



EUROPEAN UNION



GOVERNMENT OF ROMANIA



MINISTRY OF REGIONAL DEVELOPMENT
AND PUBLIC ADMINISTRATION

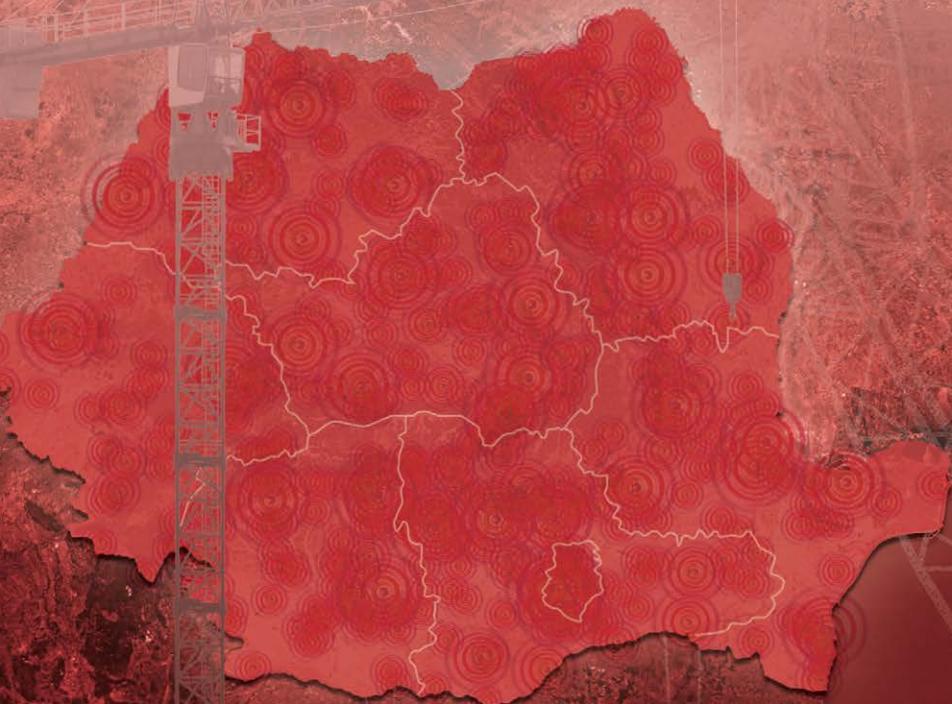


Instrumente Structurale
2007 - 2013

84328

ROP 2.0:

MA-IB COLLABORATION AND
SUPPORT FOR APPLICANTS AND BENEFICIARIES
OF THE REGIONAL OPERATIONAL PROGRAMME 2014-2020



Regio
PROGRAMUL OPERAȚIONAL REGIONAL

Inițiativă locală. Dezvoltare regională.

The findings, interpretations, and conclusions expressed in this report do not necessarily reflect the views and position of the Executive Directors of the World Bank, the European Union, or the Government of Romania.

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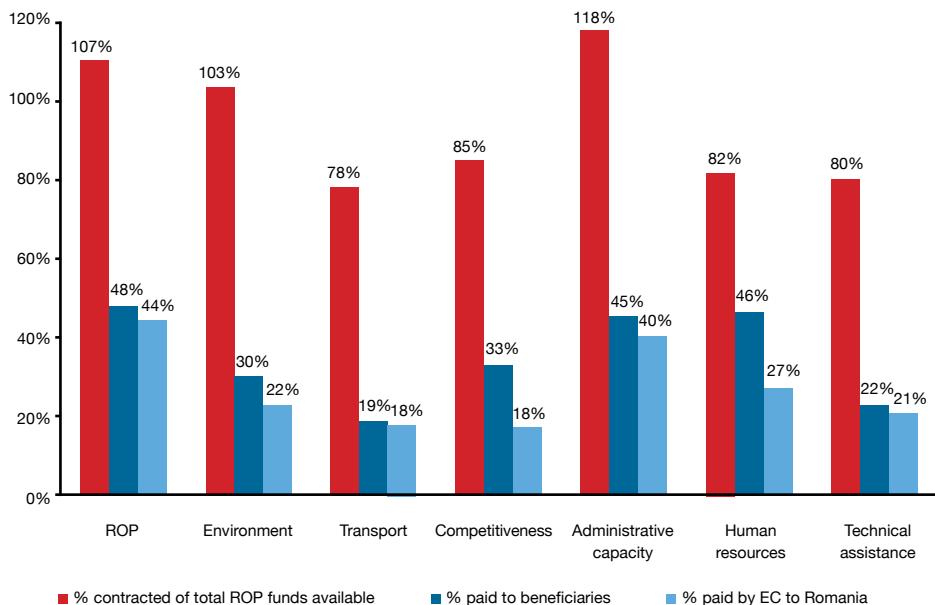
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List of ACRONYMS

ACSI	Authority for the Coordination of Structural Instruments
CLLD	Community-Led Local Development
EC	European Commission
EU	European Union
GEO	Government Emergency Ordinance
IB	Intermediate Body
MA-ROP	Managing Authority of the Regional Operational Programme
MA	Managing Authority
MC-ROP	Monitoring Committee of the Regional Operational Programme
MEF	Ministry of European Funds
MRDPA	Ministry of Regional Development and Public Administration
RDA	Regional Development Agency
ROP	Regional Operational Programme
SMIS	Single Management Information System

The Regional Operational Programme (ROP) is a top performer in terms of absorption rates, in the Romanian context, despite its complex and diverse portfolio of projects.

Relative performance of EU structural programs in Romania
(as of November 30, 2013)

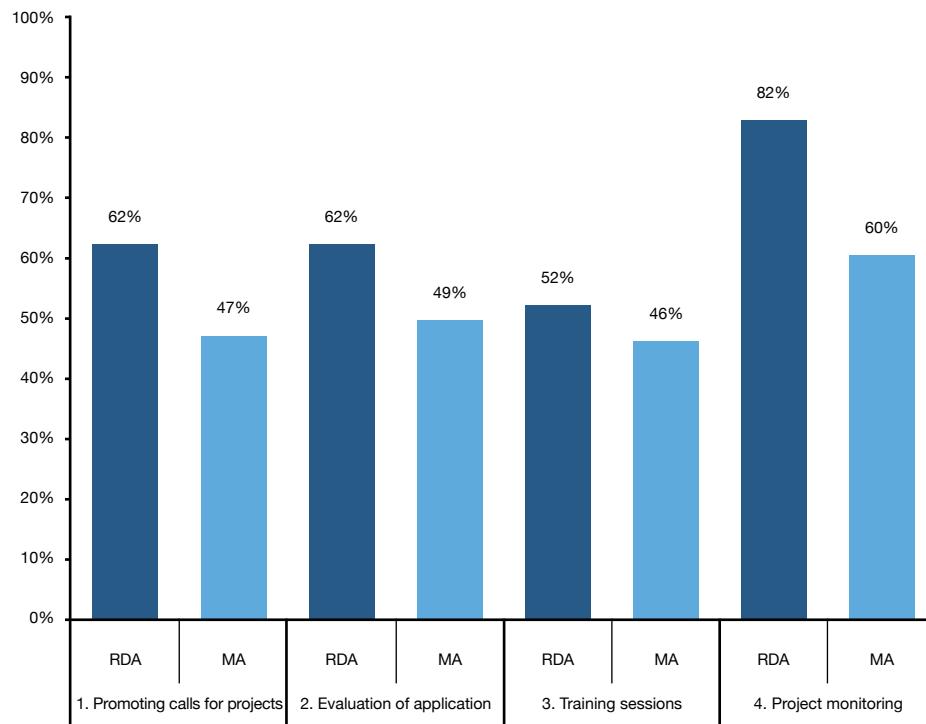


Source: Ministry of European Funds (www.fonduri-ue.ro)

The ROP addresses a wide-ranging set of needs at the level of each of the eight regions, covering areas like urban development, transport infrastructure, social infrastructure, business development, and tourism. Some projects are relatively small and easy to implement, while others are large, complex infrastructure works, with cumbersome technical documentation and lengthy procedures. As such, it is remarkable that, as of November 30, 2013, the ROP remains the country's top performing operational program, particularly when it comes to payments from the EC, which stood at 44.2% of the total ROP allocation.



Proportion of beneficiaries who are “highly satisfied” and “very satisfied” with the RDA/MA support across different stages



Interview and survey feedback is overwhelmingly positive in terms of beneficiaries’ satisfaction with the ROP, particularly when compared to other operational programs (OPs).

Beneficiaries welcome their collaboration with the Intermediate Bodies (IBs) and the Managing Authority (MA). There is a sense of shared partnership and a common understanding that all stakeholders involved genuinely want the program to succeed. The ROP owes much of its relative success to the fact that MA and IB staff: are closer to program applicants and beneficiaries; demonstrate enhanced understanding of what needs to be done on the ground; rely on experienced people who know how to design and implement optimal solutions, working in close partnership with beneficiary teams, many of whom they know and trust; have greater accountability for outcomes and results vis-à-vis beneficiaries and the general public; and, finally, they benefit from quicker, more effective feedback loops from beneficiaries.



The ROP includes a very diverse portfolio of beneficiaries and projects

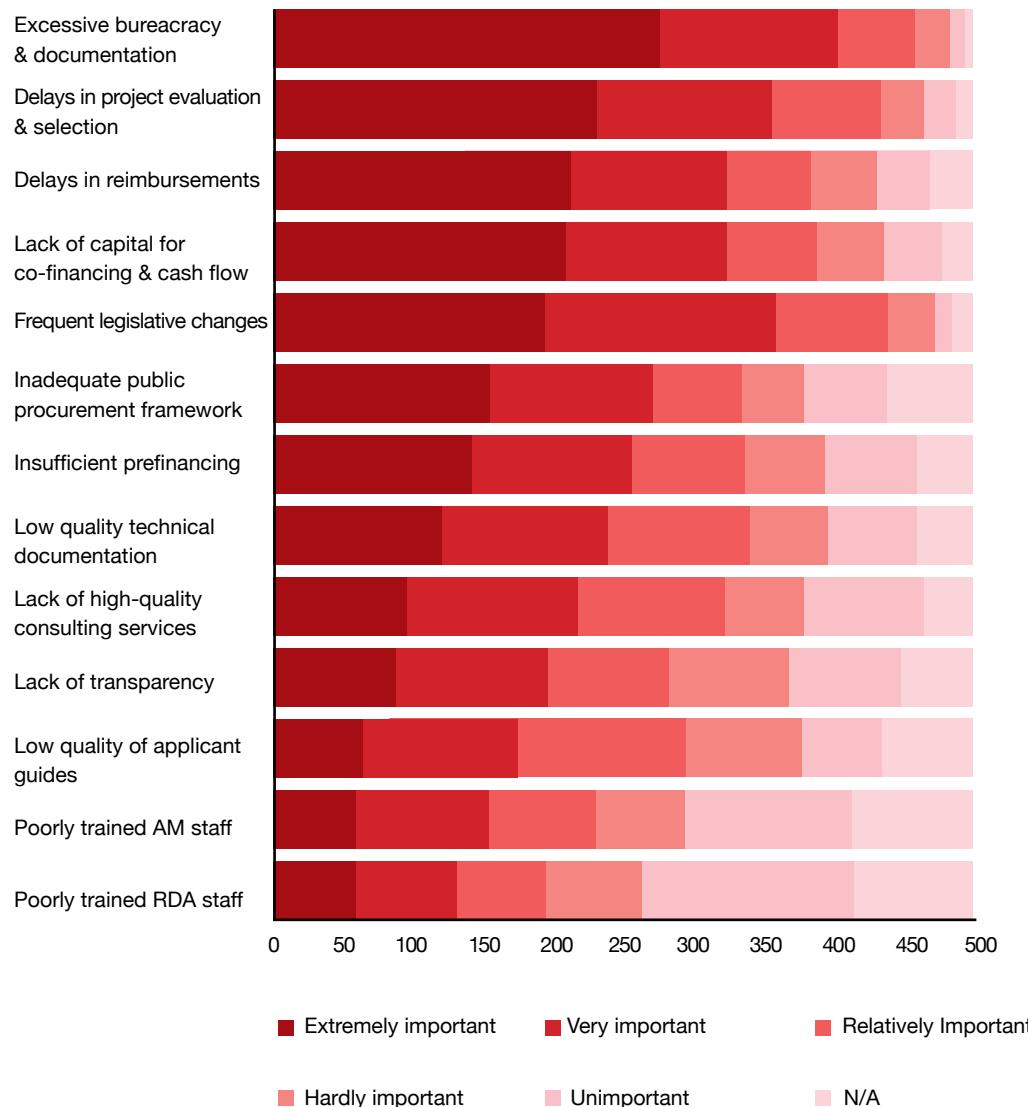


The first guiding principle of the current analysis remains:
“first, do no harm.”

The ROP components that are functional and efficient in supporting applicants and beneficiaries should be strengthened to leverage accumulated institutional knowledge and to minimize disruptions – a high level of predictability is valuable, in of itself, as a way to provide a stable environment with clear rules for applicants and beneficiaries. Equally important, it should be clear that this report is about how to assist beneficiaries, taking as a given their current capacity. This is not to say that there is not much to do on beneficiaries' end to boost their ability to design and implement ROP projects. But the key topic of this analysis remains the support available to ROP applicants and beneficiaries.



Beneficiary perceptions regarding the importance of various obstacles related to ROP projects



This is **neither to say that assistance mechanisms currently available to ROP applicants and beneficiaries are sufficient and flawless, nor that a program's performance is simply a matter of superior absorption rates.**

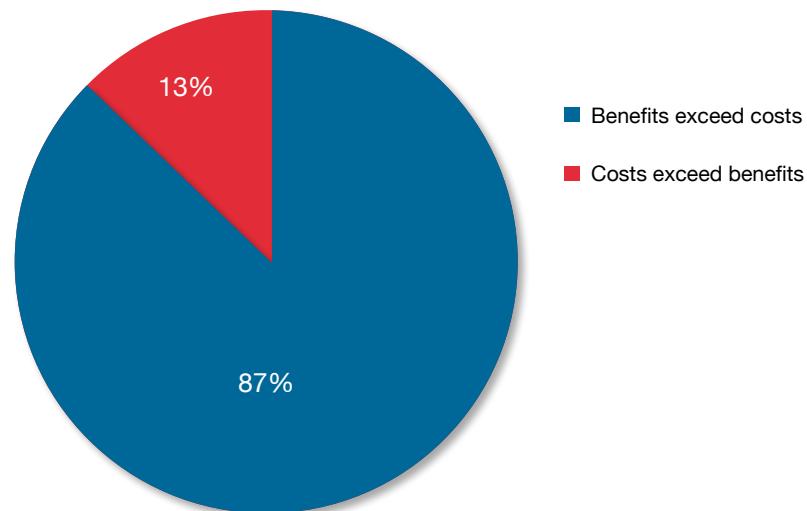
A survey was sent out to beneficiaries in all eight regions to inquire about the main obstacles faced in accessing ROP funding and implementing projects. Of the total 470 responses, the proportion of people who characterized various obstacles as "extremely important" and "very important" varies from a staggering 81.5% for "excessive bureaucracy and documentation" and 80% for "frequent legislation changes" to only 31.7% for "poorly trained RDA staff" (see figure on the left). Also, over half of the respondents identified additional obstacles as "extremely important" and "very important", in the following order: delays in project evaluation and selection (73%), delays in reimbursements (69%), lack of capital for co-financing and cash-flows (68%), inadequate public procurement framework (62%), insufficient prefinancing (56%), and poor-quality technical documentation (52%).



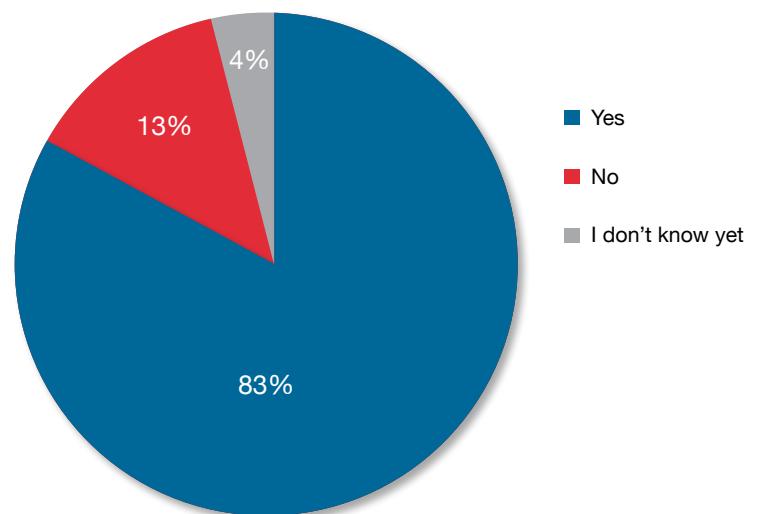
In addition, **some important issues fall beyond the immediate scope of this report**, although they are worth mentioning as part of the broader context of the ROP's implementation.

For one, a better effort is needed to improve the selectivity and prioritization of ROP investments. It is not always clear that current ROP projects match local needs and are aligned with broader regional and national-level strategies, but the selection process (based on the first-in-first-out rule) has often privileged absorption instead of strategic impact. Moreover, there are concerns that local authorities will not be able to shoulder the operation and maintenance (O&M) costs related to finalized ROP projects. Finally, national budget funding for regional and rural development continues to duplicate ROP resources through the newly established National Program for Local Development, although selection and implementation procedures are generally less rigorous than under the ROP. There is a need to ensure coherence between national-budget projects and EU-financed ones. Such key issues, albeit beyond the scope of this analysis, are addressed in other ongoing studies, including by the pending ROP's intermediary evaluation, which includes highly useful data on projects' impact, in many ways offering a complementary analysis to the current work.

Beneficiary perceptions of benefits/costs of ROP projects



Beneficiary responses to whether they would apply for future ROP financing



While there is a long, well-known list of issues related to EU-funded projects' implementation, the good news is that most **beneficiaries** continue to **believe in the net positive value of the program.**

87% of respondents to the survey answered that the costs involved are lower than the benefits of ROP financing. As for beneficiaries' appetite for applying for future ROP funding, 83% of the answers were positive, with only 4% rejecting the idea of seeking this type of financing again – a very encouraging sign for the ROP's attractiveness in the next period. While the perceived “benefit-cost ratio” remains greater than 1, the MA and the IBs teams should aim to increase it further, minimizing hurdles for beneficiaries, to the full extent possible.



Perspectives from other Member States*

"Controls are increasing and we are obliged to take on more advice from other departments. Audit overkill is significant. I have examples of 6 projects being controlled 6 times by 6 bodies!"

– Member State official

"The Court of Auditors is controlling in areas which should be the job of our civil servants. We don't want to spend too much time on this. The Managing Authority spent 2 months responding to the Court of Auditor's requests."

– Member State official

"The Commission had innovative actions programs 3 years ago where financial management and audit rules were not applied so rigidly. This allowed a laboratory for implementing more risky and innovative projects with not so much money. In 2007-13, we don't dare to take on risky projects."

– Member State official

* Qtd. in Mendez and Bachtler, "Administrative Reform and Unintended Consequences: An Assessment of the EU Cohesion Policy Audit Explosion," *Journal of European Public Policy*, 18:5, 758-760

Perspectives from Romania**

"Much of what we do on a daily basis is answer questions and provide documents to [auditors]. And they check the same things over and over again, they check each other.

– Director, City Hall

"We're all presumed to be fraudulent beneficiaries of EU funds. What happened to 'innocent until proven guilty'? It's a Kafka story: they question everything! If they find something, the smallest thing, instead of guiding us to avoid making the same mistake in the future, they impose [financial] corrections."

– Public-sector ROP beneficiary

"We're barely keeping up with everything going on. And the system is slanted against its best people. Why? Because we struggle to implement these projects, we care, we want to do something good. And we get punished in return. As a politician it's better to stay put and wait for the next election than deal with all the headaches of EU money.."

– County Council President

**Source: field interviews, January- May 2013

In this context, the first recommendation is to shift the paradigm to a **"beneficiaries first"** model, which aligns perfectly with the aim of the current report.

To be sure, there is an inherent tension between the two critical functions that the ROP system must fulfill in relation to applicants and beneficiaries: monitoring and control versus partnership and support. Evidence from field interviews with beneficiaries and other key stakeholders suggests that the ROP system would benefit from balancing the current rigorous focus on control and sanctions with stronger efforts around partnership and support. Institutionally, the IBs are better placed to support applicants and beneficiaries on the ground, while control functions more naturally rest with central authorities (the MA, the Audit Authority, etc.).

Striking the right balance between assistance and control of beneficiaries is a common challenge



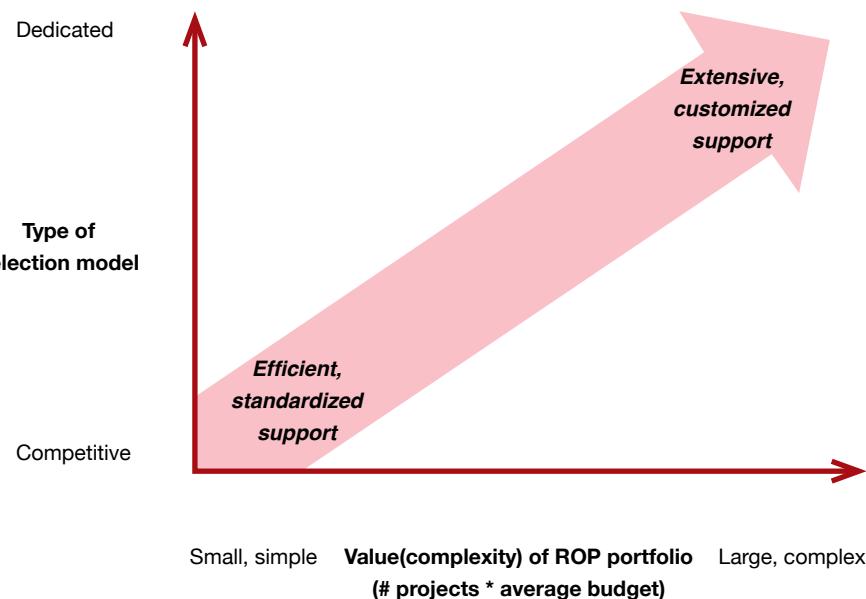


Providing adequate **beneficiary support mechanisms** at the MA and the IB level **depends on two key variables** for each applicant/beneficiary: **applicable selection model and portfolio value.**

Regarding the former, dedicated funding for a project or set of projects (as in the case of growth poles) can and should be complemented by customized, close engagement by MA/IB teams, throughout the project cycle. The aim is to ensure technical assistance that is fully aligned with specific beneficiary needs and helps deliver the most impact possible. By contrast, if the selection is done on a competitive basis, support should be standardized.



Typology of ROP support mechanisms



Optimal support mechanisms vary across applicants/beneficiaries and corresponding axis/priority area/selection models.

The portfolio value is equivalent to the total number of ROP projects multiplied by their average budget, and there are two relatively distinct project groups: public-sector institutions implementing a large, complex set of projects; and public, private, or non-profit beneficiaries of relatively smaller, simpler investments. Importantly, this approach is fully aligned with the recommendations made by the EC in its October 2012 position paper regarding Romania's preparations for 2014-2020, as follows: "Whereas tailored assistance could be directly channeled to larger beneficiaries, accompanied by sound ownership and appropriate endogenous reinforcement and restructuring, streamlined assistance should be provided to sectors sheltering a broader scope of smaller and more heterogeneous beneficiaries (tailored guidance, help desk, dissemination of standardized documents, etc.)."¹

¹ "Position of the Commission Services on the development of Partnership Agreement and Programmes in Romania for the period 2014-2020," Ref. Ares(2012)1240252 - 19/10/2012, p.37

Horizontal Cross-Themes

A. Regionalization

Romania's Planning Regions



Most beneficiaries are in favor of the Government's continued efforts to push forward the plan for devolving increased responsibilities to the regional level, although some elements will not apply before the 2021-2027 programming period.

First, one key advantage of a regional-focused ROP was identified as a higher level of responsiveness to the regional-level needs and priorities. Second, beneficiaries note that the MA in Bucharest is inevitably more removed from the situation on the ground, unlike RDAs, which are able to customize their assistance and intervene more quickly, as needed. Beneficiaries would welcome a regional MA as a best-of-both-worlds option: it would be close to the ground, knowledgeable of their specific situation, able to react quickly, and it would also hold the decision-making power to adopt certain needed measures and provide informed answers. Perhaps most importantly, regionalization promises to deliver truly regional projects by ensuring proper coordination of the political and administrative levels, as long as it does not replicate the current dynamics that do not encourage projects across multiple

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jurisdictions (e.g., cities, counties, etc.). In particular, one possibility worth considering further for 2014-2020, based on interview feedback and in conjunction with the project selection models workstream, is a “regionalization-light” option, with an ROP system adapted to different types of projects, depending on their magnitude.

B. Human Resources

The ROP's success depends first and foremost on the people who make the system work – particularly those responsible for designing and implementing projects.

Without their passion, engagement, and persistent involvement, even the best institutional set-up would be ineffective in reaching the ROP's fundamental objectives.

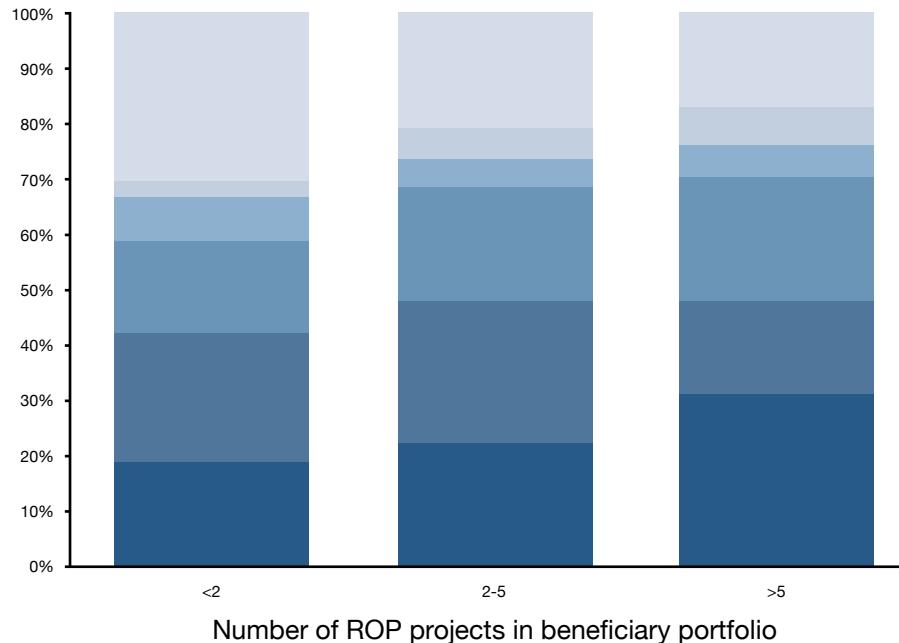
the legal framework constraining the hiring of public servants should be reconsidered to ensure that units focused on EU-financed projects are adequately staffed

responsibilities related to managing large portfolios. This is particularly true of the recent period, when teams have had to both accelerate the implementation of ongoing projects to complete them before the 2015 deadline and also prepare new projects for the 2014-2020 budgeting cycle. In this context, the legal framework constraining the hiring of public servants should be reconsidered to ensure that units focused on EU-financed projects are adequately staffed at all times. All this should be based on a proper system that puts the right people into the right

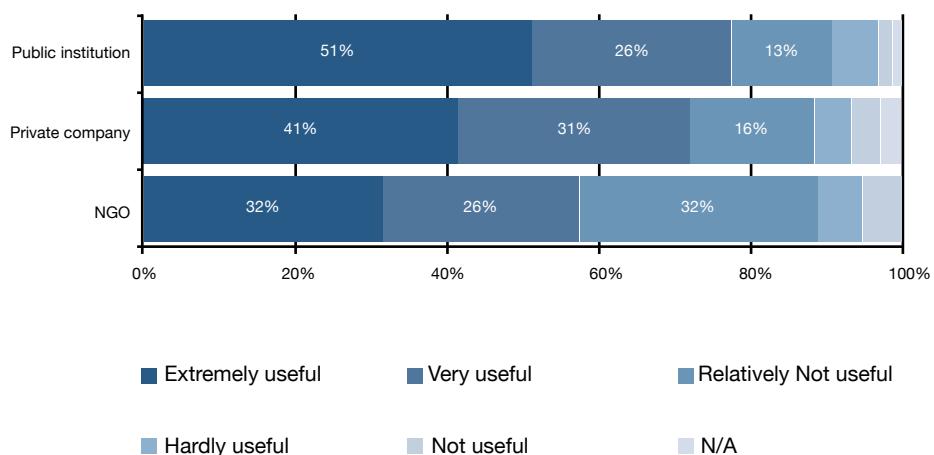
positions, with adequate, meritocratic hiring practices that bring much needed skills from key areas (economics, civil engineering, and legal affairs). One final recommendation for leveraging internal resources is for the MA and the IBs to capitalize on the existing knowledge of experienced beneficiary staff. One possibility is to bring them together under an ROP Corps of Practitioners (ROP-CP), which would meet periodically and send suggestions to IBs, the MA, and the MC-ROP, as necessary. It is expected that the Corps could quickly become a critical component of the ROP's continuous learning and adaptation system, and would ensure an even higher degree of the system's responsiveness to the problems identified in the field. Moreover, members of the ROP-CP could also be selected to become trainers of staff involved in EU-funded projects.



Beneficiary perceptions of possibly requiring FIDIC contract forms for ROP-financed projects



All beneficiary types support the idea of an online ratings system for service providers



EXTERNAL HUMAN CAPITAL

At the same time, it is unrealistic to require ROP beneficiaries to complete all tasks internally – in fact, outsourcing certain services is both encouraged and viable, given than such expenses are typically eligible to be covered by EU funds.

publishing the names of consulting firms who prepare and/or manage projects and enabling user-feedback mechanisms would improve the quality of services provided

The key challenge in managing external resources is that the market is not fully mature or transparent, so selecting the right consulting company is a daunting task for most beneficiaries of ROP funds. Solutions to increase the market's transparency include publishing the names of consulting firms who prepare and/or manage projects and encouraging peer-feedback mechanisms. In addition, contracts with external resources should be strengthened to protect the interests of applicants

and beneficiaries and hold consultants accountable for the quality of their work, contributing to, among other things, the reduction of errors in filling out financing applications and reimbursement requests.



C. Access to Finance

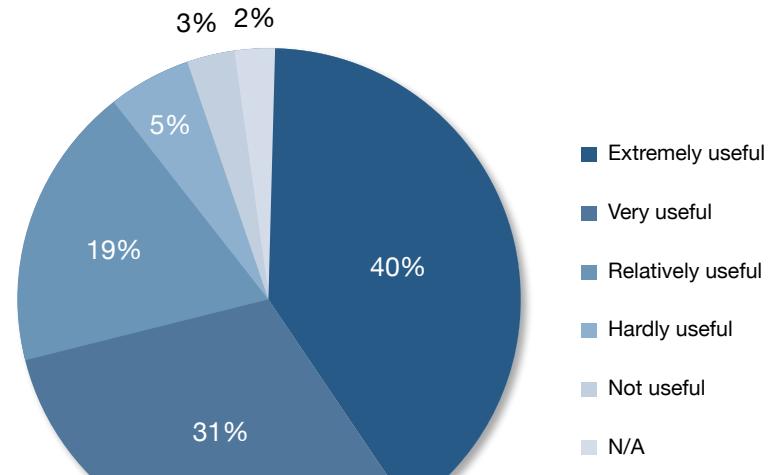
Adequate access to finance throughout all stages of a project is of paramount concern for interviewed beneficiaries, across all sectors (public, private, and non-profit).

“connect” beneficiaries to financing institutions and representative associations

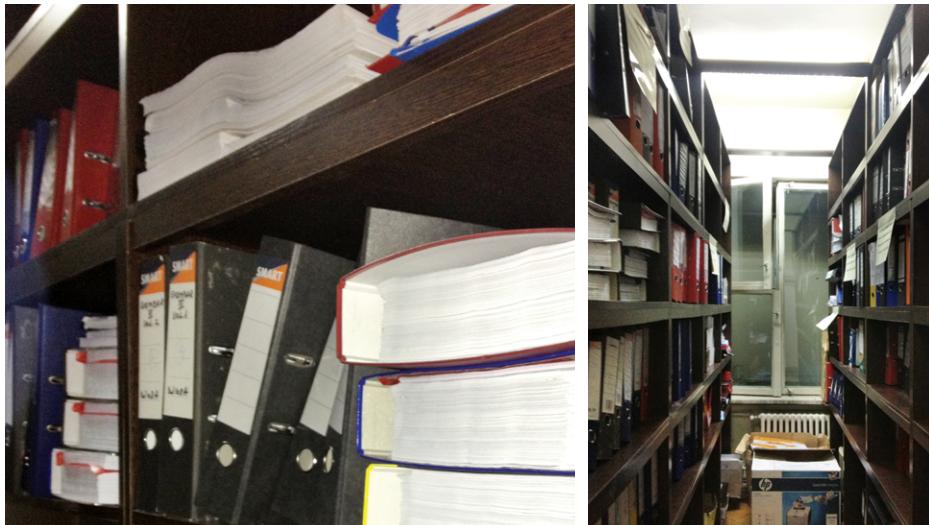
Field research observations suggest that several banks in Romania, including some of the major ones, have specific products targeting the needs of project beneficiaries. Recently, the market for such instruments has grown in size and complexity, but many beneficiaries remain

unaware of available opportunities, while, for their part, a number of banks continue to regard beneficiaries of structural funds with high skepticism. As lending is expected to resume along with the recovering economy, the main anticipated need is to “connect” beneficiaries to financing institutions and representative associations (e.g., the Romanian Association of Banks). This is a role that the MA and the IBs can easily play, acting as a bridge between the demand and supply of financing needs for ROP projects. Banks could also play a role in assessing the viability of specific proposals (e.g., as part of the cost-benefit analysis), based on their accumulated experience and knowledge of market dynamics.

An overwhelming majority of beneficiaries welcome the introduction of e-documentation



The heavy reliance on hard copies has generated serious storage problems



D. Electronization

There are several important advantages of an e-based system: speed, cost savings, and accuracy.

the MA can consider developing its own electronic system to cover the ROP's basic needs

Recognizing this, the EC has promoted e-cohesion strongly, proposing that by December 31, 2014, beneficiaries should be provided with a way to communicate only electronically with MAs and IBs. The Authority for Coordinating Structural Instruments (ACSI) has launched

a process for developing the mySMIS application, which would serve as an interface with beneficiaries, complementing the current SMIS backend database. What remains to be determined is the quality of the final product and its implementation, but in any case it is recommended to leave ample time for consultations, beta testing, and piloting. While the need for avoiding duplication is paramount, if the mySMIS launch will be delayed much further, the MA-ROP can consider developing its own simplified electronic system to cover the basic needs of the program.

The full project cycle should become e-based.

As a first step, the introduction of electronic forms for the application phase would reduce bureaucracy and associated costs, and help prevent beneficiaries from making mistakes (e.g., by only allowing certain answers), ensuring smoother completion of projects further down the line. The evaluation process could also take place on an easily accessible electronic platform. Under this setup, there would be no need to pay the extra costs of transporting evaluators to the RDA headquarters for the desk evaluation. Evaluators could perform a review of submitted

Beneficiaries have noted several challenges faced under the status quo:

HIGH VOLUME OF HARD-COPY DOCUMENTS

Nearly all key exchanges between the MA, the IBs, and beneficiaries are based on hard-copy documents. This holds for the entire project documentation (e.g., proposal, annexes, amendments, etc.), as well as for all communications.

DUPLICATION

The requirement to print multiple copies of the same document increases administrative and transportation costs. It is not uncommon for beneficiaries to send, literally, a van full of thousands and thousands of pages. This is true of the application, as well as of subsequent reimbursement requests, some of which may contain lengthy files related to public procurement procedures. On that note, interviewed beneficiaries express disbelief that it is necessary, for instance, to send the entire public procurement documentation for every single reimbursement request.

STORAGE

Field visits offered many opportunities to see the tangible result of excessive bureaucracy. There are rooms filled with project-related documents and often a single project will take up several shelves, particularly if it required a complex technical project. This system is not only costly, but also risky in terms of losing or misplacing documents and, because everything is in hard copy, some beneficiaries do not take the time to save an electronic copy of the documents.

“if we do not see it in writing on paper, with a stamp next to it, it is not to be trusted.”

MENTALITY

The principle enunciated by many beneficiaries and RDA representatives is the following: “if we do not see it in writing on paper, with a stamp next to it, it is not to be trusted.” This is a direct consequence of the lack of experience with electronic forms, as well as a byproduct of a system that has focused disproportionately on audits and control mechanisms. Interviewed beneficiaries have expressed concern that they need to always be insured against potential risks. As a result, they write formal addresses to the IBs and the MA and keep the entire trail of responses to be able to show, if need be, that they did everything in their power at a particular junction in a project’s implementation. This is understandable and often a good, prudent practice, but it continues to add to the volume of paperwork and to the work of all parties along the chain (beneficiary, IB, and MA staff).

the full project cycle should become e-based.

documents remotely and then a single on-the-spot verification, so a larger proportion of the budget could be dedicated to covering actual fees and ensuring

higher-quality evaluations. During the implementation phase, all required exchanges of information, including reimbursement requests, progress reports, and supporting documentation, would be submitted and verified electronically. This would avoid duplication (e.g., submitting the public procurement file with every reimbursement request).

Importantly, an e-based ROP does not mean that all in-person interactions would be eliminated.

still, not everything can be done online

Above all, verification missions in the field will be needed to ensure that documents submitted electronically are exact copies of

originals – under this system, beneficiaries would be required to keep all original paperwork in an easily accessible location and make it available whenever needed by auditors. At the same time, not all MA-IB-beneficiary interactions can happen electronically. In-person trainings, for instance, have proved much more useful than online seminars. The same goes for field visits by evaluators to verify feasibility studies against the reality on the ground.

E. Targeted Support: Engaging Marginalized Communities

A key priority for Romania's development in 2014-2020, supported by the EC, other international donors, and the Romanian Government, is the integration of marginalized communities and the promotion of inclusive growth.

**the ROP has
not generated
substantial impact
on critical issues
like social integration,
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school enrolment of
Roma.**

In particular, Roma integration has to be a primary focus of any efforts aimed at sustaining Romania's development, taking into account the community's strong potential to make a contribution to the country's absorption of EU funds and long-term growth. Despite all this, ROP projects targeting Roma and other marginalized communities are few and remain mostly concentrated on rehabilitating infrastructure like social centers. Without downplaying the importance of these initiatives at the local level, the reality is that the ROP has not generated substantial impact on critical issues like social integration, labor market participation, and school enrolment of Roma.

To address the current situation, there is a need to improve the ROP's programming and support mechanisms to deliver more impact for marginalized communities in urban areas.

This will depend on adopting targeted selection criteria and encouraging beneficiaries to engage Roma and other marginalized

CLLD approaches are expected to increase the effectiveness and efficiency of projects and service delivery, and contribute to social inclusion through empowerment.

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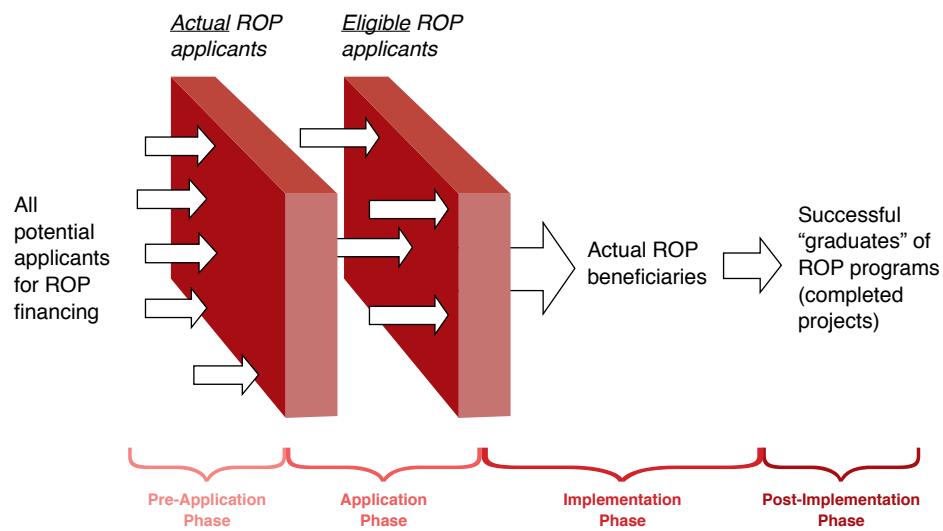


communities through their ROP projects. Also, MA/IB teams should develop targeted support for members of marginalized communities to apply as potential beneficiaries of ROP funds. Along the same lines of bottom-up participation, the MA-ROP and the IBs should work together to evaluate whether the Community-Led Local Development (CLLD) instrument is appropriate for the ROP 2014-2020. The CLLD holds great promise for a program like the ROP, which is well positioned to take advantage of its closer presence to beneficiaries on the ground. More generally, CLLD approaches are expected to

Phase-Specific Support

Phase I:

Pre-Application



In the pre-application phase, assistance to potential applicants should target two key areas: programming and pipeline development (i.e., awareness-raising and project development support).

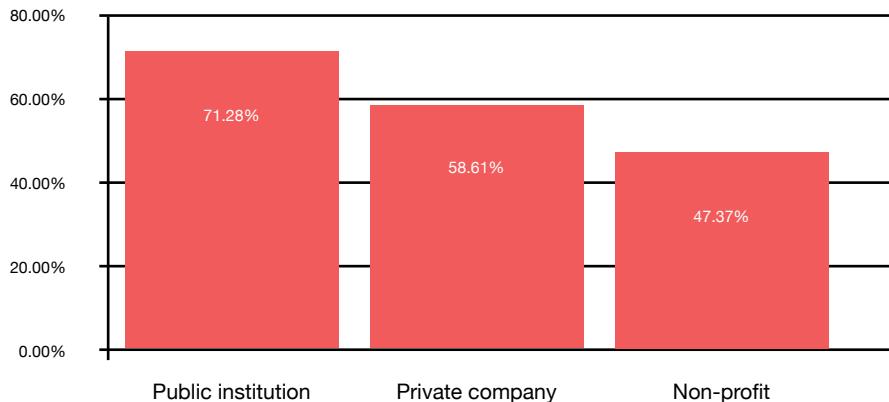
On programming, it is recommended that working groups of beneficiaries stay engaged throughout the entire process, which should aim to become increasingly transparent and participatory. Beneficiary preferences should also be reflected in the program's implementation framework (e.g., specific procedures, definition of eligible vs. ineligible expenditures, etc.). It is also recommended that those decision-makers responsible for drafting the PA, the ROP, and related documents experiment with online consultation tools.

As for project development efforts, it is recommended that the IBs take a more proactive stance in working with potential beneficiaries to define and operationalize viable, impactful ideas. Additional best practices include appointing a liaison person and improving preapplication training sessions to ensure the submission of error-free, high-quality financing applications that contribute to a smoother implementation further down the road.

Phase II:

Application, Evaluation, and Contracting

Satisfaction with RDA support during the application phase is generally high



Even in the most modern classrooms, some of the old chairs were kept



Five areas are most relevant for providing enhanced assistance to ROP applicants at this point in the process: applicant guides, eligible expenditures, helpdesk activities, training, and ongoing communication.

A. Applicant Guides

Beneficiaries generally appreciate the guides as comprehensive, useful, and sufficient for understanding the process of filling out and submitting a financing application, but there are also two main areas of improvement.

First, repeated changes should be minimized, particularly on finalized guides, to maintain predictability. This would avoid indirectly penalizing proactive beneficiaries, the “early-risers,” who are forced to make adjustments and spend additional resources to align their proposals to the requirements from the updated guides. Second, two key elements should be added to the guides to improve their transparency: the potential timeline (minimum and maximum duration) of each step in the process (including the contracting phase), based on the MA-IB audit trails (“pistole de audit”); and a full section on “beneficiary rights and obligations,” as included in the financing contract. Even though the latter is an annex to the applicant guide, to avoid any confusion among applicants, it is recommended to maintain the same content for both documents referenced here.

B. Eligible vs. Ineligible Expenses

For the ROP, the list of eligible expenses is defined through a common order (“the Eligible Expenses Order” – EEO) by the Minister of Regional Development and Public Administration and the Minister of Finance.

Interviewed ROP beneficiaries urge decision-makers to either (A) improve the Eligible Expenses Order (EEO) based on their feedback; (B) eliminate the EEO and rely on applicable national level legislation instead; or (C) define only ineligible expenditures. Given the accumulated experience in the current period, the ROP 2014-2020 would need to take into account extensive inputs from beneficiaries regarding the revision and expansion of EEOs (option A). At the same time, it is doubtful that one can regulate every single project-specific instance, so options B and C appear more feasible.

What is more, the current EEO establishes a maximum value of 5% for expenses related to project design and technical assistance (Article 3), which has contributed to the low quality of technical documentation and construction work.

International benchmarking suggests that this artificial cap should be raised to at least approximately 10% of the project's value. One consequence of inadequate budgeting relates to the performance of construction site supervisors, who often serve in this role for multiple contracts at once, even in different localities. In some cases, they endorse progress and inspection reports without actually verifying the situation on site, which later turns against the beneficiary in the form of unanticipated, ineligible additional expenses. Increasing the cap to a reasonable level would help facilitate high-quality services by both technical designers and construction site supervisors, leading to better, smoother implementation.

C. Helpdesk

Each RDA has established a functioning helpdesk that offers assistance to interested ROP applicants, with positive results to date.

For their part, IB-level helpdesks are able to act as a first point-of-contact for applicants who need guidance around how to fill out an application and how to obtain the required supporting documentation, functions that the MA has delegated to RDAs. The closer this assistance gets to beneficiaries, the better it can address their needs in a timely manner, which suggests that most of the helpdesk activities should remain concentrated at the IB level. Sure enough, feedback from interviews confirms this hypothesis: most beneficiaries contact

their local RDA representative first, in the county or regional office, and only turn to the MA staff under special circumstances, when they feel the need to reach someone in the Ministry. The helpdesk function should be maintained and strengthened going forward.

D. Training

RDAs and the MA organize post-contracting training sessions with beneficiaries who have signed contracts or have started project implementation.

The importance of these sessions for ensuring smooth project completion is reflected in both survey results and interview feedback from field visits. Going forward, the MA and the IBs should continue to organize this training and improve its delivery, keeping in mind the need for: effective timing and coordination; increased frequency; and enhanced customization for different types of beneficiaries (e.g., based on their level of experience with EU funds).

E. Ongoing Communication

A recurring theme in survey responses and interviews is the lack of transparency and predictability of the evaluation and contracting process.

Beneficiaries understand procedural steps and selection models, but they have less visibility into the timeline and progress of their application throughout the process and particularly once their documentation is sent to the MA-ROP. A solution with benefits on all sides would be to increase the transparency of the flow of documents, developing a simple online tracking system. Applicants would be able to access the platform to determine where their application is at any one point in time, how long the process is expected to take, and who the main point of contact is at each step in the process. This could increase the timeline's predictability and transparency, mitigate concerns among beneficiaries, and free up capacity in the MA and RDAs helpdesks, which could quickly refer applicants to the online system. It would also help improve accountability up and down the process chain within the MA and the IBs, ensuring visibility around bottlenecks and capacity constraints.

Phase III:

Implementation



A. Public Procurement

This is by far the greatest concern expressed by ROP beneficiaries in field interviews centers on issues related to public procurement and associated corrections.

Over 70% of public beneficiaries rate the public procurement framework as an “extremely” or “very important” obstacle. Financial corrections related to public procurement procedures are also widespread among local authorities. The key issue is that Romanian legislation on public procurement procedures related to EU-financed projects failed to incorporate until 2011, 4.5 years into the ROP’s implementation, several key elements (e.g., clear definitions of restrictive criteria, applicable corrections, etc.). The total sum imposed in penalties by December 2012 had exceeded EUR 300 million. By far the most common problem is related to “illegal qualifying criteria” – these are also referred to as restrictive/disproportionate criteria and often result from requesting a particular level or type of experience from the bidders. Beneficiaries characterized the vast majority of these errors as purely non-intentional or wrongfully imposed. 80% of sanctioned beneficiaries challenged the corrections and 41% have sought remedy through legal court action, often arguing that retroactive application of law is unconstitutional. Many of the initial decisions from Appellate Courts are favorable to beneficiaries, though most final definitive verdicts by the Supreme Court are only expected in 2014 or 2015.

The key issue of public procurement is the suboptimal, inefficient ex-ante and ex-post verification system, with a chronic lack of accountability of all stakeholders involved, except for beneficiaries, who are left to bear the entire burden of potential mistakes.

Interviewed beneficiaries call attention to the urgent need of publishing an official collection of cases and their related corrections. Maximum transparency is required in order to help beneficiaries avoid making the same mistakes in the future. A complementary measure is to put together lists of acceptable selection criteria. Equally important, there need to be clear-cut standards for which level of sanction applies in a particular case, with consistent application of these rules regardless of which body makes the proposal for corrections. Penalties should be applied only as a last resort and after all verifications have been carried out by specialized auditors with the right set of skills (including technical expertise). Moreover, as far as control institutions are concerned, they should take responsibility for their recommendations and share the costs of potential corrections if they failed to prevent beneficiaries from going forward with a faulty public procurement procedure, or have reimbursed them despite obvious irregularities.

B. The Design Stage: Technical Documentation

Beneficiaries often mention the low quality of technical documentation as the leading cause of implementation delays and ineligible expenditures.

An oversized boiler, due to a faulty technical design, creates budgetary pressures for the school and local authorities in Livada, Cluj County



A total of 48% of interviewed subjects consider this factor to be an extremely/very important obstacle against effective absorption of ROP funds. Simply put, beneficiaries are currently exposed in their relationship with both project designers and contractors: the latter seek to point out faults in the technical project, hiking the agreed price set through the public procurement process; the former are reluctant to agree to changes of the project and put the blame on the workers in the field for failing to apply the technical documentation. This eventually leads to significant ineligible expenditures when there are differences between the technical project (TP) and the situation on the ground during implementation. EU-level regulations do not accept such discrepancies as “unpredictable.”

The leading causes for this situation revolve around lack of capacity and inadequate accountability mechanisms.

For their part, beneficiaries rarely have the available resources to properly check projects submitted by designers. Technical experts are often selected based on the lowest price criterion (a broader issue of the current public procurement framework). The ROP system tried to counteract these weaknesses by including a review of technical projects during the evaluation stage. This has not always worked, as it puts more pressure on beneficiaries to finish studies before the six-month deadline and, also, the technical project evaluators mainly perform an “administrative” check on the documentation to see if all supporting documents are included, without having the capacity to perform in-depth checks on technical solutions, the lists of quantities, etc.

MA and IB teams of experts should help beneficiaries avoid discrepancies between the technical documentation and the situation on the ground by endorsing standard contract forms.

These would be part of the public procurement documentation and help ensure that qualified, professional bidders enter the competition. Best practices would include the following: a clear stipulation of the designer's responsibility to deliver a high-quality output; a complete timeline for every deliverable, including scheduled payments, through the implementation stage; a clear requirement that all property rights over the technical

documentation belong to the beneficiary; and a direct relationship with project verifiers, who should be contracted and paid by beneficiaries, and should be accountable for approving deliverables that do not abide by strict standards. Another solution for reducing friction among designers, beneficiaries, and construction firms during the implementation phase is to allow design-and-build contracts (and eliminate the requirement of submitting the technical project during the evaluation stage). The winning bidder takes on the responsibility of developing the technical project and implementing it, so any discrepancies must be solved without incurring additional costs for the beneficiary, unless particular construction works are determined by truly unpredictable conditions, in which case they would qualify as eligible.

C. The Execution Stage: Contracts, Monitoring, and Reimbursements

In particular, the FIDIC standard contract forms would help beneficiaries manage complex projects better, while protecting the interests of all stakeholders involved.

The main benefits of the FIDIC contracts revolve around a balanced sharing of risks between the beneficiary and the contractor and a greater degree of familiarity of international investors with the specific conditions and procedures mandated by these contracts. Reintroducing FIDIC in the Romanian legislation (primarily the Red Book with design separate from execution and the Yellow Book for design-and-build contracts) promises important benefits, as long as the risks (e.g., legislative misalignment, lack of capacity) are properly addressed.

More broadly, stronger contracts are needed vis-à-vis the whole set of service providers that play a role during the implementation stage: construction supervisors, auditors, and project managers.

For instance, construction supervisors should be required to stay on-site full time, and penalized accordingly if they breach this provision. For their part, auditors currently play a limited role, with low accountability: they certify expenditures by checking accounting documents, but do not typically go beyond desk assessments. Instead, they should evaluate reimbursement requests, including those procedures that have led to particular expenses. The same principles of stronger accountability should also apply to project managers,

who must be held accountable for mistakes resulting from their own work (e.g., errors in submitting reimbursement requests). For all such actors, increased accountability should be complemented by a requirement to have professional insurance. This would facilitate the process of recuperating at least some of the financial corrections generated by mistakes that make it past these filters and would also help “clean” the market in the long run. Further research is needed to determine how this model could work in practice in Romania.

As for monitoring and reimbursements, most of the room for improvement lies with measures aimed at procedural simplification and greater decentralization of responsibilities at the regional IB level.

It is important to acknowledge the government’s recent efforts (e.g., GEO 27/2013) aimed at short-circuiting reimbursement processes and enabling beneficiaries to maintain proper cash flow. Interviewed public sector beneficiaries were enthusiastic about this measure, while private companies and NGOs expressed their hope that they would become eligible for the alternative mechanism soon. Such initiatives should be replicated going forward.



Phase IV:

Post-Implementation

There are two priority areas for improved beneficiary assistance in the post-implementation phase: ex-post monitoring and evaluation (M&E) for durability; and enhanced knowledge exchange.

Beneficiaries note the lack of technical knowledge of some monitoring experts and their overly rigid interpretation of rules. Fundamentally, this has to do with the understanding of what qualifies as “substantial modification” in article 57 of CE 1083/2006 – flagging an issue as such generates a special procedure that can result in financial corrections. In practice, there are multiple situations where beneficiaries avoid any adjustments, even though good reasons may exist to perform them. A more clear definition of the ROP’s interpretation of Article 57 in EC 1083/2006 would be very helpful to beneficiaries, along with a procedure for allowing changes to projects, when justified by special circumstances.

Clarifications are also needed when it comes to acceptable project-level indicators and procedures used in assessing them after the completion of an ROP investment.

First, on the choice of indicators, applicants should be encouraged to select from a pre-defined list aligned with program- and axis-level targets, which would be easy to implement particularly through an e-application form. At a minimum, chosen indicators should fit the “SMART” set of criteria: specific, measurable, attainable, relevant, and time-oriented. Second, interviewed beneficiaries have also requested a detailed methodology applicable to how project-level indicators are monitored and evaluated throughout the implementation and postimplementation phases. Third, for projects failing to reach their targets, if a potential penalty is deemed necessary, it should be, at most, equivalent to the difference between the set target (100%) and the level achieved in practice. Still, imposing such penalties will depend only on the MA’s decision.

Last but not least, the ROP’s positive features can and should be replicated during the next programming period, which depends fundamentally on leveraging the resources that already exist in the system.

This is certainly true of the program’s “graduates” – i.e., beneficiaries who have successfully completed ROP-financed projects. Given available data from SMIS and other RDA-level databases, the MA and the IBs would have the possibility to select the top-performing projects and beneficiaries, seeking to draw lessons learned and best practices. There are multiple ways for leveraging program graduates and facilitating knowledge exchange. For instance, one simple possibility is to add to the final progress report and to ex-post monitoring reports submitted by beneficiaries to the IBs a few questions asking for suggestions for future beneficiaries. Another option is to host in-person workshops with successful ROP graduates acting as trainers and mentors for new beneficiaries, within the proposed Corps of Practitioners. In addition, graduates could disseminate their experiences through a range of information and communication technology solutions for knowledge management and sharing.

Top Recommendations

The figure below summarizes the top challenges and corresponding recommendations.

CHALLENGES

There are still significant capacity constraints on beneficiaries' ability to manage internal and external resources

Project implementation continues to be plagued by issues related to public procurement and poor quality technical documentation

RECOMMENDATIONS

INTERNAL: Improve the compensation system (higher salary base, bonuses covering the entire cycle) and offer more focused trainings.

EXTERNAL: Promote standard contract forms to boost providers' accountability and guarantee high-quality services. Enable user-feedback mechanisms.

Clarify and complete the public procurement framework, in line with upcoming EU-level regulations for 2014-2020
Move away from the “lowest price” as sole selection criterion

Adopt the red and yellow FIDIC and build beneficiary capacity to manage these types of contracts

Top RECOMMENDATIONS

CHALLENGES

RECOMMENDATIONS

Bureaucracy continues to be excessive and an electronic interface with beneficiaries is missing

Develop an e-ROP for the entire project cycle, allowing beneficiaries to submit all documentation electronically
Implement automated verifications to speed up processing

Develop a simple, easy-to-use online tracking platform for beneficiaries to check the status of all their requests

Knowledge sharing remains relatively weak and best practices are not effectively disseminated

Establish an ROP Corps of Practitioners bringing together the most experienced beneficiaries and enabling the dissemination of best practices through institutionalized channels

Leverage the knowhow of beneficiaries who successfully complete ROP projects (i.e., close the feedback loop)

Marginalized communities lack targeted ROP interventions & support

Define targeted selection criteria to encourage ROP-financed investments in marginalized communities

Develop the capacity of marginalized groups to design and implement ROP projects (e.g., through the CLLD instrument)