MA determines that project indicators/objectives were not fulfilled/were partially fulfilled, proportional financial deductions shall be applied according to the relevant legal provisions and the provisions of the PIM.

The final payment will be made only after the recovery of any known debts from the

LB and/or any other beneficiary of the project.

In this respect, a notification will be sent to the Lead Beneficiary/beneficiary indicating the debts to be reimbursed, as well as the bank accounts where the amount should be paid. The Lead Beneficiary/beneficiary should proceed with the payment within maximum 15 days as of receiving the notification. The deadline will also be indicated in the notification letter.

In case of irregularities committed after the end of the implementation period of the project, during the whole **sustainability period**, the Lead Beneficiary has the obligation, in **30 calendar days** from the receipt of the notification from the MA, to reimburse the amounts unduly paid including the bank charges, and interests, if the case.

Project's failure to contribute to indicators

In case the project contribution to indicators is lower compared to the application form, the MA is entitled to decommit project funds by reducing the original project budget and the corresponding ERDF contribution, as follows:

- a. **10% decommitment** will apply to the budget of the beneficiaries in case the project indicators were reached lower than 75% of the initial project indicators (average at project level considering all indicators);
- b. **25% decommitment** will apply to the budget of the beneficiaries in case the project indicators were reached lower than 50% of the initial project indicators (average at project level, considering all indicators).
- c. Starting with the 31st day as of the expiry of the deadlines stipulated at paragraphs 7, 8, 11 and 13 an **interest rate** increased by one and a half points than the rate applied by the European Central Bank on the first working day of the month of the deadline date shall be applied to the owed amounts.

Financial corrections and payments withhold

In case **financial corrections are applied by the European Commission to the**

Programme with regard to the performance framework, according to Article 22 of Regulation (EU) No. 1303/2013, and based on the provisions of Commission Implementing Regulation (EU) No 215/2014, the Managing Authority may decide to cover the financial correction from the projects' budgets which have not achieved their indicators.

In case the European Commission applies financial corrections to the Programme on the basis of extrapolation or flat rate, the **Managing Authority may decide to cover these corrections from the projects' budgets, concerned by the corrections.**

In case of observations and/or reservations raised by the Commission on the description of the Management and Control System of the Interreg V-A Romania-Hungary Programme or in case of a system error detected, the MA has the right to temporarily **withhold payments** to a particular beneficiary/partner (LB or PB) or the project as a whole. Payment suspension(s) shall be lifted as soon as observations and/or reservations raised by the Commission have been withdrawn and the MA has received sufficient evidence on the solution of the systemic error(s) detected.

National regulatory frameworks, transposing the EU Directives and regulations on public procurements, shall be applied by any legal entity acting as contracting authority. For Romanian beneficiaries not acting as a contracting authority, see chapter 3.3. Public procurement from this Manual. If any deficiencies will be identified the controllers could apply financial correction for the Romanian beneficiaries according to OUG nr.66/2011.

State aid irregularities

In case **State aid related irregularities** are discovered, all necessary steps shall be taken in order to recover the aid granted, including related interests, calculated in accordance with the European provisions in force. The recovery of illegal State aid/illegal indirect State aid shall be made according to European and national legislation in force and in compliance with the provisions of Minister Order No.

6509/17.10.2017 and/or Minister Order No. 6510/17.10.2017, where applicable.

Conflict of interests

The conflict of interests represents any circumstances defined as such in the national/European legislation (Information Note on Fraud Indicators for ERDF, ESF and CF, COCOF 09/0003/00).

It is recommended for the beneficiary to have an internal code of conduct and a conflict of interest policy relating to projects funded from European funds. If the beneficiary does not have this kind of codes, he may take into consideration the EU guides or other national documents on these issues.

Attention! *Any conflict of interests that arises during the implementation of the contract shall be immediately notified to the JS.*

The MA reserves the right to verify such circumstances and take the necessary measures, where necessary.

7.2 Fraud and anti-fraud measures

7.2.1 General information

"Fraud" is any intentional act or omission in connection with obtaining or using European funds and/or public funds related to these incriminated by the Criminal Code or other special laws.

The Programme's structures shall show zero tolerance to any suspected cases of fraud and shall take all necessary measures to prevent and correct such cases, according to relevant national and European legislation in force.

The Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests defines "fraud", in respect of expenditure, as any intentional act or omission relating to:

"- the use or presentation of false, incorrect or incomplete statements or documents,

which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of the European Communities,

- non-disclosure of information in violation of a specific obligation, with the same effect,
- the misapplication of such funds for purposes other than those for which they were originally granted."

7.2.2 Recommendations for the procurement process and anti-fraud measures

This sub-chapter provides the basic introduction for Interreg V-A Romania-Hungary Programme beneficiaries on **measures that could contribute to eliminating fraud risks in procurement process.**

All beneficiaries, whether public or private, are advised to comply with the measures set out by this chapter for each procurement process developed within a project, in order to eliminate any fraud risk, according to the following criteria:

- for procurements below the national legal threshold, but above EUR 2,500 euro, the provisions of Table 2;
- for procurements above the national legal threshold, the provisions of Table 3.

When developing a procurement process, all beneficiaries will comply with the legal provisions, according to national and European law on the conflict of interest and check the European Commission guide Identifying conflicts of interests in public procurement procedures for structural actions for additional information.

The entire personnel of the beneficiary, involved in the procurement process shall sign declarations on conflict of interests. In case of private beneficiaries, if the national legal provisions do not provide a template of such declaration, it is

recommended to sign the format used by the public beneficiaries. All the declarations shall be registered internally and made available to the Programme structures, together with the procurement documents (file).

It is recommended for the beneficiary to comply with the four eyes principle for all documents drafted according to national legislation/ internal programme requirements and the indications provided within this document, needed for developing the procurement procedure.

For beneficiaries that have an internal audit unit, it is recommended to use this structure to analyze the procurement process.

Attention! *All documents drafted by the beneficiary shall be submitted via e-MS, together with the supporting documents required for expenditure validation.*

The beneficiaries that are allowed to use the PREVENT system in Romania have the obligation to use it in the procurement process.

Attention! *Also, please note that the beneficiary does not have the right to divide the procurement contract into several separate contracts of lower value, or to use calculation methods that may lead to the underestimation of the estimated values of the procurement contract, with the purpose of avoiding the application of the provisions of public procurement rules/procurement rules.*

According to the type of procurement procedure developed, the beneficiaries will comply with the following indications, according to each procurement procedure stage. Regardless of the type of the procurement procedure applied, the beneficiaries must permanently update the information regarding the procurement procedure (see SC provisions).

A. For procurements below the national legal threshold, but above EUR 2,500 euro net

The following Table comprises the necessary information with reference to proper

documentation of each possible step in the direct³⁴ procurement process and the actions/ measures to take.

³⁴ Direct procurements are acquisitions of services, goods or works with values that are below the national thresholds, as regulated by the specific legislation. The Programme demands for procurements above EUR 2,500 net, to be based on a "3 similar offers" procedure (see also chapter 3.3 *Public procurement* of this Manual).

Table no. 2. Procurements below the national legal threshold, but above EUR 2,500 euro net

PP³⁵ stage	Steps	Actions/measures to take	Outputs – indicative documents required³⁶
	Drafting the technical specification/ terms of reference	<p>In case of direct purchase of services, goods or works, with certain degree of complexity³⁷, the beneficiary will draft the technical specifications/terms of references that need to be observed by the direct provider.</p> <p>These technical specifications/ terms of references will be approved by the legal representative or by superior personnel with tasks in this regard (according to the internal rules of procedure of the beneficiary).</p> <p>If such technical specifications/ terms of references</p>	Internal documents regarding the approval of the technical specifications/terms of references

³⁵ PP=procurement procedure

³⁶ These are indicative documents required by the Managing Authority. It is not mandatory to have distinct documents for all this information. The beneficiary may decide to have a single document that includes all information required by the Managing Authority.

³⁷ Within the meaning of this document, complex services, goods or works can be considered: services for drafting, procedures, technical documents, feasibility studies, traffic studies, training, events, promotional materials, works etc.

		were drafted and approved, the reception of the services, goods or works will be made in accordance with these specifications.	
Planning, preparation and carry out	Justifying the market price (3 offers' rule)	Justifying the market price is an obligation of the beneficiary. It is mandatory for the beneficiary to make a deep market research for related costs. If available, the beneficiary is recommended to use the internal benchmark price for standard goods or services (based on previous prices paid by the beneficiary and on the market price).	Internal documents regarding the justification of the market price
	Approval of the direct procurement	It is mandatory that the direct procurement is approved by the legal representative of the beneficiary or by superior personnel with tasks in this regard (according to the internal rules of procedure of the beneficiary).	Internal documents approving the direct procurement
	Rules concerning the procurement	It will be observed the national legislation which requires a justification document.	Internal documents approving the direct procurement, note for the estimated value of the contract; justification for

			not using the ESPP (if applicable)
	Conflict of interest	The beneficiary must take all the necessary measures in order to avoid the situations that might cause conflicts of interests within the procurement process. ³⁸ Rules of conflict of interest shall be observed during the entire process of procurement, from request to price offer to signing the contract.	Declarations of the conflict of interest
Implementation and monitoring	If the beneficiary decides to sign a contract ³⁹	In case the beneficiary decides to conclude a legal contract with the provider, then the beneficiary shall publish all the contract information that is not publically sensitive (according to national provisions). The beneficiary shall make public the information on its website and on the Programme site, if the beneficiary does not have one:	Information posted on the Beneficiary's or on the Programme site.

³⁸ Please take into consideration the national legal provisions and the European Commission guide regarding *Identifying conflicts of interests in public procurement procedures for structural actions - A practical guide for managers elaborated by a group of Member States' experts coordinated by OLAF's unit D2 - Fraud Prevention*<http://ec.europa.eu/sfc/en/2014/anti-fraud>

³⁹ It is recommended the beneficiary to conclude a contract or to issue a purchase order/procurement notice when purchasing complex services, goods or works (e.g. services for drafting, procedures, technical documents, feasibility studies, traffic studies, training, events, promotional materials etc.). This will give the beneficiary more control of the procurement process.

		<ul style="list-style-type: none"> • The information shall be posted in 10 days from the contract signing on the beneficiary site. • The request for publishing the information on Programme site (together with the relevant information) is submitted to JS in 8 days from the contract signing. <p>The minimum following information shall be made public: the name of the provider, the contract value, the type of procurement, namely direct procurement, the contract object.</p>	
	No documents issued by the beneficiary as buyer – direct purchase	The national provisions shall be observed.	According to national provisions
Implementati on and monitoring	Implementation, monitoring and control	<p>The beneficiary:</p> <ul style="list-style-type: none"> • Reviews products/ works purchased/ performed against the technical specifications • Periodically reviews the quality of the activities performed by the service provider (if the process involves complex/more activities) against the TORs provisions; • Reviews activity reports, if they were required 	<p>Internal notes regarding the approval of the reports</p> <p>Expert reports regarding the implementation of the activities and the quality of the activities performed by providers, approved by</p>

		<p>within the contract / technical specifications / TORs</p> <ul style="list-style-type: none"> • Reviews outputs for evidence of costs and requests additional evidence in support. All the reports shall be approved by the beneficiary. • Performs a review of invoices submitted by the contractor for avoiding duplication (i.e. multiple invoices for the same amount, invoice number etc.) or falsification. • All the invoices received from the provider should be checked and approved by the financial expert/manager before payment. <p>If the object of direct purchase is works, then the beneficiary must conclude a reception minutes with the provider stating that the works fulfill the quality and quantity criteria.</p>	the beneficiary (contracting authority)
	Reception of services / products / works	<p>At the completion of the procurement, the following indications must be observed:</p> <p>The beneficiary must ensure that the items bought, object to the purchase, are identical with those approved by the legal representative or by superior personnel with tasks in this regard (according to the</p>	<p>Receipts from the seller/provider</p> <p>Internal documents</p> <p>Works certificates or other form of verification</p>

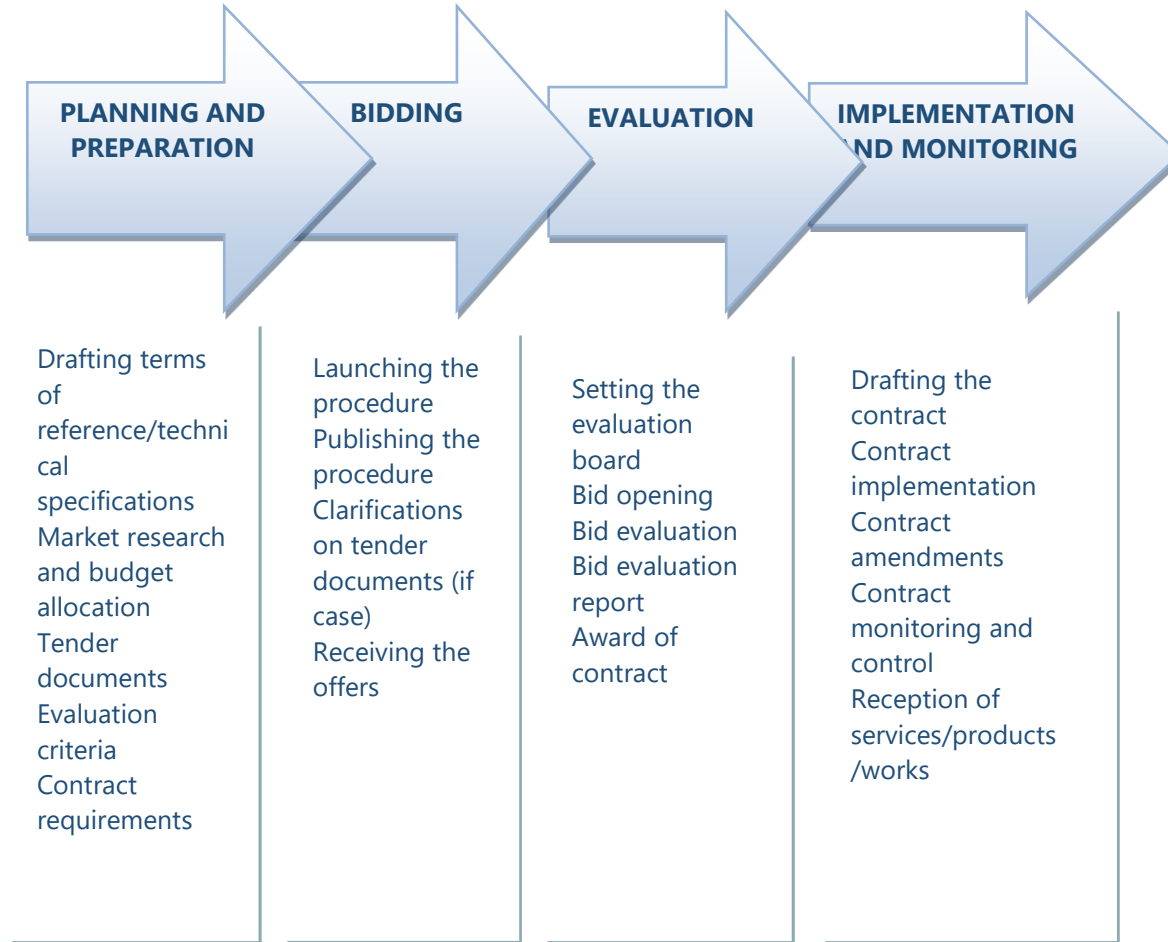
		<p>internal rules of procedure of the beneficiary) or have a superior quality.</p> <p>The beneficiary must draft an internal document approving the payment of these items. This document must include information regarding the items bought, namely: the items are identical with those approved by the legal representative or by superior personnel with tasks in this regard (according to the internal rules of procedure of the beneficiary) or have a superior quality and the price is in line with the initial approved budget.</p> <p>If the object of the purchase is works, then the beneficiary must conclude a reception minutes with the provider stating that the works fulfills the quality and quantity criteria.</p> <p>When receiving the services/products/works, the beneficiary must perform a rigorous check on the quality of the products/ services/ works purchased/ performed against the specifications (if they were drafted and made available to the provider/ included in the contract, purchase order or procurement notice). This information shall be included in the</p>	<p>certifies, awarded by an independent party, according to the legal provisions in force.</p>
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		<p>receipt minutes.</p> <p>The beneficiary must draft an internal document approving the receipt of the products/services/works and of the payment of countersign the final report issued by the contractor, concluding the procedure. This document must include information regarding the products/ services/ works subject of the purchase order / procurement notice/ contract, namely: the discrepancies between planned and actual activities and budget, the receipt minutes, a qualitative and quantitative evaluation of the products/services/works against the technical specification (if the case), the price, a description of the activities (if the case), all the relevant documents regarding the completion of the activities, (reports, attendance registers, time recording system etc.) etc. The beneficiary performs a review of invoices submitted by the contractor for avoiding duplication (i.e. multiple invoices for the same amount, invoice number etc.) or falsification.</p> <p>All the invoices received from the contractor should be checked and approved by the financial expert/</p>	
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		<p>manager (internal document) before payment.</p> <p>For any discrepancies between the information provided by the contractor and the contract, if the case, the beneficiary shall request for clarifications.</p> <p>In case of works, it is recommended the beneficiary to request works certificates or other form of verification certifies, awarded by an independent party, to be provided on the completion of the activities, according to the legal provisions in force.</p>	
	Contract amendments	The amendments to the contract must be verified and approved by a senior level personnel within the beneficiary.	Reports/approvals

B. For procurements above the national legal threshold

The indicative main stages of procurements with values above the national legal threshold (public procurement procedures for contracting authorities) are captured in this image:



When developing procurement above national threshold (public procurement procedures for contracting authorities) regulated by Law no.98/2016, in order to eliminate any risk of fraud, the Romanian beneficiaries will take into account the following indications:

Table no. 3. Procurements above the national legal threshold

PP Stage	Steps	Actions/measures to take	Outputs – indicative documents required ⁴⁰
Planning, preparation and carry out	Drafting the technical specification/ terms of reference	The technical specifications/terms of references established by the beneficiary must not be too narrow/rigged in comparison with the legal provisions. In such cases, the restrictive specifications shall be identified by the Programme control structure and financial correction shall be applied according to legal provisions.	Internal documents regarding the approval of the technical specifications/terms of references
	Estimation of the procurement's value	When estimating the value of the procurement, it is mandatory for the beneficiary to make a deep market research for related costs and, if available, to use the internal benchmark price for standard goods or services (based on previous prices paid by the beneficiary and on the market price).	Internal documents regarding the justification of the budget/the approval of the procurement's value

⁴⁰ These are indicative documents required by the MA. It is not mandatory to have distinct documents for all these information.

Evaluation criteria and Tender documents	The evaluation and selection criteria established by the beneficiary must not be restrictive in comparison with the legal provisions. In such cases, the restrictive evaluation and selection criteria shall be identified by the Programme control structure and financial correction shall be applied according to legal provisions.	Tender documents drafted.
Approval of the public procurement procedure	It is recommended the public procurement procedure to be approved by the legal representative of the beneficiary or by superior personnel with tasks in this regard (according to the internal rules of procedure of the beneficiary).	Internal documents approving the procurement
Transparency/ launching the procedure	The Beneficiary in line with national rules shall make public the tender documents. Thus, the beneficiary shall observe all legal provisions regarding the assurance of the transparency of the public procurement procedure, observing the timescales provided by the law.	Tender documents published
Confidentiality of information	The personal involved in bidding process shall ensure the confidentiality of information. In this regard, the persons involved in the procurement process shall sign a declaration stating	Declarations of confidentiality

		that the confidentiality of the information included within the tender documents and received offers is ensured.	
	Conflict of interest	The beneficiary must take all the necessary measures in order to avoid the situations that might cause conflicts of interests within the procurement procedure. In this respect, the beneficiary must hold a register of all the declarations regarding the conflict of interest of each person involved in the public procurement procedure.	Declarations of the conflict of interest Register of the conflict of interest declarations.
	Setting up the evaluation board	When setting up the evaluation board ⁴¹ , the beneficiary shall observe the following recommendations: <ul style="list-style-type: none"> • The evaluation board is comprised of several senior management personnel • The members are rotated within the evaluation boards • The members are randomly selected. • The members sign a conflict of interest 	Declarations of board evaluation members regarding the conflict of interest

⁴¹ The beneficiary shall establish the evaluation/selection board according to the national provisions, its internal rules and human resources available.

		<p>declaration</p> <p>The purchaser beneficiary must take all the necessary measures in order to avoid the situations that might cause conflicts of interests and/or unfair competition.</p> <p>When setting up the evaluation board, the beneficiary should select members that have knowledge of the marketplace (prices, companies, alliances and understanding between them etc.) taking into consideration their experience, the field of the contract, etc.</p> <p>In addition, it is recommended to observe the principle of rotation and randomness when setting the evaluation board (if the personnel is sufficient to ensure such rotation and randomness).</p>	
	Bid evaluation	<p>When evaluating the bids, it is recommended the evaluators to use their marketplace knowledge that may help them detect high and unusual bid data and unusual relationships between third parties, and act according to national legal provisions in force. Also, during bid evaluation, the board evaluation should complete backgrounds check on all bidders</p>	Evaluation report

		<p>and third parties (this includes: website checks, companies house information etc.)</p> <p>During the evaluation process, the members shall check the existence of all declarations submitted by the bidders, according to the legal provisions.</p> <p>The members shall include all these information in the evaluation report that shall be submitted to the first level control for expenditure validation.</p> <p>Also, the evaluation report regarding the selection of the bidder shall include the description of the financial and technical advantages that motivates the selection of one bidder over other bidders.</p>	
Implementation and monitoring	Drafting/signing the contract	<p>The beneficiary shall publish all the contract information that is not publically sensitive (according to national provisions). The beneficiary shall made public the information on its website or on the Programme site, if the beneficiary does not have one:</p> <ul style="list-style-type: none"> • The information shall be posted in 10 days from the contract signing on the beneficiary site. • The request for publishing the information on Programme site (together with the relevant information) is submitted to JS in 8 days from the 	Information posted on Beneficiary's or on the the Programme site.

		<p>contract signing.</p> <p>The minimum following information shall be made public: the name of the provider, the contract value, the type of public procurement used, the contract object. For all single source awards (when only one bidder attended the procedure and the beneficiary plans to sign the contract with that bidder), the beneficiary must provide a strong justification for the award of this contract. The justification shall be approved by a superior that is not involved in the procedure.</p>	
	Implementation, monitoring and control	<p>It is recommended that the contract implementation team set up at beneficiary level to include relevant experts on the contract field⁴². Depending on the contract type, during contract implementation, monitoring and control, the beneficiary should:</p> <ul style="list-style-type: none"> • Perform a review of invoices submitted by the contractor for duplication (i.e. multiple 	<p>Internal notes regarding the approval of the reports</p> <p>Expert reports regarding the implementation of the contract and the quality of</p>

⁴² The beneficiary shall establish the contract implementation team according to its internal rules and human resources available for the contract implementation.

		<p>invoices for the same amount, invoice number etc.) or falsification.</p> <ul style="list-style-type: none"> • Review products/services/works purchased/performed against the technical specifications; • Periodical reviews on the quality of the activities performed by the provider; • Review activity reports, if they were required within the contract; • Review outputs for evidence of costs and request additional evidence in support. All the reports shall be approved by the beneficiary. • For service contract where the experts are involved, the beneficiary must give prior authorization to third parties for significant changes of personnel and check them with the offer. <p>For any discrepancies between the information provided by the contractor and the contract, the beneficiary shall request clarifications.</p> <p>All the invoices received from the</p>	<p>the activities performed by contractors and approved by the beneficiary (contracting authority)</p>
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		<p>contractor/provider should be checked and approved before payment by the financial expert/manager.</p> <p>If during the implementation of the contract it was identified a situation of conflict of interest it should be reported to the JS with all the taken measures.</p>	
	Reception of services / products / works	<p>When receiving the services/products/works, the beneficiary must perform a rigorous check on the quality of the products/services/works purchased/performed against the specifications. This information shall be included in the receipt minutes. For any discrepancies between the information provided by the contractor and the contract, the beneficiary shall request clarifications.</p> <p>The beneficiary must draft an internal document approving the receipt of the products/services/works and of the payment or countersign the final report issued by the contractor.</p> <p>This document must include information regarding the products/services/works subject of the contract, namely: the discrepancies between planned and actual activities and budget, the receipt minutes, a</p>	<p>Internal notes regarding the approval of the reports</p> <p>Expert reports regarding the implementation of the activities and the quality of the activities performed by contractors approved by the beneficiary</p> <p>Final reports regarding the completion of the activities performed, approved by the</p>

		<p>qualitative and quantitative evaluation of the products/services/works against the technical specification, the price, a description of the activities, all the relevant documents regarding the completion of the activities, (reports, attendance registers, time recording system etc.) etc.</p> <p>The beneficiary performs a review of invoices submitted by the contractor for duplication (i.e. multiple invoices for the same amount, invoice number etc.) or falsification.</p> <p>All the invoices received from the contractor should be checked and approved by the financial expert/manager (internal document) before payment.</p> <p>In case of works, it is mandatory the beneficiary to request works certificates or other form of verification certification, awarded by an independent party, to be provided on the completion of the activities, according to the legal provisions in force.</p>	<p>beneficiary.</p> <p>Works certificates or other form of verification certifies, awarded by an independent party, according to the legal provisions in force</p> <p>Other internal documents</p>
	Contract	It is recommended that the amendments to the contract to be verified and approved by a senior level personnel within the beneficiary, other than the	Reports/approvals

	amendments ⁴³	members of the evaluation board.	
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⁴³ All contract amendments shall be made in accordance with national legal provisions and with the Programme rules.

8. GLOSSARY OF TERMS

Acronym	The acronym is the abbreviation used for the project title or project beneficiaries.
Applicant / Potential Beneficiary	Any legal entity which submits an application to be financed by the programme;
Guide for Applicants	The Guide for Applicants is part of the Application package intended to provide applicants detailed and specific information about the programme, project requirements, eligibility rules, application and assessment processes, project implementation principles and to guide them through the drafting of the project proposals.
Associated Partner	<p>Bodies willing to be involved in a project with an observer or associated status without financially contributing to the project. The partnership must demonstrate the benefits that the involved associated partner shall bring to the project and its follow up.</p> <p>The eligibility criteria to be met by the Associated Partners are mentioned in the GfA.</p>
Beneficiary	Any applicant whose application has been approved for financing.

Co-financing	In general, the term refers to the situation when there are more financing sources for the same project or activity. In the EU programmes environment, usually there are 2 or more sources of financing. In case of Interreg V-A Romania-Hungary Programme, financing is provided from ERDF and state contribution and/or own sources (can be public or private) of the project participant.
Cohesion Policy	Cohesion policy was enshrined in the Treaties with the adoption of the Single European Act (1986). It is built on the assumption that redistribution between richer and poorer regions in Europe is needed in order to balance out the effects of further economic, social and territorial integration.
Concept Note	Represents the standard form of the application form provided by the Programme through the eMS, completed and submitted by the applicants, including supporting documents in view of funding through the Interreg V-A Romania-Hungary in phase I – development of the Restricted Call for proposals (for strategic projects - FSP).
Cooperation criteria	The four joint criteria used to measure to what extent projects cooperate. Project beneficiaries shall cooperate in the development and implementation of projects. In addition, they shall cooperate in the staffing or the financing of projects, or in both.

Costs incurred	Costs accumulated in relation to preparation and/or implementation of the project that are recorded as liabilities on a balance sheet of the beneficiary organization until they are discharged or paid. Incurred costs may include both direct and indirect costs.
Cross-border cooperation	The collaboration between adjacent areas across borders. The main aim is to reduce the negative effects of borders as administrative, legal and physical barriers, tackle common problems, and exploit untapped potential. Through joint management of programmes and projects, mutual trust and understanding are strengthened, and the cooperation process is enhanced.
Electronic Monitoring System (eMS)	The eMS is a monitoring system with communication portal to support submission, approval, management and administration of projects in the context of ETC programmes. The system supports collection of all information on submitted and approved projects, their implementation and achievements, modifications and closure. Additionally, aggregated data on the progress of projects and of the programme are recorded in the system. All programme bodies are able to communicate with beneficiaries via the system and re-use the data already collected. The eMS is built to support programme authorities in day-to-day programme management and should fulfill all legal requirements.

Eligible expenditure	Expenditures made by a Beneficiary, related to the operations financed through the programme, which comply with the rules set and spent accordingly and thus can be reimbursed from ERDF and state co-financing.
Eligible area/region	The Hungarian and Romanian counties located in the border area, as mentioned in the Cooperation document approved by the European Commission.
Eligibility period	A timeframe during which project expenditure must be incurred and paid (unless simplified cost options are used) in order to qualify for reimbursement from the programme funds.
European Regional Development Fund (ERDF)	One of the financing instruments of the European Union, through which the present programme is financed. Beneficiaries will get support for their projects besides the state co-financing from ERDF.
Flat rate	One of the simplified cost options. Specific categories of eligible costs which are clearly identified in advance are calculated by applying a percentage fixed ex-ante to one or several other categories of eligible costs. Flat rates involve approximations of costs and are defined based on fair, equitable and verifiable calculation methods, or they are established by the Fund specific regulations.

First Level of Control	First Level of Control involves checking administrative, financial, technical and physical aspects of operations, as appropriate. It involves checking that all project expenditure is eligible according to the Common Eligibility Rules of the relevant programme, European Regulations and National Legislation.
Full Application	Represents the standard form of the application form provided by the Programme through the eMS, completed and submitted by the applicants, including supporting documents in view of funding through the Interreg V-A Romania-Hungary under an Open Call or in phase II - implementation of the Restricted Call for proposals (for strategic projects - FSP).
Lead Beneficiary	Project participant taking the overall responsibility for the development and the implementation of a project. Each Lead beneficiary is expected to conclude the Partnership Agreement (with its project beneficiaries) and the Subsidy Contract (with the Managing Authority), ensure a sound cross-border project management as well as the project implementation, and transfer the due ERDF contributions to the single beneficiaries.
Legal representative	A person authorized to sign binding documents (e.g., application form, subsidy contract) on behalf of an organization.
National Legislation	The legislation of the state on whose territory the beneficiary is located.

Own contribution	Amount with which all beneficiaries have to contribute to the total eligible amount of their own project budget.
Partnership Agreement	Agreement signed by all project beneficiaries which states the rights and obligations of the beneficiaries related to the activities to be implemented within the project and other issues to be settled in order to properly implement the project.
Programme output indicator	An indicator describing the "physical" product of spending resources through policy interventions.
Programme result	The change sought (in the reference situation) in view of the specific objective to be achieved.
Programme Priority Axis	The Programme Priority Axes are the thematic areas around which the programme is structured.
Partner Report	The Partner Report is filled out by each project beneficiary, including the Lead Beneficiary. It contains both activity information and financial information. The partner report is submitted by each project beneficiary to their First Level Controller in eMS.
Project Progress Report	The Project Progress Report is the report to be submitted by the Lead beneficiaries to the JS at the end of each reporting period, outlining performed activities within the period as well as associated eligible expenditure. It documents the progress of the project and serves as reimbursement claim.

Project (main) output	The outcome of the activities funded, telling us what has actually been produced for the money given to the project. It can be captured by a programme output indicator, and directly contributes to the achievement of the project result.
Project implementation phase	All activities performed by project beneficiaries which were presented in the application form and approved by the programme.
Project overall objective	Provides overall context for what the project is trying to achieve, and aligns to programme priority specific objective. It relates to the strategic aspects of the project.
Project Beneficiary	An organization involved in the project preparation and implementation, which receives ERDF and state support in order to implement the proposed activities. Project Beneficiaries are involved in a contractual relationship with National Authorities for the state co-financing, and will conclude a Partnership Agreement with the Lead beneficiary for governing the rights and responsibilities brought by the implementation of their common project.
Partnership agreement	Contract signed between the Lead Beneficiary and all Project Beneficiaries containing all duties and responsibilities of each project beneficiaries before, during and after the project implementation.
Project result	The immediate advantage of carrying out the project, telling us about the benefit of using the project main outputs. It should indicate the change the project is aiming for.

Project specific objective	A concrete statement describing what the project is trying to achieve. It refers to the project main outputs. It can be evaluated at the conclusion of a project to see whether it was achieved or not.
Reporting period	A reporting period is generally a three/four-month period, the deadlines for which will be set in the Subsidy Contract and at the end of which the Lead beneficiaries will have to submit a Project Progress Report.
Simplified cost options	Contrary to real costs, simplified cost options modify the concept of expenditure paid by project beneficiaries. They involve approximations of costs, and are calculated according to a pre-defined method (e.g., established by the programme on the basis of a fair, equitable and verifiable calculation, or defined by the Fund specific regulations) based on outputs, results, or some other costs. The application of simplified cost options signifies a departure from the approach of tracing every euro of co-financed expenditure to individual supporting documents.
State contribution	The state contribution is the national public contribution representing a certain percentage of the eligible expenditure to be secured by the Partner States in accordance with national regulations.
Subsidy contract	It is a grant agreement between the contracting authority (Managing Authority) and the Lead beneficiary.

State aid	<p>State aid means action by a (national, regional or local) public authority, using public resources, to favour certain undertakings or the production of certain goods. A business that benefits from such aid thus enjoys an advantage over its competitors. Control of state aids thus reflects the need to maintain free and fair competition within the European Union.</p> <p>Aid which is granted selectively by Member States or through state resources and which may affect trade between Member States or distort competition is therefore prohibited (Article 107 of the Treaty on the Functioning of the European Union - TFEU). State aid may nonetheless be permitted if justified by objectives of general economic interest, if it falls within the General Block Exemption (e.g. Article 19 - Cooperation costs of SMEs in ETC), if it falls within de minimis or if it has been notified to and approved by DG Competition.</p>
Total budget	The total budget of a project is established based on the costs planned by all project beneficiaries in the application.
Total eligible budget	Total eligible budget indicates the total budget of a project subject to programme co-financing. In the Application Form, it is calculated based on the total budget, excluding the potential net revenue of the project.

9. LEGAL FRAMEWORK

9.1 General

1. Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal;
2. Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006;
3. Statements relating to Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013, laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006;
4. REGULATION No 1301/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on specific provisions concerning the European Regional Development Fund and the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006;
5. Statement relating to Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006;

6. INTERREG V-A Romania-Hungary programme document, approved by the European Commission Decision No.9112/09.12.2015;
7. The Council Regulation (EC) No. 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, with subsequent completions and modifications;
8. Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora;
9. Council Directive (EEC) No. 85/337 on the assessment of the effects of certain public and private projects on the environment, with subsequent completions and modifications;
10. Directive No. 2003/35/EC of the European Parliament and of the Council providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC;
11. Directive No. 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment;
12. Directive No. 2003/4/EC of the European Parliament and of the Council on public access to environmental information and repealing Council Directive 90/313/EEC;
13. Directive No. 2004/35/CE of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage;
14. Council Directive No. 91/692/EEC standardizing and rationalizing reports on the implementation of certain Directives relating to the environment;

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| 15. | Implementing | Acts |
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- (http://ec.europa.eu/regional_policy/information/implementing/index_en.cfm);
16. COMMISSION IMPLEMENTING REGULATION (EU) 2015/207 of 20 January 2015 laying down detailed rules implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards the models for the progress report, submission of the information on a major project, the joint action plan, the implementation reports for the Investment for growth and jobs goal, the management declaration, the audit strategy, the audit opinion and the annual control report and the methodology for carrying out the cost-benefit analysis and pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council as regards the model for the implementation reports for the European territorial cooperation goal;
17. COMMISSION IMPLEMENTING REGULATION (EU) No 1011/2014 of 22 September 2014 laying down detailed rules for implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards the models for submission of certain information to the Commission and the detailed rules concerning the exchanges of information between beneficiaries and managing authorities, certifying authorities, audit authorities and intermediate bodies;
18. COMMISSION IMPLEMENTING REGULATION (EU) No 288/2014 of 25 February 2014 laying down rules pursuant to Regulation (EU) No 1303/2013 of the European Parliament and of the Council with regard to the model for operational programmes under the Investment for growth and jobs goal and pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal with regard to the model for cooperation programmes under the European territorial cooperation goal;
19. COMMISSION IMPLEMENTING REGULATION (EU) No 821/2014 of 28 July 2014

laying down rules for the application of Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures for operations and the system to record and store data;

20. Commission Implementing Regulation (EU) No 184/2014 of 25 February 2014 laying down pursuant to Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, the terms and conditions applicable to the electronic data exchange system between the Member States and the Commission and adopting pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council;

21. 2014/805/EU: COMMISSION IMPLEMENTING DECISION of 17 November 2014 amending Implementing Decision 2014/366/EU setting up the list of cooperation programmes and indicating the global amount of total support from the European Regional Development Fund for each programme under the European territorial cooperation goal for the period 2014 to 2020 (notified under document C(2014) 8423);

22. 2014/388/EU: Commission Implementing Decision of 16 June 2014 setting up the list of regions and areas eligible for funding from the European Regional Development Fund under the cross-border and transnational components of the European territorial cooperation goal for the period 2014 to 2020 (notified under document number C(2014) 3898);

23. Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010

24. Delegated Acts
(http://ec.europa.eu/regional_policy/information/delegated/index_en.cfm);

25. Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes;

26. COMMISSION DELEGATED REGULATION (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds;

27. COMMISSION DELEGATED REGULATION (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council

28. 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;

29. Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest;

30. Communication from the Commission Framework for State aid for research and development and innovation (2014/C 198/01);

31. Commission Regulation (EC) 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;

32. Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation);

33. Commission Regulation (EU) No 1224/2013 of 29 November 2013 amending Regulation (EC) No 800/2008 as regards its period of application;

34. Draft Commission Notice on the notion of State aid pursuant to Article 107(1) TFEU;

35. COCOF 09/0003/00 of 18.2.2009 - Information Note on Fraud Indicators for ERDF, ESF and CF;

36. Commission Decision of 12.19.2013 on the establishment and approval of guidelines for determining financial corrections which the Commission must apply for breaches of procurement rules on expenditure financed by the EU under shared management.

9.2 Specific

9.2.1 Romanian Legislation

1. Law No. 315/2004 concerning the regional development in Romania, with subsequent completions and modifications;

2. Government Decision no. 51/2018 on the organization and functioning of the Ministry of Regional Development and Public Administration;

2. Law No. 500/2002 on public finance, with subsequent completions and modifications;

3. Law No. 273/2006 regarding local public finance, with subsequent completions and modifications;

4. Law of local public administration No. 215/2001, with subsequent completions and modifications;
5. Law No. 335/2007 regarding the chambers of commerce;
6. Government Ordinance No. 26/2000 regarding associations and foundations;
7. Law No. 98/2016 regarding public procurement, with subsequent completions and modifications;
8. Government Decision no. 395/2016 approving the Methodological Norms for the application of provisions concerning the award of public procurement contract/ framework agreement of Law No. 98/2016 on public procurement with subsequent completions and modifications;
9. Government Ordinance 77/2014 on the national procedures regarding state aid and amending and supplementing Law No.21/1996, with subsequent completions and modifications;
10. Government Emergency Ordinance No. 195/2005 regarding the environmental protection;
11. Law No. 202/2002 regarding equal opportunities for men and women;
12. Government Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination;
13. Law No. 7/1996 of cadaster and real estate advertising, with subsequent completions and modifications;
14. Law No. 10/1995 regarding the quality of constructions;
15. Ordinance No. 43/1997 regarding the regime of roads, with subsequent completions and modifications;
16. Law No. 50/1991 regarding the authorization of the execution of works, with

subsequent completions and modifications;

17. Law No. 350/2001 regarding the territory arrangement and urban planning, with subsequent completions and modifications;

18. Government Decision No. 1072/2003 regarding the authorization by the Construction State Inspectorate of the technical-economical documentation for the investment objectives financed through public funds;

19. Government Decision No. 907/2016, regarding the content of the technical - economic documentation concerning public investments objectives with subsequent completions and modifications;

20. Government Decision No. 1865/2006 for the modification of the thresholds regarding the competencies for approving the technical-economic documentation for new investment objectives;

21. Law No. 213/1998 concerning the public property and its juridical regime;

22. Government Decision No. 445/2009 concerning the impact on the environment for certain public and private projects, with subsequent completions and modifications;

23. Government Emergency Ordinance No.152/2005 concerning the prevention and integrated control of pollution, with subsequent completions and modifications;

24. Government Decision No. 564/2006 on the framework of public participation to the elaboration of certain plans and programmes concerning the environment;

25. Government Decision No. 1076/2004 establishing the procedure for the elaboration of the impact assessment for plans and programmes;

26. Government Decision No. 878/2005 on the public access to information regarding the environment;

27. Law No. 86/2000 for the ratification of the Aarhus Convention, signed on 25.06.1998, concerning the access to information, the participation of the public to the decision-making process and the access to justice regarding the environment issues;
28. Government Emergency Ordinance No. 68/2007 on environmental liability with regard to the prevention and remedying of environmental damage;
29. Government Emergency Ordinance No. 12/2007 and Government Decision No. 210/2007 for the completion and modification of several legal acts that are transposing the *acquis communautaire* in the field of environmental protection;
30. Law No. 5/2000 regarding the management of national territory - section III - protected areas;
31. Law No. 462/2001 for approving the Emergency Government Ordinance No. 236/2000 on the regime of protected natural areas, conservation of natural habitats, of wild fauna and flora;
32. Government Ordinance No. 129/2000 regarding professional training, with subsequent completions and modifications;
33. Government Ordinance No. 57/2002 concerning the scientific research and technological development, with subsequent completions and modifications;
34. Government Decision No. 217/2007 for the approval of the national Strategy in the field of research, development and innovation for the period 2007-2013;
35. Government Decision No. 1265/2004 for approving the methodological Norms for the contracting, financing monitoring and evaluation of programmes and projects of research, development and innovation, and the actions foreseen in the national Plan of research, development and innovation;
36. Government Emergency Ordinance No. 85/2008 for the stimulation of

investments;

37. Government Decision No. 518/1995 regarding certain rights and duties of the Romanian personnel sent abroad for undertaking temporary missions, with subsequent completions and modifications;

38. Government Decision no. 1860/2006 concerning the rights and duties of the personnel of public authorities and institutions during the delegation and posting in other locality, as well as for moving in the locality, in the work interest;

39. Government Ordinance no. 29/2015 concerning the management and use of external grants and national public co-funding, for 2014-2020 "European Territorial Cooperation" goal;

40. Government Ordinance No. 8/2017 for amending and supplementing Ordinance No. 29/2015;

41. Order no. 340/607/190/2016 approving the Methodological Norms for the application of Government Ordinance no. 29/2015 on the management and use of external grants and public co-financing national objective "European Territorial Cooperation" in 2014-2020 with subsequent completions and modifications;

41. Emergency Ordinance No. 66/2011 on preventing, stating and correcting irregularities appeared in the usage of European funding and of the national ones, with all subsequent amendments;

42. Decision No. 875 of 31 August 2011 approving the Methodological Norms for applying the provisions of the Emergency Ordinance no. 66/2011 on preventing, stating and correcting irregularities appeared in the usage of European funding and of the national ones, with all subsequent amendments;

43. Government Decision No. 274/2015 on the establishment of joint secretariats, the Joint Technical Secretariats, national point, the national contact points and national contact person and the first level control units in order to implement

cooperation programs involving Romania in 2014-2020 programming period;

44. Government Decision No. 398 of 27 May 2015 establishing the institutional framework for coordination and management of European structural funds and investments and to ensure continuity of the institutional framework for coordination and management of structural instruments 2007-2013; 46. Order No. 5687/1799/2017 for amending and supplementing Order No.190/2016;

47. Memorandum of Implementation (MoI) – Arrangements between Member States participating in the Interreg V-A Romania-Hungary Programme - between the Ministry of Regional Development, Public Administration and European Funds from Romania, acting as Member State and Managing Authority with Certification function, the Prime Minister's Office from Hungary, acting as Member State and National Authority, and the Audit Authority within the Romanian Court of Accounts, acting as Audit Authority;

48. Minister Order No. 6509/17.10.2017, regarding the approval of "De minimis aid scheme for activities within the investment priorities 6/c - Conserving, protecting, promoting and developing natural and cultural heritage, 7/c Developing and improving green transport systems (including low noise) and low-carbon transport systems including domestic and maritime river transport, ports, multimodal connections and airport infrastructure to promote sustainable regional and local mobility and 8/b – Supporting employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources", hereinafter referred to as De minimis scheme;

49. Minister Order No. 6510/17.10.2017, regarding the approval of "State aid exempted scheme for investment priorities 6/c - Conserving, protecting, promoting and developing natural and cultural heritage 8/b - Supporting

employment-friendly growth through the development of endogenous potential as part of a territorial strategy for specific areas, including the conversion of declining industrial regions and enhancement of accessibility to, and development of, specific natural and cultural resources”, hereinafter referred to as GBER scheme.

9.2.2 Hungarian Legislation

1. Act V. of 2013. on the Civil Code;
2. Act CXCV. of 2011. on Public Finances;
3. Act CXXVII. of 2007. on Value added tax;
4. Act CXLIII. of 2015. on public procurement;
5. Government Decree no 368 of 31 December 2011 for the implementation of the Act on public finances;
6. Government Decree no 126 of 7 June 2016 for the implementation of the certain cross-border cooperation Programmes financed from European Regional Development Fund and Instrument for pre-accession Assistance;
7. Government Decree no 238 of 4 September 2015 on the institutions implementing certain cross-border Programmes financed from the European Regional Development Fund, Instrument for pre-accession Assistance and European Neighborhood Instrument in the 2014-2020 programming period;
8. Government Decree no 44 of 10 March 2016 on state aid rules in the meaning of the European competition law financed from the European Territorial Cooperation Programmes in the 2014-2020 programming period.

10. ANNEXES

Annex 1 - List of eligible expenditures - to be filled by the project beneficiaries and the first level controllers (generated by eMS)

Annex 2 - Partner Report (generated by eMS)

Annex 3 - Project Progress Report (generated by eMS)

Annex 4 - Declarations on own responsibility regarding the state aid:

Annex.1 - De minimis Declaration

Annex.2 - GBER Declaration

Annex 5 - FLC Package – for Romanian beneficiaries (contains: 1. Request for first level control; 2. Declaration on own responsibility regarding the VAT request; 3. Declaration on own responsibility regarding the state-aid, double financing, horizontal principles; 4. Declaration on own responsibility certifying the conformity of uploaded documents)

Annex 6 - FLC Package – for Hungarian beneficiaries

Annex 6 - Reimbursement claim - to be filled by the project beneficiary