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FIDIC-SIDiR-EFCA Regional Infrastructure Conference

**Krakow
7 & 8 March 2016**

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FIDIC-SIDiR-EFCA Regional Infrastructure Conference

Consulting companies in public sector

Consulting companies in the phase of contract implementation in public sector



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Consulting companies in the phase of contract implementation in public sector

1. History regarding FIDIC contract implementation in public sector of Romania


✓2008 - it was introduced in the **obligation for contracting authorities (public sector) to use the FIDIC model contracts** standard "Red", "Yellow" and "Green"


✓2009 - unfortunately, the order in which these contracts were approved was repealed in 2009, **confusion among entrepreneurs** → application of **financial corrections** by the European Commission because of problems encountered in the implementation of projects financed from European funds.

The Order implemented the **FIDIC General Conditions** of the contract, while the Mandatory **Special Conditions**, including special provisions derogating from the General Conditions have been developed to conform to national rules of Romanian law.

✓2011 - standard model FIDIC contracts "Red" and "Yellow" were reinstated for investment in transport infrastructure of national interest, and then for all the contracts under funded by European Union carried out by all units subordinated to or under the **Ministry of Transport and Infrastructure and Ministry of Environment**.

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Consulting companies in the phase of contract implementation in public sector

1. History regarding FIDIC contract implementation in public sector of Romania

- contracting authorities from public sector **are required to use both the General Conditions and the Special Conditions.**
- the contracting authorities have to use these contractual terms on the one hand, and on the other hand, **to bring**

CHANGES of General Conditions, **in addition** to the Special Conditions.

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1. History regarding FIDIC contract implementation in public sector of Romania



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2. Problems regarding FIDIC contract implementation in Romania, in the first phase of funding 2007-2013


- 2011 most EU financed projects have used the FIDIC Conditions of Contract - Red & Yellow Book
- Changes of General Conditions by public authority

REASON
of changes wanted
by the public authorities:



Minimum RISK




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2. Problems regarding FIDIC contract implementation in Romania, in the first phase of funding 2007-2013

Minimum
RISK



→




Problems

=

A COMPLETE
AWASTE OF TIME AND
ENERGY

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2. Problems regarding FIDIC contract implementation in Romania, in the first phase of funding 2007-2013

- Main reason for minimum risk desired by the authorities was and still is the **Public Procurement Law** (in Romania, it is the law OUG 34/2006)
- As almost all the public sector used for procurement (services/works) the **criteria of lowest price**, of course according to the law, a lot of problems were starting from the **moment of signing the contract**.

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2. Problems regarding FIDIC contract implementation in Romania, in the first phase of funding 2007-2013

EUROPEAN STRUCTURAL AND INVESTMENT FUNDS
DATA

Total Percentage of Available Funds...
Based on 2007-2013 Funds Allocation Rate...

Filter this dataset based on contents.
No conditions defined yet.
+ Add a New Filter Condition

With the following base filters
Fund is Total
Year is 2016

Last update: 13/12/2015 | About | Legal Notice | Cookies | Contact | Search

European Union allocation for Romania 2007 -2013
aprox. 19 billions euro

Degree of absorption of the european funds
69,60%

Our country lost **5,8 billions euro.....**

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2. Problems regarding FIDIC contract implementation in Romania, in the first phase of funding 2007-2013

Personal opinion

Two very important aspects:

- constant change of the Public Procurement Law, which conducted to confusion in its application
- the lack of understanding, the way of changing or interpreting the FIDIC contracts according to each public authority.

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Consulting companies in the phase of contract implementation in public sector

3. How can we improve the FIDIC contract implementation in Romania, in the second phase of funding 2014-2020

When you are dealing with the **smallest price in awarding a tender for consulting companies**, which are **supervising the constructors that won the contracts**, again, **with the smallest price**, at what can you expect?

Usually, at a lot of **problems.....**

Our country didn't adapt to the new **EU Directive 2014/24/UE**, this should be happening until April 2016, but **until then the contracts for Technical Assistance are going to be awarded still on the smallest price** offered by consultant companies.

As an example, last month, a consulting company won a contract of Technical Assistance with **18% from the estimated value**, so, again, can I ask myself **how they are going to do the contract? And with what quality?**



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Consulting companies in the phase of contract implementation in public sector

3. How can we improve the FIDIC contract implementation in Romania, in the second phase of funding 2014-2020

As the new **law of Public Procurement** is going to be implemented from **April 2016** and as the new criteria for awarding the price in services contract is going to be **MEAT**, my opinion and hope is that **we will have an improved system.**



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Consulting companies in the phase of contract implementation in public sector

3. How can we **improve** the **FIDIC contract implementation in Romania**, in the second phase of funding **2014-2020**




TRAINING

more involvement in **TRAINING** the public sector into the FIDIC contracts



DEBATE


more **DEBATES** where we, as consulting engineers, can prove and demonstrate that the original FIDIC principles are working and we do not have to change them.



Communication

more **COMMUNICATION** between the consulting companies and the public sector is needed, **a communication based on TRUST & RESPECT** according to **FIDIC principles**.

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3. How can we **improve** the **FIDIC contract implementation in Romania**, in the second phase of funding **2014-2020**


In the second phase of funding **2014-2020**, maybe:




+

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Risk equity

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“To win without risk is to triumph without glory.”

- Pierre Corneille -




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Dam Vf. Campului – 7,3 millions m³ – ≈ 75 millions €


WWTP Alexandria – 75.000 P.E. ≈ 12 millions €



WWTP Vaslui – 95.000 P.E. ≈ 19 millions €



Design&Build FIDIC contracts implements in public sector

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