



 **Staff
Sure**

WORKFORCE SERVICES PROVIDER
CERTIFICATION STANDARD

TITLE

The title of this standard is the StaffSure Workforce Services Provider Certification Standard ('the Standard').

PURPOSE

The purpose of certification is to provide a measure of assurance that, within an acceptable degree of residual risk, a Certified Workforce Services Provider is reputable, has established and operates reasonable controls in the key areas covered by the Standard and will seek to meet its compliance obligations in accordance with this Standard.

KEY TERMS

Refer to the Definitions Schedule.

APPROACH

1. Adoption of the Standard

The Recruitment, Consulting & Staffing Association Limited ('RCSA') has developed and asserts control of the Standard.

The Standard may be adopted, and a certification requirement established in support of it, solely as a corporate social responsibility measure in a variety of ways including:

1. by legislation;
2. by prescription of its provisions as an Industry Code under the *Competition and Consumer Act 2010* (C'th);
3. as a condition or requirement of industry association membership; or
4. contractually by parties who agree to adopt it – e.g. as a condition of supply,

and subject always to compliance with all applicable laws AND the prior written approval of RCSA.

Adoption of the Standard and establishment of any certification requirement in support of it should be understood as operating as a restriction or qualification on an employer's right to use independent contractors or labour hire workers.

2. Transition Recommendation

Any certification requirement that is established in support of the Standard should take proper account of the need to allow sufficient lead time to enable Workforce Services Providers, who may wish to obtain certification, to become certified.

To that end RCSA recommends:

1. that certification requirements established in support of the Standard should be introduced on not less than three (3) months nor more than six (6) months' notice
2. that such notice should be published via a publication having sufficient circulation in the industry and locations affected; and
3. that, during such notice period, persons who propose to establish a certification requirement might accept in lieu of certification, confirmation that their Workforce Services Provider:
 - a. has registered in the StaffSure Program;
 - b. has obtained a two year audit plan specifying the audit cycle and including estimated certification and surveillance dates;
 - c. has completed a Documentation Review Audit (if required); and

- d. is progressing satisfactorily towards certification.

3. Systems Approach

It is neither fair nor practical to apply a certification requirement only to one party (e.g. an on-hire firm) in a multi-party environment. That is because key roles may be played by many different parties - some of whom will be in a business relationship with the Certified Workforce Services Provider and some of whom will not.

Neither is it fair or practical to impose responsibilities on an agency for matters that are beyond the scope of its effective control or influence.

Parties, who are in a business relationship with a Certified Workforce Services Provider and supply key services, are part of its Service Network and can properly be considered to be within its sphere of influence. For example, an agency can choose not to deal with a recalcitrant or uncooperative party; or it can (and should) withhold services in order to meet its responsibilities and duties of care.

The Standard therefore adopts a systems approach that focuses on a Certified Workforce Services Provider's stewardship of its Service Network as a primary means of enhancing labour supply chain governance.

For the purposes of the Standard, we treat a **Service Network** as the set of contracts, arrangements or understandings for the performance of any two or more of the following roles in relation to workers:

- sourcing/selection
- engagement
- mobilisation
- performance of work (by workers)
- management & supervision
- accommodation
- payment
- demobilisation

(**Service Network roles**).

A Certified Workforce Services Provider's **Service Network participants** are the persons with whom the Certified Workforce Services Provider has a contract, arrangement or understanding for the performance of any of the Service Network roles necessary for it to fulfil its purpose and that can be controlled or influenced by the Workforce Services Provider's owners or managers.

NOTE: Control or influence might be exercised through the provisions of a contract or terms of business. It might simply consist of a power to refuse to do business with a recalcitrant or unco-operative participant or to suspend the supply of services to such a participant.

4. Accountability through Certification

The Standard is not intended, by itself, to impose or relax legal obligations.

A Certified Workforce Services Provider remains responsible to meet all its compliance obligations and duties in accordance with law.

Certification is an additional means of holding a Certified Workforce Services Provider accountable, through its certification, to the Standard.

Apart from whatever legal liabilities might otherwise be incurred, the main consequence of a Certified Workforce Services Provider's failure to satisfy the Standard is that certification may be lost, suspended, or downgraded; or that the agency may be required to undertake corrective action in order to maintain its certification.

5. Co-ordination

RCSA may appoint a co-ordinating council to monitor and make recommendations to RCSA about the effectiveness of the Standard and may confer upon the co-ordinating council, as a condition of a workforce

service provider's participation in the certification programme, permission to refer any matters of concern arising in connection with certification to a proper authority.

6. Transparency & Reporting

If an auditor has reasonable grounds to believe that a person may be at serious and imminent risk of exploitation, the auditor may report those grounds to a proper authority

7. Six Key Areas

Certification covers six key areas:

- fit & proper person
- work status & remuneration
- financial assurance
- safe work
- migration
- suitable accommodation.

8. Audit Questionnaire & Assessment

The implementation of the Standard is supported by a detailed audit questionnaire and assessment techniques that may include random access and interview – e.g. of workers, customers and service network participants.

Random access and interview of such number of subjects as the auditor, in the proper exercise of his/her professional skill and judgment, determines to be reasonably necessary is to be conducted whenever audit activity undertaken in respect of a workforce services provider's participation in the certification programme gives the auditor reason to suspect, in accordance with guidelines that RCSA may issue from time to time, that the workforce services provider may not be meeting the standards required to obtain and maintain certification PROVIDED THAT ON NO ACCOUNT will the auditor arrange or conduct a random access interview if there is reason to believe that approaching a subject may place a person at risk of serious and imminent recriminations.

ABOUT CERTIFICATION

9. Certification

Certification under this Standard means that a Workforce Services Provider has been assessed against the Standard.

Certification under this Standard is not a guarantee of regulatory compliance. It is not a substitute for more rigorous compliance or due diligence audits.

Certification under this Standard is not a guarantee that a Certified Workforce Services Provider will provide services that you may want or that its services will meet the specifications that you establish, or that are established by consumer laws.

Agreement about the scope of services to be supplied, their standard, and about procedures for monitoring performance is always a matter for the parties themselves.

Certification is never a substitute for clear agreements and effective contract management.

10. Who Can be Certified

Any Workforce Services Provider lawfully carrying on business for the supply of Workforce Services can apply to be certified against the Standard.

A Tied Workforce Services Provider may be exempted from a certification requirement established in support of this Standard.

11. Different Certifications

Agencies may hold different certifications – e.g. certification under RCSA's Service Delivery Standard or the equivalent standard of another industry association or under ISO 9001.

Standard Certification

Certification under this Standard indicates that the agency has **controls** in place to meet the Standard and that the controls are:

- evidence based
- suitably documented
- regularly monitored
- providing feedback to support corrective action
- transparent
- supported by appropriate training and resources.

12. Guiding Principles

Guiding Principles are objectives towards which the controls are directed. They are statements of what a reputable and well-governed Certified Workforce Services Provider does and how it operates.

Corrective action should be directed ensuring that the Guiding Principles are satisfied.

13. Ascertain & Assure

A Certified Workforce Services Provider applies resources to ascertain to a reasonable standard of confidence the regulatory environment that governs its Service Network.

A Certified Workforce Services Provider has controls to assure to a reasonable standard of confidence that requirements of the regulatory environment that governs its Service Network are met.

14. Accountability

A Certified Workforce Services Provider is accountable, through its certification, for assuring to a reasonable standard of confidence that its Service Network participants meet the requirements their regulatory environment.

Random Surprise Audit

The StaffSure Program will provide for random surprise audit.

The objective of the random surprise audit is to provide added assurance that controls audited on the initial Certification Audit or Re-Certification (as the case may be) remain current and effective.

The Program Participant will be required to register on the Program Database for and submit to a random surprise audit conducted not more than once during each of the Program Participant's audit cycles.

During each year of the StaffSure Program, random surprise audits will be conducted on not more than one third of Program Participants. Random surprise audits will otherwise be conducted on such terms as may be set out in the RCSA Certification Program Agreement.

15. Corrective Action

A Certified Workforce Services Provider takes reasonable corrective action to address any failure to meet this Standard or the requirements of the regulatory environment that governs its Service Network.

Note: Corrective action may include withholding or refusing supply of services.

16. Fit & Proper Person (Lawful Supply)

A Certified Workforce Services Provider has adequate controls to assure to a reasonable standard of confidence that it and its Service Network participants are lawfully able to supply services in the jurisdiction, where the services are to be supplied.

17. Fit & Proper Person (Tackling Exploitation)

A Certified Workforce Services Provider applies resources and exerts influence to assure to a reasonable standard of confidence that it is not likely to be implicated in unlawful exploitation of workers either directly or through its Service Network.

18. Work Status & Remuneration (Influence)

A Certified Workforce Services Provider applies resources and exerts influence to assure that, to a reasonable standard of confidence, workers in its Service Network:

- are classified and remunerated correctly; and
- have access to important information about the work they are to perform and the arrangements under which they are to perform it.

19. Financial Influence

A Certified Workforce Services Provider plans and applies resources and exerts influence to assure, to a reasonable standard of confidence, the financial stability of its Service Network.

20. Safe Work

A Certified Workforce Services Provider plans, applies resources and exerts influence to assure, to a reasonable standard of confidence, that workers in its Service Network have a safe work environment.

21. Migration

A Certified Workforce Services Provider applies resources and exerts influence to assure, to a reasonable standard of confidence, that workers, employers and sponsors in its Service Network meet all conditions and restrictions imposed by applicable migration law and policy.

22. Suitable Accommodation

A Certified Workforce Services Provider, where required, applies resources and exerts influence to assure, to a reasonable standard of confidence, that workers in its Service Network are suitably accommodated.

CONTROLS & CRITERIA

The Standard draws on the concept of a control as it is developed in the field of control assurance and references HB 254, 3 ed 2005 *Governance, Risk Management & Control Assurance*.

Controls are the means by which an organisation assures that its intent is being implemented, through internal and external audit for financial matters, employment policies and all areas in which the organisation interacts with the public.

The meaning of *control* is broader than internal financial control and is expanded to include all planning and strategies put in place to support the Standard. It would include policies, procedures and practices. Transparency and probity are also part of this control environment. (HB 254 3 ed (2005)).

Criteria are developed across six key areas (fit & proper person; work status & remuneration; financial assurance; safe work; migration; and worker accommodation). They are stated in the form of questions, each of which may be answered descriptively and by reference to the Standard requirements namely that such controls developed in respect of the criteria should be:

- evidence based

- suitably documented
- regularly monitored
- providing feedback to support corrective action
- transparent
- supported by appropriate training and resources.

23. Fit & Proper Person

Commitment

Has the agency published a policy approved by its owners/managers about how it ensures that:

- its Service Network participants are fit and proper persons to undertake the roles assigned to them?
- workers in its Service Network are free from unlawful exploitation?

Ascertain & Assure

Does the agency have controls to ensure, to a reasonable standard of confidence, that:

- its Service Network participants are fit and proper persons to undertake the roles assigned to them?
- workers in its Service Network are free from unlawful exploitation?

Role Clarity

Does the agency have controls to ensure, to a reasonable standard of confidence, that customers, workers suppliers and members of the public who have dealings with the agency are sufficiently informed about the role of the agency and the type of workforce services it provides?

Legal Entity

Establishment

Sole Trader

Does the sole trader have:

- appropriate work rights?
- an official business number that matches its supply terms?
- GST registration?

Partnership

- Is the partnership agreement in evidence and current?
- Does the partnership agreement permit carrying on of relevant business in the jurisdiction where services are supplied?
- Do all partners have appropriate work rights according to applicable national or state law?
- Does the partnership have an official business number that matches its supply terms?
- Is the partnership registered for GST?

Corporation

- Is the corporation registered?
- Are its returns and reports current?
- Does the corporation have an official business number or official registered business number that matches its supply terms?
- Is the corporation registered for GST?

- Does the corporation's constitution permit carrying on of relevant business in the jurisdiction where services are supplied?

NOTE: Pay special regard to any limitations on the ability of incorporated associations to carry on business.

Other

There may be a range of other entities and business models that will be encountered. These may include co-operatives, limited partnerships, various forms of joint venture, and franchises.

In any such case, refer to advisors.

Accessibility

- Does the agency have reliably accessible business premises or virtual premises?
NOTE: Accessibility extends to language and disability access.
- Does the agency provide reliable means of contacting a responsible owner/manager or consultant during working hours, as well as outside working hours in case of emergency?

Licence

- Is the agency suitably licensed to carry on relevant business in the jurisdiction where services are supplied and not otherwise disqualified from doing so?
- Any there any conditions attaching to carrying on relevant business?
- Are conditions attaching to carrying on business are being complied with?
- Are conditions attaching to carrying on business suitable transparent?
- Is the agency under expulsion or suspension restriction from applying for membership by RCSA or similar industry association?

Owners/ Managers

Disqualification

- Are all owners or managers, who are actively participating in the business, free of any circumstance of disqualification?

Professional Knowledge

- Do all owners or managers, who are actively participating in the business have a reasonable degree of professional knowledge relating to the business and its regulatory environment?

Consultants

Disqualification

- Are all consultants free of any circumstance of disqualification?

Professional Knowledge

- Do all consultants have a reasonable degree of professional knowledge relating to the business and its regulatory environment?

Customer/Worker Facing Administrative Staff

Disqualification

- Are all customer or worker facing administrative staff free of any circumstance of disqualification?

Professional Knowledge

- Do all customer or worker facing administrative staff have a reasonable degree of professional knowledge relating to the business and its regulatory environment?

Service Network Participants

Disqualification

- Does the agency have controls to assure to a reasonable standard of confidence that its Service Network participants are free of any circumstances of disqualification with regard to their legal entities, owners/managers, consultants, or customer/ worker-facing administrative staff?

24. Work Status & Remuneration

Commitment

- Has the agency published a policy, approved by its owners/managers, about ensuring that workers in its Service Network:
 - ✓ are classified and remunerated correctly; and
 - ✓ have access to important information about the work they are to perform and the arrangement under which they are to perform it?

Ascertain & Assure

- Does the agency ascertain the regulatory environment that governs the work status and remuneration of workers in its Service Network?
- Does the agency have controls to assure that workers in its Service Network are classified and remunerated correctly?

Employment Established in Accordance with Legal Requirements

- Does the agency have controls to assure that employment is established in accordance with all legal requirements?

Example: Some awards require particular types of work e.g. day labour, casual work or part time work to be established in a particular manner.

Information

- Does the Agency have controls to assure to a reasonable standard of confidence that information about work status and remuneration is readily accessible to workers in its Service Network and includes provision of:
 - ✓ any statement required to be given to the worker by law?
 - ✓ any contract, collective agreement, or other industrial instrument applicable to the work they perform?
 - ✓ a copy of a contract of engagement or summary of terms of engagement in their first language where reasonably available?
 - ✓ a copy of applicable workplace policies relating to such matters such as drug & alcohol use and testing; workplace bullying; workplace discrimination and sexual harassment, vilification - given in their first language where reasonably available?
 - ✓ information about training that may be available to workers to improve their skills?
 - ✓ Information about how workers may contact relevant support agencies for them, which may include representatives of any culturally and linguistically diverse community to which they belong, a trade union, a or a community/ faith based organisation to which they belong or a consumer affairs authority?

Records

- Does the agency have controls to assure to a reasonable standard of confidence that engagers and payers of workers in its Service Network maintain true records of:
 - ✓ time and wages
 - ✓ leave accruals

- ✓ worker authorised deductions from pay including the due application of such deductions
- ✓ tax and superannuation and tax to be remitted
- ✓ back charges, rectification costs and liquidated damages claimed against independently contracting workers
- ✓ any other deductions from pay or charge made against the worker.

Standard Form Contracts (Independent Contractors)

- Does the agency have controls to assure to a reasonable standard of confidence that workers in its Service Network engaged as independent contractors under standard form small business contracts are engaged under terms that are not void for unfairness or otherwise harsh or unfair?

Volunteers, Interns, Trainees and Supported Wages

- Does the agency have controls to assure to a reasonable standard of confidence that workers in its Service Network engaged as volunteers, interns, trainees or under disability or supported wage arrangements are engaged and remunerated consistently with the lawful requirements of such arrangements?

25. Financial Assurance

Commitment

- Has the agency published a policy, approved by its owners/managers, about ensuring that its Service Network is:
 - ✓ financially stable;
 - ✓ able to meet financial obligations as they fall due; and
 - ✓ able to meet financial contingencies arising from reasonably foreseeable business risks.

Planning

- Does the agency plan for the financial stability of its Service Network using suitable tools including:
 - ✓ financial risk analyses?
 - ✓ balance sheets?
 - ✓ budgets?
 - ✓ cashflows?

Revenue Obligations

- Does the agency have controls to assure to a reasonable standard of confidence that it and its Service Network participants have met and can continue to meet their revenue (including superannuation and payroll tax) obligations?

Worker Related Accruals

- Does the agency have controls to assure to a reasonable standard of confidence that it and its Service Network participants have provided for and can meet their worker related accruals (including any paid leave or redundancy entitlements)?

Pricing

- Does the agency have controls to assure to a reasonable standard of confidence that it sets genuine prices that are arrived at after diligent costing of the services to be supplied, taking into account any likely rise or fall in the cost of services and any terms and conditions that allow for variation during the lifetime of its supply arrangement?

Credit Control

- Does the agency have controls to assure to a reasonable standard of confidence that its debtors pay their accounts on time or within reasonable extension arrangements?

Insurance

- Does the agency purchase and maintain (and require that its Service Network participants purchase and maintain) appropriate insurance, or enter into permissible self-insurance arrangements, taking into account the size of their establishment and the nature of the activities and risks they undertake and including, where relevant:
 - ✓ business interruption insurance?
 - ✓ comprehensive motor vehicle insurance?
 - ✓ directors & officers' insurance?
 - ✓ employment malpractice insurance?
 - ✓ fidelity insurance?
 - ✓ key person insurance?
 - ✓ marine insurance?
 - ✓ professional indemnity & broad form liability insurance?
 - ✓ property insurance?
 - ✓ public liability insurance?
 - ✓ workers' compensation insurance?

Hold Harmless

- Does the agency have controls to assure, to a reasonable standard of confidence, that it does not enter into improvident hold harmless agreements?
 - NOTE:** Such controls may include:
 - ✓ insurance cover extending to contractual liabilities assumed under hold harmless arrangements
 - ✓ terms and conditions under which parties remain responsible to the extent of their contribution to claims giving rise to civil liabilities.

26. Safe Work

Commitment

- Has the agency published a policy, approved by its owners/managers about ensuring that workers in its Service Network have a healthy and safe work environment?

Ascertain & Assure

- Does the agency ascertain the regulatory environment that governs the health and safety of workers in its Service Network?
- Does the agency ascertain the nature of health and safety hazards to workers in its Service Network?
- Does the agency conduct regular risk assessments of health and safety hazards to workers in its Service Network?
- Does the agency have controls (including adequate arrangements to conduct site inspections and to address hazards) to assure that workers in its Service Network have a healthy and safe work environment?

Roles & Responsibilities

- Does the agency have a defined structure for the management of work health and safety responsibilities within its Service Network?
- Are roles with respect to health and safety responsibilities clearly and appropriately allocated, documented and made known to Service Network participants?
- Does the agency have clear and appropriate processes for consultation, cooperation and co-ordination of work health and safety activities between work health and safety duty holders within its Service Network?

27. Migration

Commitment

- Has the agency published a policy approved by its owners/managers about ensuring that workers, employers and sponsors in its Service Network meet all conditions and restrictions imposed by applicable migration law and policy?

Ascertain & Assure

- Does the agency ascertain the regulatory environment that governs the rights to work of workers in its Service Network?
- Does the agency have controls to assure to a reasonable standard of confidence that workers, employers and sponsors in its Service Network meet all conditions and restrictions imposed by applicable migration law and policy?

Monitoring

- Does the agency regularly monitor the work performed by workers in its Service Network to ensure that it is consistent with all relevant visa conditions?

28. Suitable Accommodation

Application

This section only applies to an agency if the agency provides accommodation to a worker in connection with the provision of workforce services.

Commitment

- Does the agency have a policy, approved by its owners/managers about ensuring that workers in its Service Network are suitably accommodated?

Ascertain & Assure

- Does the agency ascertain the regulatory environment that governs the accommodation of workers in its Service Network?
- Does the agency have controls (including means of inspection) to assure that the accommodation of workers in its Service Network meets the requirements of the regulatory environment?

Accommodation Charges

- Does the agency have controls to assure to a reasonable standard of confidence, that accommodation provided to workers through its Service Network is provided at rates that are not extravagant having regard to the quality of the accommodation?

Fringe Benefits

- Does the agency have controls to assure to a reasonable standard of confidence that any fringe benefit tax or revenue impost on accommodation provided by it (or by or through its Service Network) to workers is accounted for and remitted?

Information

- Does the agency have controls to assure to a reasonable standard of confidence that workers in its Service Network receive reliable information (including relevant hazard warnings) in their first language where practicable about accommodation options available to them?

DEFINITIONS SCHEDULE

Accommodation

includes buildings, tents, structures, rooms, fittings, furnishings, equipment, facilities and amenities. It also includes the provision of food and transport to and from the work site.

Auditor

is a person who is recognised by RCSA to audit against the Standard.

Career development services -

means services intended to assist individuals, of any age and at any point throughout their lives, to make educational, training and occupational choices and to manage their careers. These may include services in schools, in universities and colleges, in training institutions, in public (government contracted) employment services, in companies, in the voluntary/community sector and in the sector. They include career information (in print, ICT based and other forms), assessment and self-assessment tools, counselling interviews, career education and career management programs, taster programs, work search programs, and transition services that do not directly involve placement of the individual in employment, self-employment or work as an independent contractor.

Contract management services

means commercial services where a workforce services provider, in return for a fee, undertakes responsibility for managing the performance of any obligation under a contract that requires:

- 1) the performance by a worker of work without undertaking the direct employment or engagement of the worker or the direct performance of the work; or
- 2) the supply, by another person, of a workforce service

but excludes a service that is solely a pay roll service.

Controls

are the means by which an organisation assures that its intent is being implemented, through internal and external audit for financial matters, employment policies and all areas in which the organisation interacts with the public.

NOTE: The meaning of control is broader than internal financial control and is expanded to include all planning and strategies put in place to support the Standard. It would include policies, procedures and practices. Transparency and probity are also part of this control environment. (HB 254 3 ed (2005)).

Conviction

does not include a spent conviction.

Customer

means a person who acquires, or who has dealings to acquire, a workforce service in consideration for a fee and includes, where the context permits, a third party beneficiary, who has actual or constructive knowledge of those dealings.

Disqualification circumstance

Each of the following is a disqualification circumstance:

- 1) having a conviction of a serious offence:

- 2) being bankrupt or, at any time in the last three years—
 - a) having been bankrupt; or
 - b) having executed a personal insolvency agreement; or
 - c) at any time in the last three years having being involved in the management of a corporation when—
 - i) the corporation became the subject of a winding-up order; or
 - ii) a controller or administrator was appointed; or
- 3) being unlicensed (if licensing is required) or having contravened, or currently contravening, an order of a court or tribunal having a licensing jurisdiction or jurisdiction to impose a banning order; or
- 4) being disqualified or suspended in the jurisdiction where the services are to be supplied (or another jurisdiction) from being licensed, or registered, or from being an employee in the business; or
- 5) being in partnership with a person who is disqualified or suspended in the jurisdiction where the services are to be supplied (or another jurisdiction) from being licensed or registered; or
- 6) if the entity is a corporation, being banned or disqualified from being involved in managing the corporation; or
- 7) being under expulsion, suspension or restriction from applying for membership by RCSA or similar industry association.

However, a person is not affected by any such circumstance if relief against disqualification has been granted by a competent authority and any conditions attaching to the grant are transparent and being complied with.

End use customer

means the customer for whose end benefit work is performed under arrangements for the supply of a workforce service.

Exploitation (definition)

- 1) exploitation, of one person (the victim) by another person, occurs if the other person's conduct causes the victim to enter into any of the following conditions:
 - a) slavery, or a condition similar to slavery;
 - b) servitude;
 - c) forced labour;
 - d) forced marriage; or
 - e) debt bondage.
- 2) exploitation also occurs if the other person's conduct towards the victim amounts to:
 - a) unlawful discrimination under an Australian law; or
 - b) unlawful discrimination under the law of the place where the discrimination takes place; or
 - c) unlawful exploitation, discrimination, harassment or bullying at or in relation to work; or
 - d) adverse conduct in connection with work about which the Australian Human Rights Commission has jurisdiction to inquire under the *Australian Human Rights Commission Act, 1986* (C'th); or
 - e) contravention of a workplace right of the Victim within the meaning of the *Fair Work Act 2009* (C'th); or
 - f) conduct in connection which the Victim is entitled to take a personal grievance to the Employment Relations Authority or the Human Rights Commission in New Zealand.

Financial stability

means in relation to any entity, that the entity is able to meet its obligations as they fall due and able to meet financial contingencies arising from reasonably foreseeable business risks.

Government contracted employment services

means a service or services procured by the Commonwealth Government as part of a declared program of work or program of support under the *Social Security Act 1991* (C'th), including jobactive, Disability Employment Services, Remote Jobs and Communities Program (Community Development Program), Work for the Dole, Green Army Program and other such programs as may be declared by the Secretary of the Department of Social Services from time to time and includes a similar service or services procured in New Zealand by the New Zealand Government.

GST definitions and interpretations -

means the following definitions and interpretations:

Consideration

means any consideration payable under this Agreement in return for a taxable supply, but does not include any amount on account of GST.

GST Act

means the A New Tax System (Goods and Services Tax) Act 1999 (Cth) (as amended);

GST

has the same meaning given to that term in the GST Act;

Supply

has the same meaning given to that term in the GST Act;

Tax Invoice

has the same meaning given to that term in the GST Act;

Taxable Supply

has the same meaning given to that term in the GST Act.

Application mutatis mutandis

The GST definitions apply (with necessary changes being made) to goods and services tax (or similar tax) chargeable on the consideration in New Zealand or under the revenue laws of any other country where goods and services tax (or similar tax) is chargeable on any part of the consideration payable under this Agreement.

Model & performer agency

means a person who carries on the business of -

- a) negotiating the terms of contract work for a model or performer; or
- b) administering a contract for a model or performer and arranges payments under it; or
- c) providing career advice for a model or performer.

Model

means a person whose work is to—

- a) pose for a painter, photographer, sculptor or other artist; or
- b) put on articles of clothing or accessories, including, for example, jewellery, hats and shoes, and display them to customers, the public or for advertising purposes; or
- c) display a hairstyle or other personal body enhancement, ornamentation or decoration.

On-hire services

means services where a workforce services provider makes a worker engaged by the provider available to perform work, whether under a contract of service or a contract for services, for a customer of the provider; and:

- a) the worker works (or is to work) under the customer's direction, or under the direction of another person for the customer's benefit; and
- b) the workforce services provider is responsible (through itself or through its appointees) for performing the obligations of the engagement owed by the provider to the worker, including paying the worker for the work.

Pay roll service

means services to facilitate the payment of wages or remuneration by an employer or engager of a person to perform work, where the commercial service is provided by a person who is not the employer or engager of the person performing the work and includes escrow services and services to remit money in order to meet revenue and superannuation obligations.

Performer

means a person whose work is to compete in sport or to act, dance, mime, perform, play, sing or speak in advertising or for entertainment.

Placement services

means services where a workforce services provider presents, or represents workers; and includes services for finding work for a worker. However, services are not placement services by reason only that they are career development services.

NOTE: A job board that is more than a mere platform for advertising job vacancies or work seeker availability but which matches worker to work opportunities would provide placement services.

Present a worker

in relation to a worker includes the disclosure of any information about the worker whether on an identified, anonymous or pseudonymous basis.

Program Database

means the database created by SGS in connection with the StaffSure Program and containing all data required for the effective conduct of the StaffSure Program.

Program Participant

means the workforce services provider whose systems and processes are being audited for certification purposes.

Proper authority

means:

- a) a government department or government agency that has statutory power to detect or prevent exploitation;
- b) an industry association to which an agency seeking certification belongs and which has power under its constitution, code for member conduct, or internal disciplinary/dispute resolution procedures to intervene in order to ameliorate the risk or effects of exploitation;
- c) any co-ordinating council appointed by RCSA that has power to monitor and make recommendations to RCSA about the effectiveness of the Standard and which has permission to refer the grounds on to a department or agency in sub-paragraph (a) or to an industry association under sub-paragraph (b).

Reasonable standard of confidence

a reasonable standard of confidence in relation to a matter, circumstance, or state of affairs means that, after reasonable inquiry, you are comfortably satisfied, within an acceptable degree of residual risk, as to its existence and that you can demonstrate the reasonable basis for your satisfaction.

Regulatory environment

includes statute based law at all levels of government, as well as regulatory policy, common law duties and contractual duties.

Serious offence

means a criminal offence that is chargeable on indictment and, in the case of an agency seeking certification and its service network participants, includes any other offence that raises a serious question about the suitability of the person convicted of it to perform their Service Network role.

Service Network

the set of contracts, arrangements or understandings for the performance of any two or more Service Network roles.

Service Network participants (or SNP)

means the persons (other than its end use customers in their capacity as customers) with whom the Certified Workforce Services Provider has a contract, arrangement or understanding for the performance of any of the Service Network roles.

Service Network roles

means any of the following roles in relation to workers:

- a) sourcing/selection
- b) engagement
- c) mobilisation
- d) performance of work (by workers)
- e) management & supervision
- f) accommodation
- g) payment
- h) demobilisation.

StaffSure Program

is a reference to the certification program established by RCSA to support the Standard.

The Standard

means the StaffSure Workforce Services Provider Standard as may be varied from time to time and howsoever named or styled.

Structure

includes a transportable hut, a caravan, sleeping tube and pod.

Suitably accommodated

means accommodated to reasonable levels of safety, privacy, hygiene and comfort, in the light of local conditions and consistently with the requirements of the relevant governing regulatory environment.

Tied workforce services provider

means a workforce services provider that is a body corporate that provides workforce services under a contract arrangement or understanding the only other parties to which are bodies corporate that are, within the meaning of section 4A of the *Competition and Consumer Act 2010* (C'th), either:

- a) a holding body corporate of the workforce services provider; or
- b) a subsidiary of a holding body corporate of the workforce services provider.

Third party beneficiary

means a person, who is not a party to dealings for the supply of a workforce service but is specified or referred to in those dealings, whether by name or otherwise, as a person who may attain the benefit of those workforce services.

Work status & remuneration

concerns the:

- c) status of the worker as an employee, independent contractor or other category of worker (e.g. volunteer, bailee etc);
- d) type of work (e.g. full time, part time, casual, daily hire etc);
- e) terms and conditions on which work is performed (e.g. hours, shifts, spread of hours, breaks etc);
- f) work related pay and other entitlements (e.g. leave, loadings and penalties, allowances, expense reimbursement etc);
- g) allowable deductions from pay; and
- h) workers' freedom of association and general protections.

Worker

means a worker whose skill or labour is provided for the use or benefit of a customer and, where the context permits, includes a work seeker. The term does not include the internal management, consulting or administrative staff of a certified agency or that of its service network participants.

Worker in a Program Participant's Service Network

means a worker who is employed, engaged, used or applies for work by or to the Program Participant or to one of its SNPs.

Workforce contract

means a contract which is wholly or principally for the supply of labour.

For the purposes of this definition, a contract is principally for the supply of labour if more than half of the direct costs properly attributable to deliverables to be supplied under the contract is for labour.

Workforce contracting services

means services where a workforce services provider uses a prescribed worker as part of a workforce engaged or deployed by the workforce services provider to perform work in meeting the requirements of a workforce contract that the workforce services provider has with a customer.

For the purposes of this definition:

- 1) A person is a prescribed worker if:
 - a) the person does not genuinely operate their own business and perform the work in that business, or is not otherwise deemed to be an independent contractor; AND
 - b) an industrial instrument covers the person or would cover the person as an employee if employed to do the work:
- 2) A workforce services provider uses a prescribed worker if the workforce services provider:
 - a) makes arrangements with the work seeker that require the worker to follow its instructions or work under its general guidance; or
 - b) determines where, when, or how the work seeker carries out their work; or
 - c) requires the worker to sell or supply their work product to it (or its nominee) as the first link in a buying or supply chain in relation to that work product.

- 3) Sub-paragraph (2) applies regardless of whether the workforce services provider makes the arrangements directly with the worker or indirectly through another person.
- 4) A workforce is group of two or more workers who are working or available to work to meet the requirements of a workforce contract.

Workforce services

means any of the following services, other than government contracted employment services:

- 1) workforce contracting services;
- 2) contract management services;
- 3) on-hire services;
- 4) placement services.

Workforce services provider

means a person who provides workforce services in trade or commerce.