

CLARIFICATION TO TENDER: N° 02

“Good practice for CERTs in addressing NIS aspects of cybercrime”

ENISA P/02/11/TCD

Questions & Answers

<p>Q1:</p>	<p>Question: (XYZ) has 2 companies owned at 100% that are part of the (XYZ) Group. According to this how do we can include them in the tender?</p> <ul style="list-style-type: none"> • Option one: they being part of the group and owned 100% are they considered as part of the company so we can include CVs and reference from those companies? • Option two: may we rely on them? • Option three: do we have to consider them as subcontractors?
<p>A1:</p>	<p>The tenderer needs to declare the relationship between the various companies and the way they pursue their business goals; proof towards that can be presented by way of the financial statement they provide. If for example, the annual accounts of an affiliate company are incorporated in the financial statement of a parent company and the parent company is the bidder, they can be considered as a single entity; because it can be argued that the proprietor of the business uses 2 legal entities to pursue a single business objective.</p> <p>If the companies act entirely independently from each other then, although these companies belong to the same group (distinction shall be made here made between ownership and legal personality), they still have distinct legal personalities and must be regarded as two potential competitors unless they decide to:</p> <ul style="list-style-type: none"> - Form an ‘ad hoc consortium’; - Sub-contract with their “sister company”. <p>This can be done by using the forms provided in annex to the tender specification.</p>