

Competitiveness Operational Program 2014-2020, Axis 4

Specific Objective: Strengthen the market position of SMEs affected by the COVID-19 pandemic

Action 4.1.1 Investments in productive activities

- December 2021 version, revised advisory guide -

1. Eligible applicants

Eligible applicants under this call for projects are **SMEs: micro, small and medium-sized enterprises**, established under Law no. 31/1990 republished regarding the companies, Law no. 1/2005 republished regarding the organization and functioning of the cooperation, respectively GEO no. 6/2011 updated to stimulate the establishment and development of micro-enterprises by start-up entrepreneurs in business, approved with amendments by Law no. 301/2011, with subsequent amendments and completions.

The objective of the State aid scheme is to support SMEs in the economic recovery program with funding from the REACT-EU Financing Facility in the context of the economic crisis caused by the COVID-19 pandemic, **by granting temporary aid with limited value to those SMEs that are facing a deficit or even the unavailability of liquidity.**

2. The amount of the grant

Total allocated budget: 358.384.803,64 euros, at the Infoeuro exchange rate in October 2021.

The minimum amount of aid (non-reimbursable public financing) is the equivalent in lei of the amount of **50.000 euros**, at Infoeuro exchange rate in October 2021.

The maximum amount of aid (non-reimbursable public financing) is the equivalent in lei of the amount of **1.000.000 euros**, at Infoeuro exchange rate in October 2021, but **no more than 5 times the turnover for 2019.**

The intensity of public funding in terms of productive investment is:

- 95% for micro-enterprises;
- 90% for small businesses;
- 85% for medium businesses.

3. Eligibility conditions

3.1 Eligibility of the applicant

Eligible applicants / beneficiaries applying for funding and implementing the project in this competition are **SMEs** that meet the eligibility criteria set out in the State aid scheme Support for SMEs to overcome the economic crisis caused by the COVID-19 pandemic - productive investments.

At the same time, the applicant must prove compliance with the following:

- a. The applicant registered an **operational profit** from the current activity, respectively from the exploitation activity **in 2019**;
- b. The applicant is **established until 31.12.2018**, including this date;
- c. The applicant is **not in a state of bankruptcy or liquidation**, his business is not managed by a syndic judge or his business is not suspended or is not the subject of an arrangement with creditors or is not in a similar situation to the previous ones, regulated by law;
- d. The **legal representative of the applicant** has not been convicted in the last 3 years, by a final decision of a court, for an act that violated professional ethics or for committing a professional error (it is verified on the basis of criminal record, in the stage project contracting);
- e. The **legal representative of the applicant** has not been the subject of a res judicata trial for fraud, corruption, involvement in criminal organizations or other illegal activities to the detriment of the financial interests of the European Union;
- f. The applicant is **not the subject of a recovery order not executed** following a previous decision of the Competition Council or the Commission declaring State aid illegal and incompatible with the internal market;
- g. The applicant is **not a firm in difficulty in 2019**, in accordance with the provisions of art. 2, point 18 of Regulation (EU) no. 651/2014;
- h. The applicant has **not received financial support from public funds, including EU funds, in the last 5 years** or does not carry out projects currently funded, in part or in full, from other public sources, for the same activities¹.

! Applicant who had their activity suspended during 2020 due to COVID-19 pandemic (starting with April 2020) are eligible, but not for the entire period of 2020. Thus, companies that had 0 (zero) turnover in 2020 are not eligible.

¹ Same activity means an activity from the same class (4-digit numerical code) of the Statistical Nomenclature of Economic Activities (NACE Rev. 2), established by Regulation (EC) 1893/2006 establishing the Statistical Nomenclature of Economic Activities NACE Rev. 2 and amending Council Regulation (EEC) 3037/90 and certain EC Regulations on specific statistical fields relevant to the EEA

If the project includes buildings investment works, the applicant must demonstrate **ownership, concession, superficies or rent/commodatum regarding the property (building) where the investment is made**. The notion of building also includes the delimited legal space held in one of the forms mentioned by the applicant (eg. floor, part of a hall, etc.).

- ⇒ In the case of a concession, **concession/superficies** contract must prove the right to make investments in the buildings under concession. The validity of the Concession/Superficies Agreement must cover a period of at least **5 years** from the date of submission of the financing application;
- ⇒ In the case of a **lease/commodatum contract**, it must be **valid for at least 5 years** from the date of submission of the financing application. The lease contract must prove the right to invest in the rented buildings.

! *The lease / commodatum contract only applies just to modernization works.*

If the applicant **owns the property** where the investment is made, **it must be free from any encumbrances and easements and not be the subject of any litigation** pending before the courts or of any claims under special laws in matters or common law. It is proven by land book extract issued no later than 30 days before the financing application is submitted.

3.2 Project eligibility

In order for a project to be declared eligible for funding, it must meet the following conditions:

- a) The objectives of the project proposal are in line with the specific objective of the competition;
- b) Activities and expenditures proposed for funding under the project have not been funded and are not currently funded from other public funds;
- c) The project does not require funding for direct support of export activities to third countries or other EU Member States (ie support directly related to the quantities exported, the establishment and operation of a distribution network or other current costs related to the export activity);
- d) The project does not use domestic products in preference to imported products in the activities that receive funding;
- e) The size / value of the non-reimbursable financing requested to fall within the mentioned limits (50.000 euros – 1.000.000 euros);
- f) Project implementation period: the duration of the project will not exceed December 31, 2023.
- g) Through the project will be ensured the standards of security and confidentiality of the informations, processing of personal data according to Regulation (EU) 2016/679 on the protection of individuals with regard to the processing of personal data and on the free

movement of such data and the repeal of Directive 95/46 / EC (General Data Protection Regulation).

h) Funding authorities will ensure that the project respects the principle of equal opportunities and will prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Accessibility for people with disabilities will also be taken into account.

Field of application

- ✓ **The beneficiaries are the Romanian SMEs active in the eligible sectors² mentioned below:**
- Class C – Manufacturing (without codes 11 manufacture of beverages, 12 manufacture of tobacco and 254 manufacture of armaments and ammunition);
 - Class F – Constructions;
 - Class G – Wholesale and retail trade; Repair of motor vehicles and motorcycles;
 - Class H – Transport and storage;
 - Class I – Hotels and restaurants;
 - Class M – Professional, scientific and technical activities;
 - Class N – Administrative and support service activities;
 - Class P – Education;
 - Class Q – Health and social work;
 - Class R – Entertainment, cultural and recreational activities;
 - Class S – Other service activities.

! *The NACE code for which funding is requested must be authorized at the time of the project application is submitted.*

! *It is not allowed to submit a project on several NACE codes, just one.*

- ✓ The following sectors / types of aid **will not be supported** under the measures described in this State aid scheme:
- activities related to the manufacture of products from alcohol, tobacco, weapons;
 - gambling and betting activities.
- ✓ The aid granted to undertakings active in the processing and marketing of agricultural products is conditional on not being sent in part or in full to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or placed on the market by the undertakings concerned.

² In accordance with the classification of activities in the national economy – NACE Rev. 2.

- ✓ If an enterprise is active in several sectors to which different maximum amounts apply, the beneficiaries will ensure through appropriate means, such as the separation of accounts, for each of these activities, that the relevant ceiling is respected and that the maximum amount possible is not exceeded in total.
- ✓ The derogations from point 23 letter (a) from the Commission Communication - Temporary framework for State aid measures to support the economy in the context of the current COVID-19 epidemic³ will apply and the gross amount of aid before deduction of tax or other charges will not exceed EUR 270,000 for undertaking active in the fisheries and aquaculture sector or EUR 225,000 for the undertaking active in the primary production of agricultural products.
- ✓ The aid within the state aid system will not be cumulated with the aid provided in Regulation 702/2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas as compatible with the internal market, in application of Art. 107 and 108 of the TFEU or in Regulation 1,388/2014 declaring certain categories of aid granted to enterprises operating in the production, processing and marketing of products obtained from fisheries and aquaculture as compatible with the internal market, in application of art. 107 and 108 of the TFEU, with subsequent amendments and completions.

3.1 1 Indicators to be achieved

Through the project, the beneficiary must establish and achieve at least the following mandatory indicators:

! Additional performance indicators:

- **number of new products / services / processes introduced on the market by the beneficiary.**

If, through the project proposal, the potential beneficiary does not intend to make a new product, it will introduce an additional indicator relevant to the project objective.

! Additional result indicators (other relevant indicators for the project may be formulated, where applicable):

- **labor productivity in SMEs in the 3rd year of sustainability** (turnover divided by the average number of employees - the reference year is 2019). **The number of employees in the 3rd year of sustainability must be at least equal to that of 2019, otherwise the project will be rejected.**

³ https://ec.europa.eu/competition-policy/state-aid/coronavirus/temporary-framework_ro

3.4. Rules on cumulation of state aid

The State aid recipient may also access other State aid schemes developed on the basis of the Commission Communication - Temporary framework for State aid measures to support the economy in the context of the current COVID-19 epidemic (2020 / C91I / 01), within the ceiling equivalent in lei of the amount of 1,800,000 euros.

If the amount of state aid requested by the beneficiary is higher than the amount provided by the temporary framework, it will be reduced to the ceiling of 1,800,000 euros, according to the provisions of the cumulation of state aid.

4. Types of eligible investments

The following types of investments are eligible:

- Endowment with tangible, intangible assets.
- Modernization⁴ of the production / services spaces - maximum 50% of the project value.

5. Categories of eligible expenditure

1. Expenses for modernization of the production / services spaces (expenses with works exempted from authorization).

2. Expenses for Consultancy - includes expenses incurred, as appropriate, for:

- payment of consultancy services for the elaboration of the financing application and of all the studies necessary for its elaboration (including the business plan);
- payment for consulting services in the field of project management;
- payment for legal advice/assistance services for the purpose of preparing the award documentation and/or applying the procedures for awarding public procurement contracts, if applicable.

Consultancy costs for project preparation and implementation are within 10% of the eligible value of the project.

3. Expenses for the basic investment

3.1 Endowments (machinery, technological and functional equipment with and without assembly, endowments) - includes the expenses for the purchase of technological machinery and equipment, as well as those included in the functional installations, including the expenses

⁴ It is not allowed to modernize the accommodation facilities within the NACE code 5520, as well as the modernization of office premises or for other activities intended for real estate investments.

related to the assembly of technological equipment and machinery included in the functional installations, including the related networks necessary for their operation:

- a. Expenditures on the purchase of technological equipment, machinery, work installations, furniture, IT equipment, office equipment, of the nature of fixed assets, respectively which are found in Subgroup 2.1. "Technological equipment (machines, machinery and work equipment)", Subgroup 2.2. "Measuring, checking or regulating apparatus and installations", Class 2.3.6. "Equipment and installations for transport and lifting" or Group 3 "Furniture, office equipment, systems for the protection of human and material values and other tangible assets" of GD 2139/2004 for the approval of the Catalog on the classification and normal operating times of fixed assets, with subsequent amendments and completions and falling within the value limit related to fixed assets, established by the legal regulations in force at the date of submission of the financing application.
- b. Expenditures for the purchase of **means of car transport** – Class 2.3.2 (electric or hybrid⁵). They are eligible if the vehicles or means of transport, including means of public passenger transport, are indispensable and intended exclusively to achieve the objective of the operation and their technical characteristics are appropriate to the activities of the operation.

Clarifications regarding the fulfillment of scoring criteria b):

Vehicle categories O1, O2, O3 and O4, provided for in Regulation (EU) 2018/858 of the European Parliament and of the Council of 30.05.2018 regarding the approval and market surveillance of motor vehicles and their trailers, as well as their systems, components and separate technical units intended for those vehicles, by amending Regulation (EC) 715/2007 and (EC) 595/2009 and repealing Directive 2007/46/EC, may be purchased as follows:

- Together with a vehicle of category N1, N2 and N3 as provided by Regulation 2018/858 and if the vehicle N1, N2 and N3 meets the criteria provided by Annex 1 to the Delegated Regulation of the Commission (EU) supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council laying down technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to mitigating climate or adaptation to climate change and to determine whether that economic activity does not cause any significant harm to any of the other environmental objectives.

⁵ In accordance with the provisions of the Delegated Commission Regulation (EU) supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council laying down technical screening criteria for determining the conditions under which an economic activity qualifies as a substantial contributor to mitigate or adapt to climate change and to determine whether that economic activity does not cause any significant harm to any of the other environmental objectives available at [https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=PI_COM:C\(2021\)2800&from=EN](https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=PI_COM:C(2021)2800&from=EN)

- Independent, if the applicant proves that they will be towed by vehicles of category N1, N2 and N3 that meet the criteria provided by Annex 1 to the Commission Delegated Regulation (EU) supplementing Regulation (EU) 2020/852.
- c. Expenditures on the purchase of specific installations / equipment in order to obtain energy savings, as well as systems that use renewable / alternative energy sources to streamline the activities for which it has requested funding.

3.2 Intangible assets – includes expenses related to the acquisition of patents, licenses, trademarks, software, other rights and similar assets.

The eligible amount of the intangible assets may not exceed 20% of the eligible amount of the tangible assets subject to the project.

4. Expenses with the mandatory publicity and information activities related to the project - are eligible in accordance with the provisions of the financing contract, up to a limit of 5,000 lei without VAT. Expenditure on marketing and promotion activities are not eligible.

! Non-deductible value added tax according to the national legislation in the fiscal field and non-recoverable according to the provisions of art. 69 para. (3), letter c) of Regulation (EU) 1303/2013, related to the eligible expenses is eligible.

! In addition to these eligible costs, the project may require a number of other costs that are not eligible but are necessary for the proper implementation of the project. These costs shall be borne by the applicant without being taken into account in determining the amount / intensity of the non-reimbursable financial assistance.

! The final audit activity of the project is not eligible for funding under this type of project, but is mandatory for project implementation.

! Notary fees are not eligible.

! GDPR> According to the GDPR rules, within the company must be appointed a personal data protection officer⁶ (DPO), who has completed a training course in the field of GDPR (certificate/diploma of participation, graduation, etc.) and who will have established, through the job description, attributions in this field. The outsourcing of the GDPR services is also accepted. GDPR services are not eligible, but are mandatory for project implementation.

Specific investment conditions:

- **The investment must be maintained in Romania for a period of at least 3⁷ years** from the completion of the investments. This condition does not preclude the replacement of an

⁶ <https://mfe.gov.ro/wp-content/uploads/2019/08/b153da563961c2a18631ec663286e6c6.pdf>

⁷ Art. 71 from Regulation (EU) 1303/2013

installation or equipment which has become obsolete or destroyed during this period, provided that economic activity is maintained in the region concerned for the relevant minimum period.

- **Acquired assets must be new.** Purchases of second-hand equipment are not eligible.
- **Leasing purchases are not allowed.**
- **Intangible assets** are eligible if they meet the following conditions:
 - They must be used exclusively in the SMEs;
 - They must be depreciable;
 - They must be purchased on a free market basis from third parties not related to the buyer;
 - They must be included in the SMEs assets and must remain associated with the project for which the aid was granted for a period of at least 3 years after the completion of the project.
- The acquisition of intangible fixed assets, to be used in the project, is based on:
 - Contract for the acquisition of ownership (computer applications, patents)
 - License or assignment agreement to obtain a right of use.

6. *The period in which the projects can be submitted*

Date and time of the opening of the project application:

- from 09:00:00 on the first day of filing, with continuous submission for 5 calendar days; The competition will take place within the IMM RECOVER platform and the winning projects will be transferred by the applicants to the MySmis platform within 5 working days from the date of AMPOC notification;
- the call is competitive type with deadline for submission;
- the call is to be launched in the next period (march 2022).

7. *Project evaluation and selection process*

The evaluation and selection process consists in going through the following stages:

- **The stage of verifying the administrative compliance and the eligibility of the applicant and the project;**
- **Stage of technical and financial evaluation of the project proposal;** The evaluation of the criteria will be carried out according to the technical and financial evaluation grid. **Project proposals with a total score ≥ 70 points will be funded within the allocated budget;**
- **Selection stage of project proposals** that will benefit from non-reimbursable financial support, in accordance with the evaluation and selection procedure.

The selection of a project for funding is made **on competitive criteria** and is conditioned by the simultaneous fulfillment of the following elements:

- a) **the score obtained must be at least 70 points** (minimum quality score);
- b) **not to obtain a value of 0 according to the technical and economic evaluation criteria from points A. Decrease in Turnover on 31.12.2020 compared to 31.12.2019 (< 5%) and B. Investment of at least 20% of the value of the project in accordance with the provisions of Annex I of the Delegated Commission Regulation (EU) supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council laying down technical screening criteria for determining the conditions under which an economic activity qualifies as substantially to mitigate or adapt to climate change and to determine whether that economic activity does not cause any significant harm to any of the other environmental objectives (< 20%).**
- c) **the availability of funds allocated to this call.**