# STAFFING INDUSTRY

## **BEST PRACTICES - CONTRACTUAL RISK MANAGEMENT**

Many staffing firms do not follow best practices in negotiating, reviewing and executing contracts with clients. As a result, these firms assume risk they should not assume, which inevitably escalates how much these firms pay to resolve claims and leads to the erosion of margins. Often, these staffing firms hold a number of false assumptions about the contracting process. These false assumptions include:

# **FALSE ASSUMPTION**

We will lose the client if we try to negotiate the terms of the contract.

#### REALITY

This is not true in our experience.

## **FALSE ASSUMPTION**

We have insurance and therefore we are covered for claims. **REALITY** 

Your clients often attempt to pass uninsurable risk to you in indemnification and other provisions of the contract.

### **FALSE ASSUMPTION**

There isn't an efficient way to have professionals review our contracts.

#### REALITY

A professional who knows your industry and is familiar with contracts in your industry can review your contracts efficiently and effectively.

Successful staffing firms understand the contracting process. They adopt policies that ensure a systematic approach to negotiating, reviewing and executing contracts. They put risk parameters in place and create an internal and external team to review contracts to make sure that the contracts do not deviate from the established risk parameters. They identify the key provisions in contracts, such as the indemnification clause, the insurance provisions and the provisions establishing client responsibilities and negotiate these terms to fairly allocate risk between their client and them. By following these best practices, they efficiently and effectively manage contractual risk and protect their margins.



# RECOMMENDED ACTION

We recommend that our clients undertake periodic audits of their contracting process. Such an audit should include at a minimum: a review of recently executed contracts; an interview of internal personnel involved in the contracting process; and a review of current insurance policies. Internal decision makers should work with external professionals to develop and conduct the audit. A properly coordinated and conducted audit will reveal whether you are assuming unnecessary and unknown risk and identify the steps you can take to avoid doing so in the future.

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