



Global HR and International Background Check Best Practices

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Introduction

There is no doubt that globalization is on the rise. Companies are realizing that implementing a global HR infrastructure with global talent management capabilities can help reduce costs, improve operational efficiency, and leverage talent more effectively on a global basis. In order to do so, multinational HR professionals should consider the following best practice guidance when either updating their current program or initiating a new international background check program.

Policy Development

Make sure your organization maintains a global screening policy. Growth in legal scrutiny and regulatory control through much of the global community, as it relates to personal privacy, has put the onus on employers to ensure adherence to local human rights, labor law, and personal privacy in employment screening no matter where the organization or its candidates may be located in the world. This translates to compliant, consistent, transparent, and effective screening procedures – the natural conclusion to the recruitment and selection process.

Is Safe Harbor certification necessary? Consider (with general counsel) whether Safe Harbor filing is appropriate if you are a U.S.-based multinational organization. If it is selected, determine who will be responsible for overseeing Safe Harbor filings and compliance responsibilities. Consider what other data privacy filings may also be appropriate if screening may be conducted outside the European Union (EU) since Safe Harbor provisions, and the protection they offer, only applies to the EU and not

the rest of the world. Additional filings may also be necessary beyond the U.S. and EU as more countries around the globe enact personal data protection legislation that affect the entire recruitment and selection process of local national candidates.

Establish a screening policy that addresses the recruitment and selection of applicants based on country-specific requirements, but also addresses local cultural environments. It is vitally important to establish an overall screening policy, followed by country-centric policies in addition to pre-existing U.S. pre-employment screening policies. Country-specific guidelines should be established by working with local management in order to address local cultures, customs and legal requirements. Ensure that your staff is fully trained with regard to their responsibilities relating to personal privacy, as well as local screening guidelines, and make sure it's documented. This will not only ensure legal compliance and acceptance by local counterparts, but also consistency in the background checks conducted on a country basis and provide for sound employment decisions from wherever the organization may be hiring.

Program Development

Assess human resource personal data. Perform an audit of databases (such as applicant tracking, a human resource management system, etc.) containing HR data (personnel data). Gather company filings/policies/guidelines regarding personal privacy and security of employee and applicant data. Review notices to employees and their representatives. Review how employee access is managed. Review employee complaint processes. Gather any internal controls relating to security, maintenance, and retention of personal HR data.

Review existing employment applications in relation to applicants from overseas. Ensure that employment application forms included in automated systems used during the recruitment and selection process do not ask for excessive personal data in relation to local privacy laws.

Require appropriate forms of identification. Each country may require varying forms of identification as well as supporting documentation in order to perform a legitimate validation of identity. Multiple forms of color photo identification may be needed in order to validate the identity of an applicant such as a copy of the applicant's passport, which includes the address page, as well as a copy of a utility bill indicating that an applicant actually resides at a particular address in a specific country. Such documents may also be required in order to conduct necessary right-to-work checks (similar to the USCIS E-Verify system).

Don't assume anything. Many companies assume that if a candidate presents a U.S. work visa, they are clear of any wrong-doing in their home of record country. This is a false sense of security. People can hide the fact that they committed crimes in the past and easily falsify work and educational experience. Performing a complete background check on each candidate provides the organization with the necessary minimal level of due diligence and the confidence that they will have hired a qualified, honest candidate.

Verify facts on the resume. Many times, a candidate will state that they attended a school or worked for a large corporation from another country because they believe that no one will be able to verify the information. Make sure that HR personnel obtain some form of written verification from an applicant for each credential claimed.

Can you require or access international criminal records? Prior to performing a criminal record search on a candidate, make certain criminal data from the country can even be accessed and used for employment purposes. Requiring a criminal record on an applicant in a country where criminal records are not considered a matter of public record, or is acquired in contravention with local regulations governing access to data, human rights or employment legislation, could be considered a violation of local privacy laws and may be subject to possible criminal prosecution by the U.S. Federal Trade Commission (FTC), U.S. Department of Justice if it is a U.S. corporation, as well as by host country criminal justice systems.

Background Check Supplier Management

Use a competent international background check service provider. More and more screening companies can provide "international" or "global background check services" from nearly every country on the planet. It is not only important to make sure that the provider you are using is reliable, timely and cost effective, but it is absolutely essential to confirm that the provider has more than a passing knowledge of the overseas background check market to include a thorough understanding of the local laws governing access to data and overall background screening in the countries they intend to provide service. Make sure the supplier only provides information that is legally permissible to access and can be used for employment purposes from the host country. Professional screening providers well-versed in the local geography should be capable of clearly articulating and referencing the various ins and outs of the local environments.

Make sure that the supplier maintains adequate security of personal data. Ensure that contracts and/or service agreements with third-party screening providers are in writing and make reference to their promise to comply with any and all local legal provisions governing access, as well as security of personal data while in their custody. Determine if supplier has adequate tech-

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nological measures in place to secure personal data that they will be handling on behalf of the organization.

Errors and omission coverage is a must. Ensure that the screening provider carries sufficient professional indemnity to cover not only data that is collected in the U.S., but also data that is provided by the organization and later transferred overseas for further processing. Screening providers not thoroughly familiar with the necessary insurance coverage required for transborder data may neglect to cover data collected, transferred, and processed outside of the country.

Ensure that the screening provider provides sufficient documentation identifying your organization as an additional insured on their policy, as well as requires certificate holder status information in your agreement with the screening provider.

Establish personal data retention based on country business rules. Make sure that both the organization and your supplier only keep employment application forms, data, and other materials collected during the vetting process (including databases) containing the applicant's personal information based on country-specific data retention periods. Ensure that the supplier does not use the information you give them on a separate inquiry, such as shared access archives or previously performed background check databases.

Following the guidelines herein when either updating your current program or initiating a new international background check program will help your company reduce costs, improve operational efficiency, and leverage talent more effectively on a global basis.

About the Author



Terry Corley, managing principal of Aletheia Consulting Group, has more than 21 years of experience in personal protection, government and corporate investigations. Over the past 11 years, Corley has become recognized within the background check industry as a leading subject matter expert on international employee screening and overseas personal privacy. He has used his knowledge of the global background check market and the international background check business model to design and deliver global background information services and delivery systems to the screening industry for more than a decade. He regularly provides ongoing thought leadership to the National Association of Professional Background Screeners on topics related to best practices in global background screening. He can be reached at terry.corley@me.com.