
The Background Screening Credentialing Council has drafted the following response to a question we have received regarding the US Employment Screening / General Background Screening BSOAP Standard, this letter applies to US Version 2.0, 3.0 and General Version 1.0. This response is provided for *educational purposes only* and does not constitute legal advice, express or implied, of the BSCC, or the Professional Background Screening Association. Consultation with legal counsel is recommended in all matters of employment law.

For the purposes of this Letter, and to ensure our response applies to both Standards, the terms Organization and CRA may both be used.

TITLE: Clause 6.2 Background Checks on Organization Workers

Question: The BSCC was asked if an Organization/CRA using its affiliates' workers to support its operations would be expected to background check those workers as if they were its own workers as set out in clauses 6.1 and 6.2 of the Standard, or as if they were outsourced workers, as set out in clauses 4.2 or 5.8.

Response: Thank you for your inquiry.

Clause 6.1 reads:

CRA must have and follow a policy requiring criminal background checks and government sponsored sanction list checks be conducted on all CRA owners, officers, principals and CRA workers charged with enforcement of company policy. Checks must be conducted at official, appropriate government repositories to cover 7 years of residential history and such records must be retained unless otherwise prohibited by applicable law. Record checks must be conducted at least once every two years covering the time period since the last check was completed and records retained for the duration of enforcement responsibility. Any criminal conviction(s) or sanctions listing(s) must be evaluated to determine if the individual may remain in an enforcement capacity based on: 1) nature and gravity of offense or conduct, 2) time passed since offense, conduct, or completion of sentence and 3) nature of current enforcement role (commonly referred to as "Green Factors").

Clause 6.2 reads:

CRA must have and follow a policy requiring criminal background checks and government sponsored sanction list checks be conducted on all CRA workers. Checks must be conducted at official, appropriate government repositories to cover 7 years of residential history and such records must be retained unless otherwise prohibited by applicable law. Such record checks must be conducted at least once every two years and records retained as long as CRA worker provides services to CRA. Any criminal conviction(s) or sanctions listing(s) must be evaluated to determine if the individual may remain his/her current position or any other position with CRA based on: 1) nature and gravity of offense or conduct, 2) time passed

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since offense, conduct, or completion of sentence and 3) nature of current or desired role (commonly referred to as “Green Factors”).

Clause 4.2 reads:

CRA must have and follow procedures to vet new public record researchers.

Clause 5.8 reads:

CRA must have and follow procedures requiring a signed agreement from all providers of outsourced verification services. The agreement must clearly outline the scope of services to be provided, verification methodology, documentation of verification efforts, disclosure of findings, time frame for communication and completion of requests, confidentiality requirements, reinvestigation requirements and other obligations as furnishers of information under the federal FCRA.

The answer to this question will depend on the nature of the relationship between the affiliates and the way workers are managed within the corporate group.

If the corporate group governs background screening centrally, then that central governance must be designed to comply with clauses 6.1 and 6.2. The Organization/CRA seeking accreditation must be able to obtain evidence from its parent company or from the affiliate to meet the requirements of those clauses.

If the Organization/CRA seeking accreditation and the affiliate manage their own independent background screening programs and those programs are not subject to centralized oversight by a parent company, then the CRA seeking accreditation can treat the support provided by the affiliate as an outsourcing arrangement and meet the background screening requirements of clauses 4.2 or 5.8 instead, as applicable. Any such outsourcing arrangement—even with an affiliate—must comply with all other clauses of the Standard that govern outsourcing arrangements.

There may be circumstances where the affiliate providing support is in fact a subsidiary, meaning it is under the control of the Organization/CRA seeking accreditation. In such situations, the BSCC expects the Organization/CRA seeking accreditation to ensure that the subsidiary’s workers are screened as set out in clauses 6.1 and 6.2 as if they were the Organization/CRA's own workers and to demonstrate compliance with those clauses.

Thank you for submitting your inquiry and giving the BSCC an opportunity to review. We believe we have responded fully to your inquiry. Please let us know if you have any further questions.