

IBM EDUCATION:

Government Owned Entity Employee Determinations

IBM Global Business Partner Marketing

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EDUCATION OBJECTIVES

By the end of this presentation, you should be aware of

- The “Government Owned Entity (“GOE”) Employee” definition
- The importance of accurately making “GOE Employee” determinations
- The two options for making GOE Employee determinations
- The process for communicating with event invitees about business amenities you will provide at or in connection with an event

"GOE EMPLOYEE" DEFINITION

A GOE Employee includes any officer, director, employee or representative of any:

- country, federal, national, provincial, regional, state, municipal, territorial, local or other level of government, including any department or agency of any such government, or
- government enterprise or instrumentality, including any government owned or controlled entity, such as any:
 - public hospital, school, utility or organization licensed to provide public services,
 - public international organization (e.g., the United Nations or World Health Organization), or
 - other entity, whether privately held, publicly traded or otherwise constituted, if a government, a public international organization or a GOE Employee owns or has the ability to exercise control over such entity

ACCURATE GOE EMPLOYEE DETERMINATIONS

- Stringent rules apply when conducting events with GOE Employees
- Accurately determining GOE Employee status facilitates compliance with those rules

GOVERNMENT – AT ALL LEVELS

A GOE includes any government entity, at any government level

For example, within the U.S., a GOE includes any government entity at the

Federal Level



Executive Branch



Legislative Branch



Judicial Branch

State Level



Local Levels, including cities, counties, towns, villages, hamlets – and so on

SPECIAL NOTE REGARDING U.S. GOEs

Within the U.S., all federal entities are GOEs, including the following

- As noted earlier, the executive, legislative and judicial branches of the U.S. federal government
- U.S. government-affiliated corporations, such as the Tennessee Valley Authority
- Quasi-governmental organizations, such as the Smithsonian Institution
- Commercial business enterprises operating under a U.S. Federal government power of attorney or with management operating contractor status

GOVERNMENT DEPARTMENTS & AGENCIES

Government departments & agencies are examples of GOEs, such as

- Ireland's Department of Health & Austria's Federal Financing Agency
- UK's Department for Education & Netherlands' Foreign Investment Agency

Of course, a GOE includes more than those entities with “department” or “agency” in their names

- Names are not controlling!
- Rather, a GOE includes for instance any government entity, at any government level
- Government “authorities”, “branches”, “bureaus”, “commissions”, “ministries”, and every other type of government, *regardless of name*, are GOEs

GOVERNMENT ENTERPRISES & INSTRUMENTALITIES

Government enterprises & instrumentalities are some other examples of GOEs

The GOE Employee definition highlights various examples of types of government owned or controlled entities

- First, public hospitals, schools, utilities and organizations
- Second, public international organizations, such as the United Nations and World Health Organization
- Third, a catch-all section that includes any other entities that are government owned or controlled

OTHER GOVERNMENT OWNED OR CONTROLLED ENTITIES

There are many entities that for all intents & purposes appear to be “commercial” – *but are actually GOEs*

– Even privately held and publicly traded companies can be GOEs

Certainly, if a GOE or GOE Employee holds:

- A majority stake in a company
- Controls or organizes or sponsors another company

that company is a GOE

In some cases, GOE status may exist even where a government or GOE Employee holds less than a majority interest in a company

– For example, where a government exercises control over a company, even though the government holds substantially less than a majority ownership interest

OPTIONS FOR GOE EMPLOYEE DETERMINATIONS

Business Partner Research. Under this option, you

- Research whether an event invitee is a GOE Employee following your specific internal process you will have previously set up for these GOE determination purposes and taking into account the GOE Employee definition given.
- Conclude that an individual is a GOE Employee or non-GOE Employee after reasonable diligence and research being done as per the said internal GOE determination process. If you are unable to conclusively make that determination, as per mentioned internal process, the default position is to conclude it is a GOE Employee.
- Confirm the results of your research in the Co-Marketing Center (“CMC”) tool

Invitee Self-Declaration. Under this option, you

- Require event invitees to identify in writing whether they are GOE Employees in accordance with the definition given.
- Conclude that all invitees working for the same entity are GOE Employees, if at least one indicates that he or she is a GOE Employee
- Confirm the results of these self-declarations in the CMC tool

Internal records for both options shall be kept by BP and be provided to IBM if and when requested by the latter.

OPTION 1: BUSINESS PARTNER RESEARCH

You will determine how best to conduct the research, if you elect this option

The following charts identify one possible approach for making GOE Employee determinations based on your research

- A step-by-step approach to GOE Employee determinations
- You are not required to implement this specific approach
- It is, however, an option available to you

The resources that you might use to conduct your research include

- A knowledgeable contact at a customer or prospective customer
- A customer's or prospective customer's website
- Filings made by customers or prospects who are publicly traded
- The Internet
- List of public international organizations
- Third-party applications or tools

OPTION 1: BUSINESS PARTNER RESEARCH, CONT'D

STEP	IF	THEN
1	<i>Invitee works for a traditional government body, such as a country, federal, national, provincial, regional, state, municipal, territorial, local or other level of government, including a department, agency, authority, branch, bureau, commission, ministry or the like of a government</i>	Treat as a GOE Employee. Otherwise, proceed to next step.
2	<i>Invitee works for a public entity, such as a public hospital, public school, public utility or public organization</i>	Treat as a GOE Employee. Otherwise, proceed to next step.
3	<i>Invitee works for a public international organization, such as the United Nations or World Health Organization (click here for a list of public international organizations: www.state.gov/documents/organization/87183.pdf)</i>	Treat as a GOE Employee. Otherwise, proceed to next step.
4	<i>Invitee or invitee employer's website characterizes the employer as "Government" or "Government Owned or Controlled" or the like</i>	Treat as a GOE Employee. Otherwise, proceed to next step. NOTE: Do not rely on a self-disclosure of non-GOE status (e.g., that an invitee's employer is a "private" or "commercial" company).

OPTION 1: BUSINESS PARTNER RESEARCH, CONT'D

STEP	IF	THEN
5	<i>Invitee's employer is 50% or more owned by GOE or a GOE Employee.</i>	<p>Treat as a GOE Employee.</p> <p>Otherwise, proceed to next step.</p>
6	<i>A GOE or a GOE Employee has some ownership, but less than 50% ownership, of invitee's employer.</i>	<p>Treat as a GOE Employee if the answer is "yes" to <u>either</u> of the following:</p> <p>a) Is a Government Organization or a GOE Employee the employer's largest shareholder or owner?</p> <p>b) Is the employer's Chairman*, President* or CEO* a government civil servant or GOE Employee or was he/she appointed by a Government Organization?</p> <p>* Or equivalent or substantially similar position.</p> <p>Otherwise, proceed to next step.</p>

OPTION 1: BUSINESS PARTNER RESEARCH, CONT'D

STEP	IF	THEN
7	<p><i>The largest shareholder or owner of an invitee's employer ("Controlling Owner") is not a GOE or GOE Employee, but</i></p> <p><i>(A) A Government Organization or GOE Employee is the largest shareholder or owner of the Controlling Owner OR</i></p> <p><i>(B) The Chairman*, President* or CEO* of the Controlling Owner is a government civil servant or GOE Employee, or was appointed by a Government Organization</i></p> <p><i>* Or equivalent or substantially similar position.</i></p>	Treat as a GOE Employee.

- If, after working through the 7 Steps, none of the “If” statements are true, then treat the invitee as a non-GOE Employee
- In some cases, you may not find the information to determine whether an “If” statement is correct or to answer the questions in Step 6. In those cases, either
 - Assume that the invitee is a GOE Employee, or
 - Use Option 2, Invitee Self-Declaration, to make the determination

OPTION 2: INVITEE SELF-DECLARATION

You will determine how best to obtain invitee self-declarations, if you elect this option

The following chart is an excerpt from the event communication we will discuss in a few moments, and may be helpful in obtaining invitee self-declarations

Remember – if at least one invitee confirms that his or her employer is a GOE, then all invitees from that same employer will be considered GOE Employees

OPTION 2: INVITEE SELF-DECLARATION, CONT'D

[An invitee's employer is a GOE if any of the following are true]:

- My employer is a traditional government body, such as a country, federal, national, provincial, regional, state, municipal, territorial, local or other level of government, including any department, agency, authority, branch, bureau, commission, ministry or the like of a government
- My employer is a public entity, such as a public hospital, public school, public utility or public organization
- My employer is a Public International Organization, such as the United Nations or World Health Organization (click here for a list of Public International Organizations: www.state.gov/documents/organization/87183.pdf)
- My employer is “government owned or controlled” – this is the case if any of the following are true:
 - A traditional government body, a public entity, a Public International Organization or a government official owns 50% or more of my employer or is my employer's largest shareholder or owner
 - My employer's Board Chairman*, President* or CEO* is a government civil servant, government official or government appointee
 - Neither of the two bullets above describes my employer, but the largest shareholder or owner of my employer is a traditional government body, a public entity, a Public International Organization or a government official or the Board Chairman*, President* or CEO* of my employer's largest shareholder or owner is a government civil servant, government official or government appointee
- My employer is any other type of GOE.

* Or equivalent or substantially similar position.

CMC TOOL

- You are not required to make the GOE Employee determinations if you are
 - exhibiting or presenting at a physical or virtual trade show, or you are **hosting a physical or virtual event where you will not directly or indirectly provide any meals, refreshments, gifts or other business amenities** to customer employees, perspective customer employees or others
 - Opting out from the GOE Employee determination
- Please contact your primary IBM Co-Marketing representative for guidance on CMC tool submissions when either of these situations apply

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Nothing in this presentation alters IBM's Co-Marketing terms and conditions

Feel free to contact your primary IBM Co-Marketing representative with any questions