



DECISION no. ⁵...
of ^{24th}... of April 2018

Regarding the complaints lodged against the Monitoring Committee Decision no. 72 of 22nd of March 2018, approving the List of approved and rejected projects submitted under the third call for proposals for the Interreg V-A Romania-Bulgaria Programme - deadline 23rd of October 2017

Having regard to the following:

- Monitoring Committee Decision no. 51 of 2nd of August 2017 approving the Complaint Panel for the Eols and full applications submitted under the 3rd call for proposals, priority axes 1-3, Interreg V-A Romania-Bulgaria Programme, step 1 and 2,
- The Complaint Procedure of Interreg V-A Romania-Bulgaria,

the Complaint Panel of Interreg V-A Romania-Bulgaria Programme has adopted this:

DECISION

Article 1. The present document rejects the complaint lodged by *Municipality of Mezdra*, lead beneficiary of the project *Joint activities against natural disasters - code eMS 416* and registered by CBC ROC with the number 6286/02.04.2016, appealing the budgetary reduction. According to the Monitoring Committee Decision no. 72 of 22nd of March 2018, the project is approved with a budgetary reduction for the Lead beneficiary in amount of 58.725,67 euro for Infrastructure and works budgetary line and 3.523,48 euro representing an automatic reduction due to the application of the flat rate.

Article 2. The applicant provided a professional opinion from an engineer and conducted a market survey based on information provided by three independent construction companies in order to support their appeal. Furthermore, the applicant has underlined the specificity of the construction works regarding the investment.

Article 3. The reasons for rejection of the complaint are:

According to the provisions of the Applicant Guide, for investment projects, feasibility studies/equivalent technical documents shall be annexed to the Application Form. For Bulgarian beneficiaries it should be annexed: preliminary design (including estimation of bill of quantities and values) or technical design. The works/investments, for which the national legislation does not provide for the elaboration of a Feasibility Study/DALI or investment design, the applicants should submit a detailed Bill of Quantities and Costs accompanied by the plans and measurements of the object of intervention, used for estimating the necessary works and costs.

During the assessment process, the AWG asked for clarifications (address no. AWG 1233/14.12.2017) regarding the costs included under Infrastructure and works budgetary line, namely the Lead Beneficiary was asked to provide the relevant documents, having in mind that according to Annex AF.7 these costs had been estimated based on independent evaluation, but the documents were missing from the application. The Lead Beneficiary submitted their answer after the deadline, mentioning that no notification was received

in the mailbox connected to the eMS system.

In accordance with the provisions of the Assessor's Guide, the request for clarifications was sent to the applicant both to the relevant e-MS account and to the email address from the given contact information of the application. Accepting the fact that due to either technical or server error the email was not sent successfully to the e-MS account, the request for clarifications was sent without issues to the email address and a report of successful delivery to the email address of the applicant was received.

In addition, in the Assessor's Guide (published on the Programme website) is written that: "Clarification answers submitted after the deadline will not be taken into consideration and will be considered as missing documents and therefore the expression of interest/application will be evaluated strictly on the basis of those referred to in the documents existing at the time of the deadline mentioned above in the clarification letter."

Therefore, the application was evaluated based on the initially submitted information/documents. The external expert who consulted the application during the evaluation process, proposed within the elaborated report a revised version of the provided Bill of Quantities for Bulgarian partner based on the average construction work costs in Bulgaria. The expert was also consulted regarding the submitted appeal and he maintained his initial opinion. He considered that the proposed budget reduction is based on the provided costs for works in the Bulgarian Guidelines for average costs for construction works which have been developed based on market research processes. Despite the specific character of the project proposal and the subjective factor in the definition of costs together with the fact that final construction costs shall be determined by the future awarded competitor in the open procedure according to the Bulgarian Procurement Law, the abovementioned guidelines should be respected and budget revised accordingly.

The Complaint Panel members consider that the arguments provided by the Beneficiary are not sufficient and, therefore, rejects the appeal regarding the budgetary reduction of 58.725,67 euro.

Article 3. The decision of the Complaint Panel is final, binding to all parties and not subject of any further complaint proceedings within the Programme.

Signed by

Members of the Complaint Panel

Member 1 - Managing Authority representative, Ministry of Regional Development and Public Administration, Romania

Member 2 - National Authority representative, Ministry of Regional Administration and Public Works, Bulgaria

Member 3 - External expert (from the Evaluation Unit), Ministry of Regional Development and Public Administration, Romania

Signature



Signature



Signature

