



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
REGIONAL POLICY
Audit
The Director

Brussels,
REGIO.J2/12/maz D(2012) 330876

Subject: ERDF and Cohesion Fund - Review of the work of the audit authority pursuant to Article 62 of Council regulation (EC) No 1083/2006
EPM - To obtain assurance on the functioning of systems through review of the work of the audit authorities for the period 2007- 2013
Module 3 - mission carried out in the period 1 – 5 March 2010

Ref.: Mission n°: 2010/BG/REGIO/J2/812 (to be used in all correspondence)

Ref.: Your letter n° 3-985/02.03.2012 (Ref. Ares (2012) 270532 – 07/03/2012)

Your Excellency

In our letter of 1 September 2011 (Ares (2011) 929594) the national authorities were requested to provide clarification in relation to one open finding (Finding 1 of the audit report) concerning the procedure followed in cases where a project proposal is rejected at the technical / financial stage of the evaluation and the applicant wants to submit a complaint.

In your letter of 2 March 2012 the following clarification was communicated by the national authorities:

His Excellency Mr Boyko Kotzev
Ambassador Extraordinary and Plenipotentiary Permanent Representative
Permanent Representation of Bulgaria to the EU
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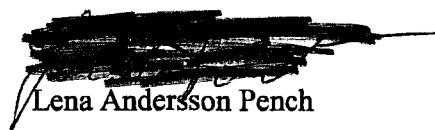
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'The possibility to appeal the decision of the contracting authority in relation to a selection procedure is stipulated in Decree 121 of the Council of Ministers from 2007. It is limited to the rejection of the project proposal by the evaluation committee at the stage of assessment of the administrative compliance and eligibility of the applicant. The analysis made during the drafting of the decree showed that the examination of appeals in relation the technical and financial stage would involve the review of all documentation submitted by the appealing applicant for the technical and financial evaluation stage, including the documentation of the other applicants. The objective of this review is to assess the objectivity, correctness and substantiated evaluation of the evaluation committee. Performing this activity within the Contracting Authority would require significant human and time resources and would not allow the completion of the evaluation process within the statutory period. Nonetheless, the decisions of the contracting authority for providing grants to applicants are also subject to judicial review as an individual administrative act and, as such, under Section Three of Administrative Procedure Code of the Republic of Bulgaria may be challenged in court regarding their legality. In this sense there is a legal opportunity for applicants to defend their interests in relation to rejection on the basis of defects / deficiencies in the stage of technical and financial evaluation of the evaluation process.'


Commission position




The clarification provided by the national authorities in relation to Finding 1 is accepted and therefore Finding 1 is **closed**. By closing this finding the Commission also closes this audit.

Yours faithfully


/Lena Andersson Pench

Copies:


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