INFORMATIVE NOTE ON ENPI PRE-FINANCINGS TO PROJECTS

MEDITERRANEAN SEA BASIN PROGRAMME 2007-2013

Updated May 2013

This note is issued by the Joint Managing Authority (JMA) taking into account the interpretation formally given by the European Commission on the following specific issues: necessary preconditions for receiving further pre-financing installments, method to calculate further pre-financing installments, conditions under which the financial guarantee is requested to the Beneficiary and functioning of the contingency reserve.

Preconditions for receiving further pre-financing installments

The necessary preconditions for receiving further pre-financing installments are indicated in the following paragraph of article 15.1, option 2, of Annex II "General Conditions":

> "Further pre-financing may only be given if the part of the expenditure actually incurred which is financed by the Contracting Authority (by applying the percentage set out in Article 3.2 of the Special Conditions) stands at 70% at least of the previous payment (and at 100% of any previous payments) as supported by the corresponding interim report".

Therefore, in order to receive a further pre-financing installment the ENPI related share of the reported expenditures (i.e. the actually incurred) must stand at:

- 70% at least of the previous payment (i.e. the last occurred)
- 100% of any previous payments[1].

If these two conditions are not satisfied then no further pre-financing installments can be possible.

It is important to clarify that the following sentence of article 15.1, option 2, of Annex II "General Conditions": "**Where the consumption[2] of the previous pre-financing is less than 70%, the amount of the new pre-financing payment shall be reduced by the unused amounts of the previous pre-financing payment**" does not apply to the preconditions for receiving further pre-financing installments but it refers to the method to calculate further pre-financing installments as explained further below.

Method to calculate further pre-financing installments

Provided that the two above pre-conditions are satisfied, the JMA will establish the amount of further pre-financing installments as described below.

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[1] Example: the ENPI 1st pre-financing is € 80.000, the 2nd pre-financing is € 100.000. In order to receive a further pre-financing installments, the ENPI share of the reported expenditures (actually incurred) must stand at 70% at least of the last payment (in this case it should be at least € 70.000) and at 100% of any previous payments (in this case it should be at least € 80.000). In conclusion, in order to receive a further pre-financing installment, the ENPI share of the reported expenditures should be at least € 150.000 (€ 80.000 + € 70.000).

[2] The term "consumption" indicates the amount of reported expenditure which has been certified by the JMA. The amount of certified expenditure could be lower than the reported one. In this case the further pre-financing installment will be reduced by the ENPI share of reported expenditure which has not been certified.

In particular, according to article 15.1, option 2, of Annex II General Conditions, further pre-financing installments paid by the JMA will be "designed to normally cover the part of the Beneficiary's financing needs for each twelve month period of implementation of the Project".

As general rule, although no percentage for the calculation of further pre-financing installments is defined, the JMA will apply at least the 80% up to a maximum of 100% of the ENPI share of the forecast needs for the 12 months following the period covered by the Interim report as submitted.

In details, each further pre-financing installment will be defined through the following steps:

1. Check of the Forecast figures at Project level as indicated in Annex VI-"Interim Report" - Financial Part and calculation of the corresponding ENPI share according to the percentage as set in art. 3.2 of the Grant Contract.
2. Calculation of the 80% of the amount as per the previous point.
3. Calculation of the difference between the ENPI share of total expenditures accepted/certified by JMA[3], (not those reported by the Partnership) [4] and the total payment(s) already received.
4. Addition/deduction of the difference as per the previous point to the amount calculated at point 2:
    a. the addition will correspond to the eligible amount overspent in the previous reporting period. Kindly note that the maximum amount of a new pre-financing will not exceed 100% of the ENPI share of the forecast as mentioned.[5];
    b. the deduction will correspond to the part of the funds already transferred to the Beneficiary in previous pre-installment(s) which remain unspent [6].

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[3] The term "total expenditures accepted by JMA" refers to all expenditure certified by the JMA from the beginning of the project.

[4] The amounts of expenditure accepted/certified by JMA and reported by the Partnership might not be the same. In fact, after its certification process the JMA can consider some reported expenditures not eligible so that the expenditures accepted/certified could be lower than reported expenditures.

[5] Example: the ENPI 1st pre-financing is € 100.000; the ENPI share of reported expenditure is € 120.000 (preconditions for receiving further pre-financing installments are satisfied); After the certification process the ENPI share of certified expenditure is € 120.000; the Enpi share of accepted forecast is € 200.000; the 80% of the ENPI share of accepted forecast is € 160.000. Being the consumption of the first pre-financing (€ 120.000) more than the first pre-financing (€ 100.000), the amount of the new pre-financing payment (€ 160.000) shall be increased by € 20.000 (€ 120.000 - € 100.000). The further pre-financing installment will be then € 180.000 (€ 160.000 + € 20.000 which is even the maximum payable amount).

[6] Example: the ENPI 1st pre-financing is € 100.000; the ENPI share of reported expenditure is € 70.000 (preconditions for receiving further pre-financing installments are satisfied); After the certification process by JMA the ENPI share of "accepted/certified" expenditure is € 65.000; the Enpi share of accepted forecast is € 200.000; the 80% of the ENPI share of accepted forecast is € 160.000. Being the consumption of the first pre-financing (€ 65.000) less than the first pre-financing (€ 100.000), the amount of the new pre-financing payment (€ 160.000) shall be reduced by € 35.000 (€ 100.000 - € 65.000). The further pre-financing installment will be € 125.000 (€ 160.000 - € 35.000).

Financial guarantee

According to the provisions stated in art.15.7 of Annex II “General Conditions”, under certain conditions the payment of further pre-financing must be fully covered by a financial guarantee requested to the Beneficiary.

Where the Beneficiary is a private subject (NGO excluded), if the sum of pre-financing paid under the contract exceeds simultaneously two conditions (i.e. is more than 80% of the contract amount[7] and it stays over € 60.000), the payment of further pre-financing must be fully covered by a financial guarantee requested to the Beneficiary.

Where the Beneficiary is an NGO the financial guarantee is requested if the total sum of pre-financing paid under the contract exceeds one of the two conditions: it is more than € 1 million or it is 90% of the contract amount.

In this respect, be aware that the amount eventually covered by the financial guarantee will be the “un-cleared pre-financing”, i.e. the amount given by the difference between the sum of the pre-financings paid and the sum of the accepted/certified expenditures by JMA of the approved interim reports[8].

The financial guarantee must be denominated in euro, conforming to the model in Annex VIII and provided by an approved bank or financial institution established in one of the Member States of the European Community.

Where the Beneficiary is established in a Mediterranean Partner Country, the JMA may accept a financial guarantee issued by a bank or a financial organism established in a Mediterranean Partner Country provided that it presents guarantees equivalent to those offered by a bank or a financial organism established in a EU Member State.

This guarantee will be released 45 calendar days at the latest after the first of the following events:

- when the total amount of pre-financing under the Contract, after any clearance in accordance with Article 15(6) of the General Conditions of the Contract, is once again below the threshold laid down in article 15 (7) of the General Conditions of the Contract;
- when the balance provided for in the contract has been paid.

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[7] The contract amount corresponds to the ENPI contribution, as defined in Article 3.2 of the Special Conditions.

[8] For example the ENPI contribution is € 300.000; the 1st pre-financing is € 70.000, the 1st interim report accepted/certified expenditures are € 50.000, the 2nd pre-financing paid is € 100.000; the 2nd interim report accepted/certified expenditures are € 80.000 while the 3rd pre-financing paid is € 100.000. The “un-cleared pre-financing**”** will correspond to the difference between the sum of pre-financings (€ 70.000+ € 100.000+ €100.000) and the sum of the accepted/certified expenditures (€ 50.000+ € 80.000) = € 140.000. Since this amount stays below the 80% of the ENPI contribution (€ 300.000), even if it exceeds the threshold of € 60.000, the financial guarantee will not be requested. Nevertheless, for only NGOs, according to the different contractual formulation, the beneficiary should take care that even if only one of the two conditions apply (e.g. an un-cleared amount of more than € 1.000.000), this will lead automatically to a request of the financial guarantee.

Contingency reserve

The contingency reserve cannot be indicated in the forecast of needs and therefore cannot be included in the calculation of further payments.

As stated in art. 14.3 of Annex II "General Conditions", this reserve can be used by the Beneficiary (or its Project Partners) only with the prior written authorization of the JMA. Once the use of contingency reserve has been approved by the JMA and the amount allocated to the direct costs-related budget headings of the project, only then, the contingency reserve can be taken into account for the calculation of the project payment needs.

Finally, the amount of the contingency reserve already transferred and eventually not used by the Beneficiaries and/or by their Partners during the project implementation, will be deducted by the JMA from the final payment (balance).