

**Nominated competent authorities (i.e. beneficiaries)
and affiliated entities in the Joint Action 2018**

This annex aims to help you select the appropriate entity to be nominated for participation in the Joint Action 2018, taking into account: **the policy expectations described in annex I, the condition to have one nominated competent authority per participating country**, the possibility of using **affiliated entities and "sole beneficiaries"** to implement the Joint Action activities.

It is important to note that **at the nomination phase, each participating country shall nominate the competent authority that will participate on its behalf.**

According to the [2018 Annual Work Programme](#), the nominated competent authority should be the one which is "responsible for health or for a specific (public) **health topic** or any other authority to which that competence has been conferred".

Under the [2018 Annual Work Programme](#) (point 2.2.1.) the **topic** is *Joint Action to strengthen preparedness in the EU against serious cross-border threats to health and support the implementation of International Health Regulations (€ 7 900 000 EU co-funding)*.

After the submission of the nomination, at the proposal preparation phase, the nominated competent authority may include other participants to collaborate in the Joint Action activities such as affiliated entities, subcontractors or collaborating stakeholders.

With regards to affiliated entities, the following two options exist:

Option 1- Affiliated entities to a beneficiary – legal or capital link

Option 2- Affiliated entities forming one "Sole beneficiary" as a single entity

Option 1- Affiliated entities to a beneficiary – legal or capital link

According to article 122 of the [Financial Regulation](#) an entity affiliated to a "single" beneficiary (for Joint Actions - the competent authority) is an entity that fulfils the following conditions:

- It has a **structural link** with the "single" beneficiary, in particular **a legal or capital link**.

In general, the notion of legal and capital link encompasses mainly two notions - **control** and **membership**.

Control means that entities are directly or indirectly controlled by the beneficiary, under the same control as the beneficiary - or controlling the beneficiary.

Membership, means that the beneficiary is defined as for example a network, federation, association in which the affiliated entities also participate

- The affiliated entity needs to comply with the exclusion and eligibility criteria applying to applicants as defined in the [2018 Annual Work Programme](#).

The specific case of affiliated entities in the public sphere

Public owned entities and public bodies (entities established as such under national, European or international law) are not always considered as affiliated entities (e.g. Executive Agencies, National Research Centres).

The notion of affiliated entities in the public sphere covers:

- The different levels of the administrative structure in case of **decentralised administration** (e.g. National, regional or local ministries in case of separate legal entities can be considered as affiliated to the State to avoid interference with the various institutional set-ups in the different Member States).
- A **public body established by a public authority** to serve an administrative purpose and which is supervised by the public authority. (e.g. national institutes or schools for public health or national research centres are affiliated to the state).

What is **not** an affiliated entity?

- Entities that have entered into a (procurement) contract or subcontract with the nominated competent authority (beneficiary), or who act as concessionaires or delegates for public services for the beneficiary.
- Entities that cooperate on a regular basis with the beneficiary on the basis of a memorandum of understanding or share some assets.

Option 2- Affiliated entities forming one "Sole beneficiary" as a single entity

Article 122.1 of the [Financial Regulation](#) introduced the concept of "sole beneficiary": *"Where several entities satisfy the criteria for being awarded a grant and together form one entity, that entity may be treated as the "sole beneficiary", including where the entity is specifically established for the purpose of implementing the action to be financed by the grant"*.

The competent authority, acting as leader of or affiliated to the "sole beneficiary", must have been nominated by the participating country. The leader of the "sole beneficiary", which is the entity that will sign the grant agreement, must comply with the exclusion, eligibility and selection criteria. The entities affiliated to the "sole beneficiary" must comply only with the exclusion criteria and sign a declaration of honour.

The "sole beneficiary" may be legally established **specifically for the purpose of the action**.

The "sole beneficiary" does not need to have a distinct legal personality. The affiliated entities forming the "sole beneficiary" should establish as appropriate internal arrangements setting out the functioning of the "sole beneficiary" and the role each one ¹. This internal arrangement may take the form of an internal co-operation agreement (national consortium agreement).

To be eligible under the form of a "sole beneficiary", the **competent authority – whether as leader of or affiliated to the "sole beneficiary" must have been nominated before the deadline for submission of nominations**.

¹ Appropriate internal arrangements may be the following: consortium agreement, collaboration agreement, memorandum of understanding or other type of agreement.

However, **the establishment of the "sole beneficiary" can be completed at any time during the preparatory phase until the signature of the grant.**

In both above cases, only the leader of the sole beneficiary will sign the Joint Action grant agreement.

Legal commitment and responsibilities of the beneficiary and affiliated entities for both options:

- a. **The competent authority or beneficiary and its affiliated entities have to be identified in the grant agreement.**
- b. The **beneficiary** is fully responsible for the implementation of the tasks assigned to its affiliated entities, from the operational and financial point of view. Therefore:
 - They must inform of any change to the situation of their affiliates
- c. They are financially responsible for any amount that would have been paid as reimbursement of costs unduly declared by its affiliated entities
- d. The **beneficiary** has obligations in connection to its affiliated entities, among others:
 - Ensuring that the eligibility criteria applying to its own costs apply also to the costs incurred by its affiliated entities
 - Ensuring compliance of its affiliated entities with the rules applying to them on non-liability of the Commission, absence of conflict of interest, confidentiality, visibility of the Union and evaluation.
- e. The obligation to validate a Legal entity and to record it in the **Legal Entity File** (done by the Research Executive Agency, REA) does not apply to the affiliated entities. No bank account form is to be registered either, except if the payments are to be made on the bank account of the affiliated entity.
- f. A beneficiary cannot subcontract tasks to its affiliated entities or to the entities affiliated to another beneficiary in the same grant. This is considered like subcontracting activities between different beneficiaries of a grant and is forbidden by the Financial Regulation