

A Guide for Authorised Economic Operator (AEO) Applicants



AEO was introduced by the World Customs Organisation (WCO) in 2008 as part of their SAFE Framework of Standards. All WCO members have committed to implementing a version of the WCO AEO programme. Therefore, in a post Brexit environment AEO will not disappear and the UK will have to implement its own system, which in all probability will be closely aligned with the EU version.

There is a consensus that AEO will become more important and relevant for freight forwarders, as new trade deals are negotiated and new AEO mutual recognition schemes agreed, in particular with the EU. A significant number of BIFA Members have already applied and have been successfully authorised.

Many Members are still thinking about applying for AEO, the task often seems daunting and time consuming, and there may be uncertainty and concern about whether obtaining the relevant certification is achievable. There are even greater concerns about the potential adverse effects of losing the certification.

At this point it is important to emphasise the following:-

- 1** HMRC want all applicants to be successful
- 2** There are methods such as “stopping the clock” during the application process which allows omissions to be addressed
- 3** Traders have to develop a compliance and co-operative mind-set.

HMRC accept that there will be failings and omissions, but they are looking for systems to identify, report and rectify them as applicable.

This Good Practice Guide is designed to help Members understand the main elements of AEO and uses some case studies to highlight the issues that cause concerns.

Which type of AEO?

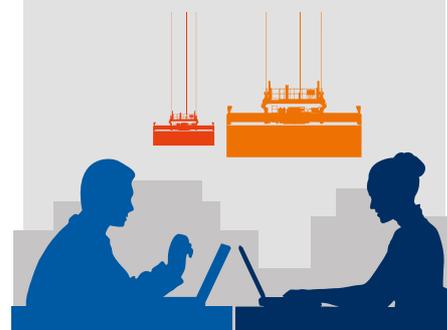
As detailed in EU Regulation 952/2013, the Union Customs Code (UCC) there are two types of AEO certification:-

- AEO-C (Customs Simplifications)
- AEO-S (Security & Safety)

However, the UCC does allow traders to apply for and hold both AEO-C and AEO-S at the same time.

The first question that a potential applicant needs to ask themselves is which is the most relevant to apply for? The answer can only be reached after the Member fully understands what AEO covers, the benefits of each type of status and the requirements for achieving the status they wish to seek.

In order to obtain AEO your business must be involved in international trade and also hold an EORI number.



What are the benefits of AEO?

Benefit	AEO-C	AEO-S
Faster application process for customs simplifications and authorisations	✓	
Consignments being fast-tracked through customs control		✓
A notification waiver when making an entry in a declarant's records (EIDR)	✓	
Moving goods in temporary storage between different member states	✓	
Recognised status across the EU. An industry 'kite mark'.	✓	✓
Reductions or waivers of comprehensive guarantees	✓	
Reciprocal arrangements and mutual recognition with countries outside the EU - for example, USA or trading partners that adopt the World Customs Organisation Safe framework		✓
A lower risk score - used to determine the frequency of customs physical and documentary checks		✓
Reduced requirements for the mandatory pre-arrival/pre-departure Entry Summary Declarations (ENS) or Exit Summary Declarations (EXS)		✓

In addition to the formal benefits listed above, Members have commented that undertaking an AEO programme increases their understanding of customs procedures and their overall compliance and performance levels.

Future benefits of AEO (For EU member states under the UCC)

Proposed Benefit	AEO-C	AEO-S
Undertaking centralised clearance (when available)	✓	
Completing self-assessment (when implemented)	✓	

Main elements of AEO

One of the main reasons why applicants fail in their AEO application is that they have not fully understood what the application entails or what their ongoing requirements will be.

Any Member, who has experience of writing documented procedures in order to comply with ISO: 9001/2008 covering Quality Management Systems (QMS) or the regulatory requirements of Aviation Security will understand what is required to put together a successful programme. The one point that needs to be emphasised is that AEO procedures will in all probability have to be more detailed than those written for a QMS, in some cases they will need to be as detailed as a work instruction.

In essence the constituent parts of AEO can be summarised as follows:-

- A demonstrable history of Customs Compliance
- Customs entry compliance "by the book"
- Satisfactory Management of Commercial Records
- Financial viability
- Internal control system including documented procedures, internal audits and non-conformance reporting
- Demonstrating the competency of key personnel with regards to Customs matters
- Overall tax compliance
- Security
- Security management of data, personnel and business partners

From what BIFA has learnt it is essential that any programme to implement AEO needs to be actively supported by all levels of management and adequately explained to the staff involved. It is in the planning stage that certain key decisions need to be made including whether or not external assistance may be required.

What does AEO require the applicant to do?

Guidelines and information relative to AEO can be found on GOV.UK (Notice 117) and EUROPA websites. Also there is an AEO Self-Assessment Questionnaire Form (C118) which assists in the preparation of the application. The information and guidelines are there to help and take you through the process which is neither simple nor quick but certainly rewarding upon completion.

One point that all consultants agree on is that unless the applicant can fully complete the C118 then the applicant is not in a position to submit their AEO application to HMRC.

In order to help Members further with the task, BIFA, working together with HMRC and independent advisors have looked at the process from different perspectives in order to highlight the essential elements Members need to cover during the preparation of documents and the application process.

We have included a non-exhaustive selection of most common errors or omissions found in AEO applications and Standard Operating Procedures (SOPs).

General

Explanatory notes for AEO – C118 Self-Assessment Questionnaire (AEO-SAQ)

One of the first comments BIFA heard from AEO auditors was ‘you wouldn’t believe how many people don’t actually even look at the SAQ Explanatory Notes’.

While there are no statistics available, we were assured it wasn’t an odd case here and there, a view corroborated by HMRC. It was a common problem and unfortunately underpins many failed AEO applications.

So what are the Explanatory Notes for AEO Self-Assessment Questionnaire? The Explanatory Notes for AEO Self-Assessment Questionnaire (AEO-SAQ) are your main help and advisor during the process. ‘These instructions provide you both guidance on how to answer the questions in the SAQ as well as information on the standards Customs authorities expect you to achieve and demonstrate to them in order to obtain the AEO authorisation.’

HMRC will use the SAQ Notes as their point of reference whilst auditing AEO applications. Their assessment of whether the applicant is or is not compliant will be based on the criteria specifically mentioned in the Notes. It is recommended that extensive use is made of the AEO SAQ Notes in any AEO application preparation and that all relevant points are addressed by providing sufficiently detailed information.

In light of this it is not only good practice to refer to the AEO-SAQ Notes in your preparation process but it is essential for any successful application. Where the notes fail to address a specific point it is recommended to refer to the more comprehensive EU notes at https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/customs/policy_issues/customs_security/aeo_guidelines_en.pdf

How to prepare an AEO application

The Member’s first decision as previously stated is which is the most relevant AEO authorisation to apply for? The second is how can this be achieved?

The best approach is to appoint a competent project leader or project team. This may or may not involve utilising an external party to assist with certain aspects of the application. Either way, the project should be led from the top and involve the whole

company. The most successful companies embrace the process, and find commercially viable solutions to meet the criteria which must not be relaxed upon gaining AEO status. Key messages from companies who have successfully completed the process include:-

- Break AEO down into specific processes and procedures
- Read HMRC guidance notes
- Ensure you can evidence everything you say you do
- Ensure all procedures include sufficient detail of the procedure being covered
- Remain focused
- Do not implement impractical solutions just to meet criteria – if you fail to maintain them you will run into problems during a reassessment
- Answer all the questions on Form C118
- Keep the number of supplementary annexes to a minimum.

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Internal Control System

An AEO is expected to perform their business activities to a specified standard and to do it “consistently” to meet that criteria. The key word is “consistently” in this context because it underpins the twin concepts of quality and customs compliance.

As a natural consequence of this the key word in your application and the SAQ Notes is ‘documented’.

Documenting your procedures

AEOs are required to document their processes and procedures in writing.

These Standard Operating Procedures (SOPs) do not need to be in any specific format, this is the applicant’s choice and should be designed to meet their internal requirements. The applicant knows their business best, and after a successful AEO application will probably know it a lot better.

The documented procedures will need to contain all the information specifically requested for the processes your business undertakes, in order to satisfy the standards expected by the Customs authorities. The SAQ Notes are usually specific as to what is required in your documented procedures along with the level of detail expected. It must be remembered that HMRC auditors will use the SAQ Notes to assess processes and the quality of the SOPs.

Stating the obvious

One of the most common errors made by applicants is not stating what may seem obvious in their documented procedures. It is important to remember that the SOP needs to describe all crucial elements of the process and should be a guide for anyone involved in it. A good SOP will allow even an untrained individual to understand or perform a task to the required standard and be able to identify the key points in the process. Nothing is obvious until you make it so.

Start by setting the scene e.g. what is an import or a customs entry, break down the elements involved and explain where additional information can be found.

This brings us onto one key but often overlooked point - that these procedures are living documents and particular attention needs to be paid to ensuring that personnel are made aware of them. It is also essential that a procedure is devised to manage the updating of content and distribution of these updates. A good policy is to involve personnel in writing and verifying the accuracy of any procedures.

Quality assurance measures including Periodic checks

An AEO is required to implement quality assurance measures in relation to the critical parts of their operations.

The scope and frequency of these measures should be determined by a risk assessment of the operations. Specific requirements for quality assurance measures are detailed in the SAQ and the SOPs must address all points raised. The Quality Assurance Programme should be clearly structured and managed. Records of all quality assurance activities should be kept and be available for presentation upon request from the authorities.

Risk-based operational approach

An AEO is expected to undertake a level of risk assessment on the operational risk of shipments handled. This can be conducted at client or shipment level. In order to satisfy AEO criteria the applicant must consider:-

- Who they are doing business for
- The risks related to the type and value of cargo and
- The routing involved.

If this is not in place, there will be inadequate awareness and procedures in place for staff to notify authorities of suspicious shipments, or for management to monitor their overall Customs compliance.

Security

Applying for AEO-S means introducing a range of security measures to ensure that your premises and the logistical processes taking place within them

are conducted in a controlled and secure environment. However, it must be remembered that AEO-C requires certain basic security requirements to be met as well, including securing records digitally or physically, management of user access to systems and the management of business partners such as hauliers and carriers.

The business needs to appoint a person responsible for managing security policy. It is also necessary to provide staff with appropriate supply chain security knowledge.

AEO Maintenance

Having achieved AEO status following a successful audit, you may think you have reached the end of the process. In fact it is only just the start. Being an AEO is all about the quality and consistency of the traders processes so ongoing maintenance is key to retaining the authorisation. It is crucial that a specific competent person is appointed for maintenance of the authorisation. Dispersed responsibility within the organisation leads to a ‘no-one knows who does what’ situation which can in turn lead to errors.

Significant changes to the procedures or underpinning of business infrastructure must be reported to the HMRC AEO Team. BIFA heard of one HMRC auditor who visited an AEO for a re-validation only to find that the Company had moved address - this sort of avoidable error counts against the Company, potentially resulting in the AEO status being suspended or revoked.

Upon receipt of an AEO certificate, the holder will be notified about the type of changes to your business that need to be reported to the AEO Central Site. Additional information can be found within HMRC Notice 117.

Specific Case Histories

In the previous section we provided some general guidance. Below is a selection of specific issues commonly encountered by HMRC auditors.

AEO-C: Professional competence of a person responsible for customs matters

Currently there is no officially recognised customs qualification in the UK. HMRC will however consider the criterion to have been fulfilled if any of the following conditions defined in Article 27 of Implementing Regulation (EU) 2015/2447 are met by the person in charge of applicant's customs matters:

“ 1 The criterion laid down in Article 39(d) of the Code shall be considered to be fulfilled if any of the following conditions are met:

- (a) the applicant or the person in charge of the applicant's customs matters complies with one of the following practical standards of competence:
 - (i) a proven practical experience of a minimum of 3 years in customs matters;
 - (ii) a quality standard concerning customs matters adopted by a European Standardisation body;

- (b) the applicant or the person in charge of the applicant's customs matters has successfully completed training covering customs legislation consistent with and relevant to the extent of his involvement in customs related activities, provided by any of the following:
 - (i) a customs authority of a Member State;
 - (ii) an educational establishment recognised, for the purposes of providing such qualification, by the customs authorities or a body of a Member State responsible for professional training;
 - (iii) a professional or trade association recognised by the customs authorities of a Member State or accredited in the Union, for the purposes of providing such qualification.

Note that where another party is used to complete the customs work, these criteria will be considered met if the contracted agent holds AEO-C status.

AEO-C: Valuation of goods – Sub-section 1.3.3

A common issue reported by HMRC is lack of written procedures and compliance in relation to the valuation of import and export goods for customs purposes. Valuation is one of the most important aspects of any customs process and in order to maintain consistency of customs operations it is vital that reliable and tested procedures are used by personnel involved in the customs declaration process. The SAQ is very specific as to what should be included in the Quality Assurance Procedures even if the valuation is completed by a third party.

AEO-C: Proof of representation

As an AEO you are required to keep records of the type of representation used for customs activities. If you are unable to produce any written document HMRC will assume that the customs agent is acting as an indirect representative. The implications of indirect representation make the trader jointly liable for a customs debt and unless this is the specific intention of the trader a written document confirming the type of representation should be available. For more details on representation please refer to the Good Practice Guide on Representation published by BIFA.

AEO-C: Written standing or specific instructions

It is also good practice to maintain records of standing or specific customs clearance instructions from your customer. This allows customs agents to provide a more reliable service and acts as an indemnity against claims from customers. These instructions from the importer or exporter should include information relating to correct valuation, classification, preference, CPC, licences and payment method. If you are clearing against an importer's deferment account on a regular basis, obtain a standing instruction using form C1207N.

AEO-S: Security Declarations with business partners such as subcontractors and tenants – Access to the premises and security, and trade partners such as hauliers and freight forwarders.

One common omission in the preparation process is lack of Security Declarations and controls between the applicant and their sub-contractors and tenants if parts of their premises are sublet. The most frequently cited example is the lack of arrangements and security vetting with cleaning companies. Traders need to be aware that external individuals have access to their premises, goods and data very often completely unsupervised due to their working hours.

When making AEO preparations the security side of the operation must be thoroughly checked and documented leaving nothing to chance. In addition to that, contracts or controls need to be in place with trade partners.

AEO-S: Loading & Unloading of goods

One of the examples quoted by HMRC auditors was lack of procedures for loading and unloading of goods. This is commonly overlooked in SOPs as being perceived as too obvious to be included or not sufficiently described. Make no mistake here, the loading and unloading of goods is one of the key processes for any freight forwarder, warehouse or haulage operator. The SOP must be clear and sufficiently detailed to ensure the loading/unloading process is secure and controlled throughout.

AEO-C/S: Desk policy – Access to the premises and security

Security measures apply to the way you organise the flow of documents and access to them. HMRC will often expect an AEO to have a clear policy in this respect. While a Clear desk policy may not always be achievable due to the nature of your business, access control tailored to your security needs can be a useful tool in meeting this requirement. Written instructions covering this aspect of the operations should form part of your application preparations.

**AEO-S: Parking arrangements –
Sub-section 6.2.5**

Another commonly overlooked element of security policy is the parking of vehicles on the premises for both staff and visitors. The requirements detailed in the SAQ are specific and clear and your procedures should include all of their elements.

**AEO-C/S: Personnel security –
Sub-section 6.11**

In order to provide a secure and safe supply chain personnel security and vetting procedures should constitute an integral part of your business structure. Unless you are a CAA regulated agent there are no specific requirements as to e.g. how far back you should check the employment. You are nonetheless expected to have a structured procedure in place. Minimum expectations are usually two references and the option to undertake a DBS or similar check if deemed appropriate.

**AEO-C/S: Voluntary disclosure policy/
Discrepancy reporting**

One of the main aspects of the AEO system is the ability to self-correct and self-improve. As an AEO you are not expected to reduce your error margin to zero, this is not achievable in any business.

However, since AEO is a quality kitemark, the operating procedures should contain clear provisions for voluntary disclosure submissions and reporting of irregularities to the relevant authorities. Voluntary disclosure also constitutes a part of your AEO maintenance and reporting procedures should be provided for all key aspects of your international supply chain operations, in particular with regards to compliance and security.

Reasons for failure

Incomplete applications rejected at the point of submission

Although BIFA have not been provided with any statistics it is clear that a significant percentage of AEO applications are rejected at the point of submission. The main reason for this is usually lack of sufficient preparation of the application itself with insufficient details provided, together with lack of preparation of the business for the audit. BIFA recommend that, as with any other key projects, you appoint a person responsible for preparation of the business and the application. Be aware that the process is not simple and cannot be done without clear leadership and coordination.

Inadequate procedures

All procedures need to cover the full scope of activities being conducted and need to address the areas in the level of detail required by the AEO standard. The fact that a company has written procedures in itself is not enough if they do not reflect its activities and do not meet the AEO criteria.

Written procedures in place but not implemented or communicated to the staff.

Having written procedures and not applying them in real life is another common issue. The procedures should not be abstract concepts. They must accurately document the company's daily operations and their purpose is to ensure that there is a consistent procedural approach which ultimately ensures a quality outcome.

Lack of quality checks

Having all the procedures in place but not checking how they are implemented in practice is yet another reason for failure during the audit process.

The AEO is a quality and reliability mark and quality checks are crucial in this process. Companies must identify the key areas of operations, prepare risk assessments and ensure control of their processes in the form of pre- and post-action checks.

The Application Process

A completed C117, C118 and appropriate appendices are submitted to the AEO central site. Once HMRC are satisfied with the information provided the application is formally accepted. HMRC then have 120 days to audit and make a decision. The audits range from a day on site to multiple visits depending on the type and size of the business.

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BIFA has consistently supported the AEO scheme, which has matured since it was introduced in the EU in 2008. For those companies who obtain and maintain the certification over a period of time it is a clear indicator to all, especially their customers, of their commitment to providing a consistent quality service relative to their customs activities. These companies should be applauded and their achievement noted. It is to be hoped that more will follow their lead.

Links to useful website addresses

EU Regulation 952/2013 –the Union Customs Code

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:269:0001:0101:EN:PDF>

Public Notice 117

<https://www.gov.uk/government/publications/notice-117-authorized-economic-operator>

C117 Application form and Notes

<https://www.gov.uk/government/publications/import-and-export-authorized-economic-operator-application-c117>

C118 SAQ and Notes

<https://www.gov.uk/government/publications/import-and-export-authorized-economic-operator-self-assessment-questionnaire-c118>

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