



## Why Background Checks Matter

What you don't know about a job candidate could severely hurt your business

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This is the story of three guys who met in college and formed a small high tech company a couple of years ago. Their growth was modest, but steady. Soon they had 20 employees. They were poised for additional growth, but knew they needed a new CEO to take them there. Candidates were interviewed and the men made an offer to the most impressive one.

To take the position, the candidate would have to relocate from another state, but he was excited about the opportunity and discussed buying a new house and checking out schools in the area for his kids.

The three guys called the references on the candidate's resume, who all verified the information provided. Next they faxed their potential CEO an offer, which he signed and sent back. It was only then that one of the partners decided to go to their new CEO's business Website and check it out. It was impressive.

Until the page about ethics and values. Because of his religious beliefs, the new CEO listed a number of companies that he refused to work with, many of which were his new employers' clients.

In a panic, the partner Googled his new CEO's name and up popped a series of lawsuits filed against him, all stemming from protest activities in which the CEO participated in the name of defending his religious belief, with one lawsuit filed by a reputable magazine whose site he had allegedly hacked.

"Everything they did [to check out the new CEO after their offer was accepted] could have been done without a third party," said Erik Winton, an employment lawyer with Jackson Lewis, who counseled one of his clients on a similar case. "They didn't even need authorization. It's amazing how much information you can find."

Ultimately, the job offer was rescinded and, predictably, the three partners were sued. They eventually settled the case for an undisclosed amount.



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### The Potential to Put You out of Business

"Often, employers don't take the time [to check the candidate out]," noted Winton.

Beyond the potential employee who won't make eye contact and is talking to the voices in his head, it could be difficult for an employer to ferret out an employee's possible problems in an interview, even with a second and third meeting. Many small business owners rely on their

instincts when they make a hire, but intuition can be notoriously unreliable. And the significance of what the employer should know can vary, depending upon the nature of the position.

Would you hire a bookkeeper who was convicted of embezzlement? What about a salesperson who has a history of violence? Do you want your delivery driver to have a spotty DMV record? Most importantly, do you want to know these details of your employee's past?

Background checking, or pre-employment screening, is typically thought to be the province of businesses that are federally regulated and therefore required by law to check the backgrounds of those they hire. Child care, elder care, and the health care industries are federally regulated. Outside of these categories, there are no requirements to check backgrounds and no clear guidelines as to how to do it, but there are consequences if something goes wrong.

"It's easy when you're regulated because the regulations tell you that this is the level of checking you need to do," said Alan Sklar, founder and president of [Creative Services, Inc.](#), a Mansfield, Mass.-based employee-screening company. "It becomes more difficult for companies that don't have those regulations. What is reasonable for us? What level should I be doing?"

The questions are significant because the implications of not doing enough can range -- depending upon what happens and upon the type of business -- from an unpleasant experience to financial loss to, in the most extreme examples, a crippling lawsuit.

"Every person that walks through your office door and you hire has the potential to put you out of business," said Lester Rosen, president, CEO, and founder of [Employment Screening Resources](#), a Novato, Calif.-based pre-screening company.

Rosen along with others in the background checking profession, is surprised at how small business owners could let employees into their lives, give them the keys to their offices, access to their files and face time with their clients without checking out even the most basic details of who this person is. (Check out [this blog](#) to read what some small business owners have to say about background checking.)

"Would anyone walk up to a stranger who looks like a good person and give that person a key to their home? That's like hiring someone without a background check," he said. "You wouldn't rent a location without investigation, you wouldn't buy a car without research. People spend more time on a laptop purchase than on hiring employees but the implications are so different."



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### DIY or Get a Professional

The process of background checking takes many different forms from reference checking to a credit check to criminal checks. Small business owners can run a check themselves, use one of many online services that access various databases, or sign up with an employment screening company. Costs vary along with the service but start at about \$10 and rarely go beyond \$125 an employee.

Despite the relatively low costs, the key for small business owners, said Rosen, is that background checking doesn't appear to have any payoff -- until the small business owner realizes they made a mistake. "Statistically, many small business owners will hire someone they truly regret and then they will pay anything to have avoided that," said Rosen.

According to Sklar, whose company has been in business for nearly 30 years, the current fear of lawsuits and exposure are making background checks more common. He cited the potential for negligent hiring claims. If a background check could have revealed that a job candidate might pose a danger to others, the employer who failed to do the check, or failed in the eyes of a civil court to do it properly, could face a negligent hiring claim.

Winton agreed. For example, he said, if your company does home visits and one of your employee steals something -- or worse -- the homeowner could potentially have a claim against you.

The average award, according to Sklar, is \$2 million. "Small business owners have the same exposure as companies that have thousands of employees, but they have more trouble defending themselves," he said.

That might be why Michelle Fish, CEO and founder of [Integra Staffing & Executive Search](#), a Charlotte, N.C.-based staffing firm, believes that more small business owners are doing some form of background checks these days. Fifteen years ago, she said "no one" did them and now that's all changed. "The world changed, 9/11, people going postal. No one is going to take a chance. If information is at your fingertips, it's better to be safe than sorry," she said.



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### Integrity Issues

Just ask Joe Freund, who runs a State Farm Insurance office in San Francisco with three employees. He interviewed an employee three times and hired him without doing any background checks. A number of "integrity issues" emerged within a few weeks of employment that Freund said he could have discovered had he checked the employee out. He had to let the employee go, at a cost of \$2,000.

"There are so many laws protecting employees," said Winton. "The at-will employee is almost a myth. It magnifies how important it is to vet people before they come in that door. I would recommend it." Winton emphasized that if a third party is used to gather the information in a background check and something emerges that would impact an employer's decision about whether or not to hire that candidate, the employer must notify the candidate before taking any action.

According to Rosen, the best place to start with a background check is where the small business owner will get the biggest bang for their buck: an employment application form that authorizes the employer to do the check. This is legally required before the employer can start digging. "Just by telling the job applicant that you do background checks, it will discourage the applicants that have something to hide," he said.

Calling past employers and references is another free way to verify dates of employment and establish the identity of the applicant. "Employees will lie about employment and hope you won't check," said Winton.

Googling someone's name is yet another way to see if there is any information out there on your applicant you might want to know about, although it is important, in that case, to make sure that your information is accurate. "You need to make sure you have the right person before you deny someone employment," said Fish. "You need to examine records closely."

If the applicant is applying for a job as a licensed professional, such as an electrician, a plumber, or a CPA, state licensing boards can also be called to verify the authenticity of the license. It is also recommended that sex offender registries be checked, if appropriate to your business.

Most pre-employment screeners recommend a social security trace for identity verification. They also recommend a check of where the applicant has lived as well as a criminal check, at least in those counties. The standard time frame for these checks is at least seven years. As Rosen pointed out, though, even criminal checks aren't perfect. Some cases, especially federal ones, can slip through the cracks of databases, so doing more than one check, such as both a reference check and a criminal check, is important.



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## Credit, Education, and Drug Checks

Then there is the credit check, which according to Angela Paolino, director of human resources for [Disanto Priest & Co.](#), a regional accounting firm, is crucial if the hiring is for a financial position. She looks for charge-offs and overdue credit, which could indicate the applicant's ability to take on financial responsibility.

Checking out educational degrees is another way to verify information. A check at the motor vehicle bureau is another recommended move if the applicant will be doing any driving for the company.

Sklar said he is also seeing more drug testing of potential employees as a way to screen out candidates with substance abuse problems. He recommends it if the employee will be driving on behalf of the company or will be working with any sort of machinery. Just telling candidates that drug testing is required can weed out many of those who have problems.

There are a slew of online services that will get much of this information -- obviously drug testing can't be done online -- often for as low as \$10 a report. Paolino has found some of these services to be trustworthy -- she uses [Hire Image](#). Fish has used [ChoicePoint](#)'s online database for between \$10 to \$20 per check and has also been satisfied with the results.

Winton suggests that you get what you pay for. He believes online services could provide incorrect or old information that is no longer accurate. The more established pre-screening firms more carefully evaluate their information, he said.

Not surprisingly, Sklar does not approve of using the online services. "They are just data providers," he said. "The end user doesn't know what to do with the information." His costs, which he said cover everything from a criminal check to credit check, to a social security trace and everything in between is about \$125 a person, depending upon how many places the applicant lived. Turnaround time is between three to four days, which Winton says should be kept in mind when making an offer.

"It should be put in the offer letter that the job is contingent upon satisfactory completion of the background check," he said. "Otherwise they could have a claim against you."

But for Sklar, the implications of doing a background check go beyond avoiding claims. He sees it as a means for the small business owner to reduce turnover and increase morale and productivity. "It's about finding the right people," he said. "It's a tool for making a good hire. It's telling new and existing employees that we care about you and we are demonstrating that we are taking every reasonable effort to protect you."

— Naomi Grossman, Assistant Editor, *Small Biz Resource*