
The Background Screening Credentialing Council has drafted the following response to a question we have received regarding the US Employee Screening BSOAP Standard, version 3.0, effective January, 2024 and the General Background Screening BSOAP Standard, version 1.0, effective October 2023. 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. This Opinion Letter covers both the US Standard and General Standard.

TITLE: Obligations Relating to ‘Information Sources’ for Employment Verifications Under the US and General BSOAP Standards

Questions:

Background to all questions: The Organization seeking accreditation is a consumer reporting agency located in the United States that provides employment verifications to its customers. Section 5 of both audit standards (v2 and v3) applies to the questions below. Section 5 generally discusses the procedures that the Organization must have in obtaining information from an “information source” for use in the employment verification. We believe that the specific sections relevant to these questions will be sections 5.1, 5.4, 5.5, 5.6, 5.7, and 5.8. The content of the “Attributes of and Suggestions for Onsite Audit” column in the standard refers to activities that involve contacting the employer itself. This raises questions about whether the term “information source” is limited to the employer. The questions are as follows, but please note that our questions are only about adherence to the audit standard, not to any applicable law:

1. Assume that the Organization verifies employment by using a fee-based clearinghouse. These clearinghouses typically operate by obtaining employment and payroll data from the employer and producing employment-verification reports by relying on that data. We understand that, in most cases, employers using such clearinghouses will refer all incoming employment-verification inquiries to these clearinghouses. We would also note that reliance on these clearinghouses is normal in the industry.
 - a. May the Organization treat such a clearinghouse as an “information source” under section 5 of the audit standard?
 - b. Must the Organization provide disclosure of its reliance on such clearinghouses either (i) in descriptions of its products or (ii) in its report? Section 5.4 is of particular relevance.

- c. If the Organization obtains such a verification through a third party, must it require the third party to identify cases in which the third party used the clearinghouse? Section 5.8 is of particular relevance.
2. Assume that the Organization verifies employment by using documentation supplied by the applicant, such as a W-2, paystubs, or the like, and that the resulting verification leaves unverified any data that cannot be verified by that method (such as job title, frequently). We would also note that reliance on documentation is normal in the industry.
 - a. May the Organization treat such applicant-provided documentation as an “information source” under section 5 of the audit standard?
 - b. Must the Organization provide disclosure of its reliance on such documentation either (i) in descriptions of its products or (ii) in its report? Section 5.4 is of particular relevance.
 - c. If the Organization obtains such a verification through a third party, must it require the third party to identify cases in which the third party relied on applicant-provided information? Section 5.8 is of particular relevance.
3. Assume that the Organization verifies employment by using a service that (i) allows the applicant to enter the applicant’s credentials to the employer’s payroll or other HR system for its employees, (ii) extracts and abstracts the relevant information from that system, and (iii) provides that information to the Organization.
 - a. May the Organization treat such a service as an “information source” under section 5 of the audit standard?
 - b. Must the Organization provide disclosure of its reliance on such a service either (i) in descriptions of its products or (ii) in its report? Section 5.4 is of particular relevance.
 - c. If the Organization obtains such a verification through a third party, must it require the third party to identify cases in which the third party relied on such a service? Section 5.8 is of particular relevance.
4. Assume that the Organization verifies employment by using data stored in a blockchain, to which other consumer reporting agencies contribute.
 - a. May the Organization treat the blockchain as an “information source” under section 5 of the audit standard?
 - b. May the Organization treat the CRA contributing to the blockchain as an “information source” under section 5 of the audit standard?
 - c. Must the Organization provide disclosure of its reliance on the blockchain or the CRA contributing to it either (i) in descriptions of its products or (ii) in its report? Section 5.4 is of particular relevance.
 - d. If the Organization obtains such a verification through a third party, must it require the third party to identify cases in which the third party relied on data from the blockchain? Section 5.8 is of particular relevance.
5. For any of the above scenarios to which the answer is that the Organization must not treat the source as an “information source” under the audit standard, would it violate the audit standard for the Organization to nonetheless call the resulting information an “employment

verification,” even though the audit standard would presumably treat that information as not being an employment verification?

Response: Thank you for your inquiry.

The Standards do not define the term ‘information source’. This leaves room for interpretation as to whether that term refers to: (a) the party that first created the information (in the context of an employment verification, usually the employer); (b) another party that holds that information (for example, a payroll or HR information system, a blockchain-based credential sharing system, or the consumer to whom the verification relates); (c) a party that validated information between the original creator and the current holder (for example, a background screening company that contributed information to a blockchain-based credential sharing system); or (d) some combination of the above. The BSCC does not take a position on this matter; each accredited organization must determine which parties it will consult to verify employment and which parties it considers to be ‘information sources’.

In responding to this question, we considered the following:

- Clause 3.1 of the [Standards](#) requires accredited organizations to “communicate to clients the original source type (... employer, ... etc.), limitations, variables affecting the information available, and scope of information provided by each ... product.” The onsite audit instructions for that clause further state that “[i]nformation disclosed regarding ... products must include, but is not limited to: 1) type of source, 2) scope of records searched, and 3) and search methodology. It is recommended that disclosure of information source, type of source, scope of search, and search methodology be included in ... reports.”
- Clause 5.4 of the Standards requires accredited organizations to “provide full disclosure to clients about general business practices regarding number of attempts to verify information, what constitutes an ‘attempt,’ locate fees, fees charged by the employer or service provider and standard question formats prior to providing such services.”
- Clause 5.7 of the Standards requires accredited organizations to “document all verification attempts made and the result of each attempt,” regardless of the type of information source used. The onsite audit instructions for that clause further state that those records must include, at minimum: “1) date and time of contact or attempted contact, 2) method of contact (such as phone number dialed, fax number used, email address used, address to which information was mailed, etc.), 3) name and title of contact, [and] 4) results of attempt.”

Compliance with these clauses would necessarily result in the accredited organization keeping records (in each case) and disclosing to the client (at least in general, but preferably in each case) which parties are consulted to conduct verifications. If the accredited organization deems the “information source” to be the party that it consulted to conduct the verification (either directly or through an outsourced verification service provider), then the accredited organization may only need to keep records and provide disclosures relating to that party. If the accredited organization deems one or more other parties to be the “information source,” then those would also come into scope of the recordkeeping and disclosure obligations.

An outsourced verification service provider as described in clause 5.8 of the Standards is not an ‘information source’. An accredited organization’s decision to outsource verification services does not reduce any of the accredited organization’s obligations under the Standards, including the recordkeeping and disclosure obligations cited above.

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.