

**Nominated competent authorities (i.e. beneficiary) and affiliated entities  
in Joint Actions 2017  
NEW APPROACH**

This annex aims to help you select the appropriate competent authority to be nominated for participation in the Joint Actions 2017, taking into account: **the limitation to one nominated competent authority per MS/C and per Joint Action** and the possibility of using **affiliated entities** to implement the Joint Action activities in cooperation with other entities.

It is important to note that at the nomination phase, each MS/C will nominate competent authorities to participate on its behalf. The nominated competent authorities will only include other participants as affiliated entities, subcontractors or collaborating stakeholders during the proposal preparation phase (see annex 1).

In this annex, the term "**beneficiary**" refers to the nominated competent authority that will be called to sign the grant agreement and receive co-funding from the Health Programme.

To be a **beneficiary** of a given Joint Action, the entity must be nominated by the Member States in accordance to [Annex IV of the Annual Work Programme 2017](#).

**How can the cooperation between entities in the same MS/C legally be established?**

For cooperation with other entities in the same MS/C **the following options exist:**

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

According to article 122 of the [Financial Regulation](#) 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 criteria applying to applicants as defined in [Annex IV of the Annual Work Programme 2017](#).

**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 beneficiary, 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.

**The grant agreement will be signed by the single beneficiary only meaning the competent authority nominated by the Member State.**

*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 "sole beneficiary" entity must comply with the eligibility; non-exclusion and selection criteria. The "sole beneficiary" entity must be nominated by each MS/C to participate on its behalf.

The "sole beneficiary" entity may have been legally established **specifically for the purpose of the action** or the entity may have been created **independently of the application**.

To be eligible under the form of a "sole beneficiary", the **competent authority -part of the "sole beneficiary"- must have been nominated before the deadline for submissions**. However, **the legal establishment of the "sole beneficiary" can be completed at any time until the signature of the proposal**.

The entities joining a "sole beneficiary" should establish appropriate **internal arrangements** which may take the form of an internal co-operation agreement.

**Only the "sole beneficiary" entity will sign the Joint Action grant agreement.**

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

- a. **The 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

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- They are financially responsible for any amount that would have been paid as reimbursement of costs unduly declared by its affiliated entities
- c. The **beneficiary** has certain obligations in connection to its affiliated entities:
- 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 certain Intellectual Property Rights.
  - 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.
- d. The obligation to validate a Legal entity and to record it in the **Legal Entity File** (done by the Research Executive Agency) 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.
- e. 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.