



ASA | RCS

Workers' Compensation
Risk Certification

PROGRAM GUIDE



American Staffing Association



risk control services



Workers' Compensation Risk Certification Program

Introduction

As insurance costs continue to rise, staffing firms find their workers' compensation insurance to be one of their greatest expenses. And the few available carriers are using stringent underwriting requirements and insuring only companies that can demonstrate that they effectively manage risk.

To address this growing industry concern, the American Staffing Association began discussions with industry leaders in the areas of insurance and risk management. After nearly two years of research and discussion, in 2005, ASA and Risk Control Services unveiled a workers' compensation safety and risk management certification program for the staffing industry.

The objectives of the certification program are to (1) establish an industry standard of operational excellence in the area of risk management to reduce workplace injuries and related costs; (2) formally recognize staffing firms that meet the standards established under the program; and (3) promote the development of voluntary workers' compensation markets for the staffing industry.

About ASA

The American Staffing Association is the voice of the staffing industry. ASA promotes the interests of its members through legal and legislative advocacy, public relations, education, and the establishment of high standards of ethical conduct.

The association's member companies operate more than 15,000 offices across the nation and account for 85% of U.S. industry sales. ASA has 73 affiliated chapters in 45 states and the District of Columbia.

Members offer a variety of services, including temporary help, permanent placement, temporary-to-permanent placement, long-term and contract help, managed services (often called "outsourcing"), training, human resources consulting, and PEO arrangements, in which a staffing firm assumes responsibility for payroll, benefits, and other human resource functions.

About RCS

RCS is a risk management consulting firm for the staffing industry. For over 15 years, the RCS risk management program has provided over 700 staffing clients proven tools that reduce workers' compensation costs. The RCS Strategic Risk Management Program has become the staffing industry's textbook on management of risks associated with workers' compensation. The RCS team of professionals

- Understands the distinctiveness of the staffing industry
- Provides risk management sales and operations training
- Conducts baseline audits and compliance evaluations
- Benchmarks companies against industry standards
- Evaluates client work-site safety practices



Program Benefits

There are several benefits for staffing firms, the staffing industry, and the insurance industry, to implement proven risk management practices in the form of a certification program.

Staffing Firms

- Creates leverage in insurance negotiations
- Provides recognition as an industry leader
- Assists in promoting the industry
- Serves as a tangible marketing tool
- Enhances profitability
- Helps staffing firms assess and manage workers' compensation risk and lower costs

Staffing Industry

- Promotes the industry as a "responsible employer"
- Mitigates the "high hazard" perception
- Recognizes achievements of staffing firms
- Communicates a recognized standard of risk management excellence
- Enhances worker safety and lowers frequency and severity of employee claims

Insurance Industry

- Provides a tool for identifying staffing firms that warrant underwriting consideration
- Provides ongoing monitoring that staffing firms are adhering to an operational standard
- Provides a forum to interact with other insurers active in the staffing industry and to learn about industry trends and opportunities.

Advisory Council

An advisory council of underwriters, brokers, staffing industry risk managers, and ASA and RCS representatives has been established. The role of the advisory council is to develop risk management standards for the certification program, review the standards on an annual basis, and promote additional insurance coverage options for the staffing industry. The following individuals serve on the advisory council:

Underwriters

Karen Hawkins, Zurich North America
Gary Guckemus, CPCU, AIG
Rob Purdy, American Home Assurance Co./AIG
Paul Gills, Alea Alternative Risk

Brokers

Jim Farber, LIC, CIC, Executive Strategies
Jeffrey Friedrich, CPCU, ARM, Assurance Agency Ltd.
Steve Odell, CIC, LyonsOdell Insurance
Mike Christian, Risk Strategies Co.
Daryl Dittmer, Risk Strategies Co.

Risk Managers

Rita Franklin, ATC HEALTHCARE
Diana Rich, ARM, Remedy Intelligent Staffing
Susan Sisk, SPHR, TOPS Staffing, LLC

ASA and RCS

Jamie DeBellas, RCS
Kyle Hutton, RCS
Trish McCall, RCS
Dan Struve, Helpmates Personnel
Kelly Verberg, ASA
Richard Wahlquist, ASA

Program Evaluation

The certification program is designed to take into account the various disciplines that make up a staffing firms' payroll. The evaluation is composed of eight modules (see Appendix A):

1. Core (used for all evaluations)
2. Clerical
3. Light industrial
4. Health care
5. Professional–technical
6. Skilled trades and crafts
7. Transportation and fleet safety
8. Hospitality and food service

Each staffing firm's mix of business will determine which modules are used. Because the core module represents practices applicable to all staffing operations, a minimum of two modules will be used for each staffing firm seeking certification. For example, if a staffing firm's payroll is 50% clerical and office staff placement and 50% light industrial placement, the core, clerical, and light industrial modules would be used.

The evaluation is broken into 10 distinct divisions:

1. Operating facilities
2. Pre-employment phase
3. Personnel records
4. Interview and employee selection
5. Orientation
6. Client safety programs, evaluations, and communication
7. Accident and injury investigations
8. Modified duty
9. Claims management
10. Miscellaneous

Program Requirements

1. Statement of Legal Compliance and Evidence of Insurance Coverage

Every staffing firm seeking certification must, as part of the initial application process, certify that it is in compliance with all laws as they apply to workers' compensation insurance coverage in all jurisdictions in which the firm operates and must provide evidence that the firm has secured the coverage required by law in those jurisdictions (Texas allows employers to nonsubscribe). To satisfy these requirements, each applicant must do the following:

- A. Certify on the application that it is in compliance with the applicable laws in all jurisdictions in which it has operations that pertain to the maintenance of workers' compensation coverage, and acknowledge that any certification awarded under the program may be revoked if the staffing firm is determined to have engaged in unlawful conduct relating to its workers' compensation practices.
- B. Identify all of the jurisdictions in which it operates and is required to maintain workers' compensation coverage, and for each workers' compensation insurance policy in force,



include with the application form a current policy declarations page or certificate of insurance, which RCS will verify with the named carrier.

2. Workers' Compensation Coding

Applicants must demonstrate an understanding of, and adherence to, the rules pertaining to the proper assignment of workers' compensation codes. Any inaccurate coding discovered during the compliance assessment will prevent the applicant from meeting the standard until such time that the issue is addressed and verified with supporting documentation. Any applicant found to be intentionally miscoding will not be certified.

3. Substance Abuse Program

Applicants must employ a written substance abuse policy, to include substance abuse testing on a post-accident basis for all employees.

4. Client Site Evaluations

Applicants must take reasonable steps to evaluate the working environment of client work sites. Policies and procedures regarding evaluation criteria, frequency of evaluations, methodology for inspection, etc. must be part of the formalized safety and health programming.

5. Modified Duty

Applicants must have a written modified duty program (e.g., transitional or light duty).

ASA Code of Ethics

All applicants must agree to abide by the ASA Code of Ethics and Good Practices (see Appendix B) as a condition of certification.

Compliance with Employment Laws

All applicants and certified companies are expected to understand and comply with applicable employment laws. ASA publications are available to assist in educating staffing firms regarding such laws. Two books that are especially helpful are *Employment Law for Staffing Professionals* and *Co-Employment: Employer Liability Issues in Third-Party Staffing Arrangements*. In addition, ASA members should be aware of the state laws that specifically apply to their segment of the industry, such as health care or day labor. Those laws may be accessed by visiting the ASA Web site at americanstaffing.net.

Certification Overview

Eligibility

To be eligible for certification, an applicant must meet the following two requirements:

1. The applicant must be a staffing firm and not a professional employer organization (PEO) as those terms are defined below.

A staffing firm is a firm whose business consists primarily of recruiting and hiring its own employees and assigning them to other organizations to support or supplement their work forces, or to provide assistance in work situations such as employee absences, skill shortages, and seasonal



workloads, or to perform special assignments or projects, and customarily attempts to reassign the employees to other organizations when they finish each assignment.

A PEO is defined as an organization that enters into professional employer arrangements with clients under which the organization agrees to employ all or a significant part of a client's work force and where employer responsibilities for those employees are in fact allocated between or shared by the PEO and the client. The employer responsibilities are deemed allocated between or shared by the PEO and the client whenever the agreement between the client and the PEO expressly provides for such allocation or sharing.

2. The applicant must be open for business and actively placing people on assignment.

Staffing firms that apply for certification that are insured for workers' compensation through a PEO in accordance with applicable insurance laws and policies are eligible to become certified.

Process

The certification process includes the following steps:

1. Staffing firm completes certification application and receives RCS products, including a copy of the RCS *Strategic Risk Management Manual* and interactive training series which includes a CD training tool for internal staff.
2. Staffing firm reviews training materials and makes changes (if required) in company operations, and then schedules compliance assessment with RCS.
3. RCS conducts an on-site compliance assessment at staffing firm offices.
4. As an optional component, RCS will offer training services to staffing firms requesting assistance with implementation. Additional fees will be required.
5. RCS provides staffing firm with a compliance review score utilizing a quantitative format approved by the advisory council.
6. If staffing firm earns a score that is within the certification standard as described below, the staffing firm will become certified. If not, the staffing firm may elect to undergo additional assessment to ensure recommendations are implemented, after which they will be rescored. A fee will be charged for additional assessments (see fee schedule).
7. To maintain certification, staffing firms must renew their certification on an annual basis and pay a renewal fee, after which RCS will conduct another compliance assessment with a review score for certification (see fee schedule).

Scoring

Each applicant will be scored based on its individual business mix. The actual cumulative score is compared to the maximum possible score for each of division evaluated. The staffing firm is provided with an overall score, a score for each module, and a score relative to each of its business divisions. The final score is graded according to the following key:



Excellent	95%—100%
Good	77%—94%
Fair	70%—76%
Needs improvement	69% or less

Those companies scoring an 80% or higher will be certified.

Existing RCS Clients

Staffing firms that have previously gone through an RCS risk management program may be eligible for full certification without further assessment or evaluation depending on the scope of the prior program and the staffing firm's evaluation score. RCS clients should contact RCS directly to determine whether they are eligible for grandfathering under this provision and the applicable fees. RCS has sole discretion in determining eligibility for grandfathering.

All staffing firms that have previously gone through an RCS risk management program will be charged a special reduced application fee (see fee schedule).

Decertification

Grounds for staffing firm decertification include:

1. Failure to meet or maintain the certification requirements, standards, or program rules, including the failure to pay certification fees when due
2. Violation of the ASA Code of Ethics and Good Practices (see Appendix B)
3. Allowing the use of the staffing firm's certification status by an affiliated entity or any other staffing firm or their representatives that is not certified
4. Knowingly giving incomplete or inaccurate information to RCS or purposefully withholding relevant information
5. Knowingly representing its certification under this program to be more than is supported by the certification requirements and standards
6. Being found by a court of law, regardless of the nature of the adjudication, to have willfully failed to pay any insurance company or insurer its lawfully due insurance premiums or to have defrauded or conspired to defraud any insurance company or insurer
7. Failure to inform RCS within 10 days of discovery of any material fact adversely affecting the company's certification status
8. Providing workers' compensation coverage through an unauthorized insurer
9. Failure to ensure that all temporary and contract employees are covered by workers' compensation insurance, where required by law



Decertification Review and Hearing Process

1. A complaint alleging grounds for decertification must be filed in writing with the president of Risk Control Services and the president of the American Staffing Association. RCS and ASA shall refer it to the advisory council, as appropriate, who shall consult with ASA counsel to determine whether the complaint alleges good cause for decertification. Such determination shall be made within 10 days from the date of receipt of the complaint.
2. If the complaint does not allege good cause for decertification, the advisory council shall dismiss the complaint and ASA and RCS shall notify the complainant in writing within five days from the date of such determination. The complainant shall be advised that there is no appeal from such a determination.
3. If the complaint does allege good cause for decertification, the presidents of RCS and ASA shall, within five days from the date of such determination, send a copy of the complaint to the subject of the complaint (“respondent”), and at the same time shall send the complainant and the respondent a copy of these decertification procedures. Respondent can admit to the charges and voluntarily accept decertification or may elect to go through a hearing process as set forth in paragraphs 4 through 10 below. A staffing firm that elects to waive its right to a hearing and accept decertification must so indicate in writing to the president of RCS and ASA within 5 days following its receipt of the complaint.
4. Unless respondent waives its right to a hearing as provided above, the advisory council shall within 15 days from the good-cause determination appoint a review board of five members, none of whom shall be current members of the RCS or ASA board of directors.
5. The review board shall schedule a hearing, notifying the respondent in writing at least 30 days in advance of the date, time, and place of the hearing. The respondent shall be specifically advised of the right to be represented by counsel, present witnesses on his or her behalf, and cross-examine all witnesses. The complainant shall be required to give testimony against the respondent. The respondent may waive his or her right to appear in person at the hearing and may agree that all evidence shall be submitted in any other manner suitable to the review board.
6. After hearing the evidence, the review board may dismiss the case against the respondent, issue a warning to the respondent, or revoke the respondent’s certification. The review board shall act by majority vote within 10 days after the hearing.
7. The respondent may appeal a decision of decertification by filing a notice to appeal, in writing, with the presidents of RCS and ASA within 30 days following the date of the decertification decision. The RCS and ASA presidents shall appoint a three-member appeals board from the RCS and ASA board of directors.
8. The appeals board shall review the record of the proceedings and shall permit the respondent to submit a written statement explaining his or her position, which must be submitted at the time of the appeal. By majority vote, the appeals board may decide to hold a hearing, which decision shall be made within five days after receipt of the appeal. If the board decides to hold a hearing, it shall give the respondent and complainant 30 days prior written notice of the date, time, and place of the hearing, which must be held no later than 45 days after receipt of the appeal. The hearing notice shall include a statement advising respondent and complainant that they have 10 days from



receipt of such notice to advise the board of their intent to appear at the hearing and that, if they fail to do so, a decision will be made based on the existing record.

9. The appeals board must notify the respondent of its final decision, in writing, within 30 days after receipt of the appeal, or if a hearing is held, within 30 days after the hearing. If the appeals board upholds the decision to decertify, the respondent shall, upon receipt of the decision, immediately return his or her certificate to RCS, and cease all use of the Workers' Compensation Risk Certification designation of WRC.

10. No member of the advisory council or review board who has taken part in a complaint proceeding may serve on the appeals board with respect to the same complaint.

Fee Schedule

Initial Application Fee

The initial application fee is as follows:

	ASA Member	Nonmember
Initial Application Fee	\$995	\$1,750

Fee includes the RCS *Strategic Risk Management Manual*, interactive training series which includes a CD training tool for internal staff, and six months' access to the RCS Internet Resource Center

Initial Compliance Assessments

For staffing firms applying for certification for the first time, RCS will conduct an in-person compliance assessment for \$1,250, plus travel expenses, at the corporate headquarters. Additional assessments, if necessary, will be charged at \$1,000 per day with a minimum of a half day. The total number of assessments will be based on the client's scope of operations. If a firm has only one office, only one assessment will be needed. In the case of staffing firms with multiple offices, in addition to the corporate headquarters office, RCS will assess 20% of the firm's branch offices, not to exceed 30 offices. Factors that may be considered in selecting branch offices for evaluation include geographic location, payroll, job classification, and overall risk factors.

Renewal Application Fee

To remain certified, staffing firms must renew their certification annually, which requires a renewal assessment. The renewal application fee is as follows:

	ASA Member	Nonmember
Renewal Application Fee	\$795	\$1,090

Fee includes half-day assessment

Renewal Compliance Assessments

For staffing firms seeking to renew their certification, a half day assessment fee (half of the \$1,000 additional assessment fee) is included in the renewal application fee as indicated above. Upon renewal, in the case of firms with multiple offices, RCS will assess 10% of the firm's offices, not to exceed 15 offices.



Branch offices selected for the renewal compliance assessment may be different from those offices evaluated under the initial compliance assessment.

Existing RCS Clients

All staffing firms that have previously gone through an RCS risk management program must contact RCS prior to applying for certification. RCS will evaluate whether or not the firm is in compliance with the certification standard. Additional compliance assessments may be needed. Firms that qualify for certification will pay a special reduced application fee as provided below.

	ASA Member	Nonmember
Special Application Fee	\$195	\$390

Questions Regarding Certification

All questions regarding eligibility, program rules, requirements, certification status, the complaint process, or any other matter regarding the certification program should be directed to

ASA/RCS Workers' Compensation Risk Certification Program Committee at
 Risk Control Services Inc.
 5506 Mitchelldale
 Houston, TX 77092
 800-807-7475

Appendix A

DEFINITIONS

The definitions below describe what is included in the core evaluation as well as the various staffing sectors that make up a staffing firms' payroll.

Core—Includes review of operating facilities, pre-employment phase, personnel records, interview and employee selection, orientation, client safety programs, evaluations, and communication, accident and injury investigations, modified duty, claims management, and miscellaneous.

Clerical—Secretaries, general office clerks, receptionists, administrative assistants, word-processing and data entry operators, cashiers, etc.

Light industrial—Manual laborers, cleaners, assemblers, machine operators, maintenance workers, etc.

Health care—Physicians, dentists, nurses, hygienists, medical technicians, therapists, home health aides, custodial care workers, etc. Health care staffing often falls into one of the following categories: travel nurse staffing, per-diem nurse staffing, allied services, and locum tenens.

Professional-technical—Accountants, bookkeepers, attorneys, paralegals, middle and senior managers, advertising and marketing executives, and other nontechnical occupations that require higher skill or education levels; engineers, scientists, laboratory technicians, architects, draftsmen, technical writers and illustrators, and other individuals with special skills or training in technical fields involving math or science; consultants, analysts, programmers, designers, installers, and other occupations involving computer sciences (hardware or software) or communications technology (Internet, telephony, etc.)

Skilled trades and crafts—Carpenters, plumbers, electricians, MIG and TIG welders, and skilled labor working primarily in construction related environments. Most skilled trades require a license or accreditation specific to that trade. Individuals qualifying as tradesmen normally merit higher wages than other construction or industrial positions.

The following NCCI classification codes are samples of skilled trades work:

- 5183 Plumbing not otherwise classified and drivers
- 5190 Electrical wiring within building and drivers
- 3365 Welding or cutting not otherwise classified and drivers
- 5403 Carpentry— not otherwise classified
- 5651 Carpentry—dwellings three stories or less
- 5645 Carpentry—detached one- or two-family dwellings

Transportation and fleet safety—Truck drivers, parcel delivery, bus company drivers, taxi or limousine service drivers or other livery or other duties requiring the operation of a motor vehicle on public roads and highways. Depending on the specific duties of these positions, a Commercial Drivers License (CDL) and compliance with Department of Transportation (DOT) regulations may be required. Transportation of temporary or contract workers to their assignment, by a staffing firm, is also contemplated as duties related to this discipline.

The following NCCI classification codes are samples of transportation and fleet safety work:

- 7380 Drivers, chauffeurs, and their helpers not otherwise classified as commercial
- 7370 Taxicab company and drivers—including all employees other than garage employees



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- 7228 Trucking—local hauling only, including all employees and drivers
- 7229 Trucking—long distance hauling only, including all employees and drivers
- 7231 Trucking—mail, parcel or package delivery, including all employees and drivers
- 7382 Bus companies and drivers—including all employees other than garage employees

Hospitality and food service—Chefs, short order cooks, wait staff, table bussing, cafeteria workers, caterers, bartenders, servers and other employees working for restaurants, caterers or hotels including cleaners, assemblers, machine operators, maintenance workers, etc.



Appendix B

ASA CODE OF ETHICS AND GOOD PRACTICES

ASA members acknowledge that compliance of this code of ethics is in the best interests of the staffing services industry, its customers, and its employees. ASA members agree to always strive

- To comply with all laws and regulations applicable to their business, and to maintain high standards of ethical conduct in the operation of that business and in their dealings with employees, customers, and competitors.
- To treat all applicants and employees with dignity and respect, and to provide equal employment opportunities, based on bona fide job qualifications, without regard to race, color, religion, national origin, sex, age, disability, or any basis prohibited by applicable law.
- To maintain high standards of integrity in all advertising and to assign the best qualified employees to fill customers' needs.
- To determine the experience and qualifications of applicants and employees as the staffing firm deems appropriate to the circumstances, or as may be required by law.
- To explain to employees prior to assignment their wage rate, applicable benefits, hours of work, and other assignment conditions—and to promptly pay any wages and benefits due in accordance with the terms of their employment and applicable legal requirements.
- To encourage employee efforts to upgrade their skills.
- To satisfy all applicable employer obligations, including payment of the employer's share of Social Security, state and federal unemployment insurance taxes, and workers' compensation—and to explain to employees that the staffing firm is responsible for such obligations.
- To ascertain that employees are assigned to work sites that are safe, that they understand the nature of the work the customer has called for and can perform such work without injury to themselves or others, and that they receive any personal safety training and equipment that may be required.
- To take prompt action to address employee questions, concerns, or complaints regarding unsafe work conditions, discrimination, or any other matter involving the terms and conditions of their employment.
- To confirm their temporary employees' periods of service upon request by a subsequent employer and with the consent of the employee.
- To observe the following guidelines to ensure an orderly transition when taking over an account being serviced by another staffing firm:

—The outgoing firm and its employees should, whenever feasible, be given reasonable prior notice that the account is being transferred.

—Assigned employees of the outgoing firm should, whenever feasible, be allowed to continue working on the payroll of the outgoing firm for some reasonable transition period; thereafter, they should be given the choice of accepting an assignment with another customer of the outgoing firm if one is available, or applying to stay on their current assignment with the new staffing firm.

These guidelines are subject to enforceable contracts between staffing firms and their customers, employees, and other parties, and are not intended to prohibit or discourage any



other provisions or arrangements, agreeable to the parties, that achieve an orderly transfer of accounts. ASA members are encouraged, whenever feasible, to specifically address the terms and conditions relating to the transfer of accounts in written agreements with their customers.

Code of Ethics and Good Practices for Day Labor Services

Recognizing that staffing firms that provide construction and other types of day labor services make an important and unique contribution to the communities they serve by providing employment for those who need temporary work, and further recognizing that their employees and prospective employees deserve to be treated with respect, fairness, and dignity, the American Staffing Association has established this Code of Ethics and Good Practices applicable to day labor services.

For the purposes of this code, day labor means work that is occasional or irregular, and where the individuals seeking work report voluntarily to a central location and are assigned to customer job sites as work becomes available. Individuals generally are assigned to work, and are paid, on a daily basis.

As a condition of membership, each firm providing day labor services pledges its support of and adherence to this code and to the general code of ethics and good practices applicable to all ASA members. Each member providing such services agrees to always strive

- To comply with all laws and regulations applicable to its business, and to maintain high standards of ethical conduct in the operation of that business and in its dealings with employees, customers, and competitors.
- To treat all applicants and employees with dignity and respect, and to provide equal employment opportunities, based on bona fide job qualifications, without regard to race, color, religion, national origin, sex, age, disability, or any basis prohibited by applicable law.
- To maintain high standards of integrity in all advertising and to assign qualified employees to fill customers' needs.
- To determine the experience and qualifications of applicants and employees as the staffing firm deems appropriate to the circumstances, or as may be required by law.
- To explain to employees prior to assignment their wage rate, applicable benefits, hours of work, and other assignment conditions—and to promptly pay any wages and benefits due in accordance with the terms of their employment and applicable legal requirements.
- To ascertain that employees are assigned to work sites that are safe, that they understand the nature of the work the customer has called for and can perform such work without injury to themselves or others, and that they receive any personal safety training and equipment that may be required.
- To take prompt action to address employee questions, concerns, or complaints regarding unsafe work conditions, discrimination, or any other matter involving the terms and conditions of their employment.
- With respect to the procedures to be followed in dispatching:
 - To promptly advise individuals remaining in the dispatching office when it appears likely that no further customer orders will be received.
 - To pay employees a pre-stated minimum amount if they report punctually to a designated customer ready and able for work and the customer does not utilize their services.



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- To keep the dispatching office and the immediate surroundings clean and well lighted and to provide adequate restroom facilities for workers waiting to be dispatched.
- To pay wages only by negotiable check or in cash or cash equivalents, and to give employees an itemized statement of gross earnings, advances, deductions, and net earnings for each pay period.
- To pay wages at the staffing firm office or by mail to the employee's mailing address. Other arrangements may be made at the request of the employee.
- To advise workers that they are not required to use staffing firm-supplied transportation, if any, to the customer job site.
- To confirm their temporary employees' periods of service upon request by a subsequent employer and with the consent of the employee.