
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 4.1 – Public Record Researcher Agreement / 4.1 Third Party Service Provider (Vendor/Agent) Agreement

Question 1: I was hoping to get clarification regarding “search methodology” as listed below from the definitions. Would it be allowed verbiage for our contract with Public Record Researchers to say “Search methodology will be various methods. Researcher shall conduct its searches by using the PUI. Researcher may inform CRA if there are outlying courts with certain types or levels of records that Researcher does or does not provide services to.”?

Glossary:

Search Methodology: Refers to the manner by which the search is conducted. Examples include: hands-on, in-person search (such as when a public access terminal is used at a courthouse), electronic access to original source (such as a remote electronic search of court records), electronic access to commercial database (such as The Work Number, Student Clearinghouse, and non-governmental criminal record database), electronic access to a government database (such as OFAC sanctions or PACER), telephonic inquiry to a source (such as school, employer, or reference) and email inquiry to a source (such as school, employer, or reference).

Response: Thank you for your inquiry.

You have inquired about the search methodology language required to be in your Public Record Researcher Agreement to establish conformity with Clause 4.1. In addition to the below we recommend that you review both our Accreditation Tip *Public Record Researcher Agreement* and Opinion Letter *4.1 and 4.3 Clarification* regarding that Clause.

Under “Attributes of and Suggestions for Onsite Audit,” Clause 4.1 provides:

The agreement should include, but is not limited to: 1) the requirement to conduct all searches in full compliance with applicable law and regulation, 2) jurisdictions covered, 3) search methodology, 4) depth of search, 5) disclosure of findings, 6) methodology and

time frame for communication and completion of requests, 7) methodology for confirming identity of subject of record(s), 8) confidentiality requirements, 9) reinvestigation requirements, and 10) the requirement for public record researcher to obtain a similar agreement from subcontractors, if subcontractors are used. In particular, the agreement should emphasize confidentiality requirements including: A) the legal requirement to treat all consumer information as confidential, B) secure data transmission, and C) secure and timely disposal of confidential information. (Note: This agreement may incorporate the Certification requirement of Clause 4.3)

As articulated in the Accreditation Tip, all of the elements listed should be addressed in your Agreement with any Public Record Researcher you engage.

In the circumstance where you engage a Public Record Researcher firm that utilizes a variety of search methodologies (which are jurisdiction specific) to conduct their research on your behalf, the Agreement should state this.

An Organization / CRA seeking accreditation can work with their own legal counsel to satisfy the key elements of this Clause in a variety of ways in their public record researcher agreements.

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.