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Submission to the Federal Inquiry into Independent Contractors and Labour Hire Arrangements

SKILLED Group

Standing Committee on
Employment, Workplace
Relations and Workforce
Participation

MARCH 2005

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SKILLED Group Limited has witnessed significant changes to the labour hire industry throughout its 40 year history. As the original and largest provider of workforce services in Australia, SKILLED is well placed to provide information to the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation as it inquires into the use of independent contractors and labour hire arrangements.

SKILLED's employees are its business. We advocate that they are our employees and that SKILLED is a legitimate, lawful and genuine employer abiding by Federal and State laws regulating areas such as Occupational Health and Safety and employee entitlements.

It is our view that the labour hire industry in Australia is fragmented and can be classified into three tiers:

- **Tier I** - large reputable companies with good cash flow, excellent OH&S, Industrial Relations and workers' compensation policies paying award rates;
- **Tier II** – medium sized companies that may both be able to fund OH&S or IR systems; and
- **Tier III** – operators with questionable business practices.

Investigations of the labour hire industry typically focus on the practices of the **Tier III** companies. Many of these companies do not pay proper entitlements to employees or taxes to governments and do not have robust OH&S or industrial relations policies. As such, they are often the main targets of the criticism levelled to the industry by some unions and academics.

We find that much of these academic findings are inconsistent with our experience and we welcome the opportunity to provide the committee with further input to this discussion. However, these academic findings could very well be the case for Tier III operators.

The failure of any other commentator of the industry to make the distinction between the ethical operators and the “fly by night” firms has resulted in a negative image of the labour hire industry in general.

SKILLED prides itself on its workplace practices and ethics and welcomes the Australian Government's labour hire inquiry as an opportunity to clarify some of the misconceptions about labour hire.

It is our view that Tier III firms need to be abolished. We believe that licensing could be one way of achieving this. Licensing could also go a long way to providing checks and balances in a complex industry environment.

2.1 Skilled Group Limited

SKILLED Group is an Australian-owned publicly listed company established in 1964. It specialises in the provision of labour and services to industries in the public and private sector.

SKILLED Group acquired Origin Healthcare in 2004, which is Australia's leading nursing agency (labour hire in the healthcare sector).

SKILLED's revenue for last financial year was \$736 million. We have around 70 offices nationally. SKILLED is a significant employer in its own right, employing roughly 11,000 people.

We have a diverse workforce - encompassing production, trades, and nurses. SKILLED provides services to over 6,000 clients across a broad section of Australian industry.

SKILLED is proud of its substantial achievements in OH&S and is the only labour hire company in Australia to be accredited under AS/NZS 4801.

2.2 Labour Hire

Labour hire can be defined as "the provision of services where an organisation provides one or more of their employees to a client to perform work as requested at a place specified and managed by that client" (RCSA definitions).

Labour hire has undergone significant growth over the last 5 – 10 years driven by client demand and a changing business environment as a result of:

- skill shortages;
- globalisation contributing to greater competitive pressure,
- technology;
- corporate restructuring and outsourcing non-core business operations,
- extended hours of operation; and
- industry growth.

SKILLED also provides contracting services whereby we undertake managed projects or contracts to an organisation where the client has outsourced defined operational functions such as plant shut-down or contract maintenance. Under this arrangement SKILLED is responsible for the delivery of a contract package including labour, plant, management and associated systems of work.

2.3 Benefits of Labour Hire

2.3.1 Benefits to clients

Some commentators have argued that labour hire is utilised for the sole purpose of driving down wages and conditions. In SKILLED's experience this is not the case. It is the sheer efficiency of being able to have a flexible workforce to meet peaks in demand that enables companies to maintain a core workforce with the capacity to top up to immediately meet work schedules that reduces costs.

Outsourcing labour enables businesses to cover peak periods, staff illness or leave or to manage specific work such as programmed maintenance. This is the key issue for some manufacturers where production is cyclical and clearly focused on a just in time approach.

It also allows some organisations to re-think their workforce planning as a result of gaining additional business under the fixed versus variable cost model without immediately employing full time employees. Labour hire provides clients with employees that have been pre-screened including reference checks and tested for skills and competency levels.

SKILLED has an exceptional OH&S management system and clients are provided with skills, knowledge, expertise and an understanding of statutory requirements that is sometimes not available in-house, particularly in smaller businesses.

In the last decade many businesses have undergone considerable restructuring to focus on core business operations. Labour hire is often used to outsource ancillary duties, allowing companies to focus on their business strengths. It allows clients to pursue a workforce optimisation strategy giving them the optimal mix of different types of employees — including labour hire.

Occasionally, and more often in a white collar situation, labour hire will be utilised when a company is unable to employ permanent staff due to a company headcount freeze.

2.3.2 Benefits to Employees

While some critics have been quick to label labour hire workers as 'second class' employees, research conducted by SKILLED found that labour hire was rated as 'better' or 'the same' for every area surveyed in comparison to working for an employer.

Diversity and variety of work was rated 89% better or the same, 84% agreed flexibility of working hours was superior and 85% rated labour hire employers as ensuring a safer workplace as better or the same as working for an employer.

Labour hire employees are assigned to work for a client or a range of clients where employment remains diverse, stimulating and capable of providing a range of skills for future employment opportunities.

The flexible nature of labour hire also allows employees to work 'in-between jobs' reducing any reliance on welfare or social security.

2.4 Benefits to the Australian Economy

The labour hire industry is a dynamic component of the Australian economy, providing a competitive edge to business and the government. It promotes better utilisation of the country's collective skill base and intellectual assets by providing ongoing work opportunities for skilled people across industry. The micro benefit is realised by the individual business and this translates to a broader macro gain for the state and national economy.

In a modern growing economy a flexible workforce is critical. It is our view that without the labour hire industry, it is highly possible that business could be sent offshore to Asian countries where there is a cheap and flexible workforce.

SUMMARY OF LABOUR HIRE BENEFITS

To Clients

- Flexibility;
- Specialist skills;
- Access to skills – current skills shortage
- Cover peaks in business;
- Outsource non-core areas;
- Staff illness/leave;
- Reduced costs;
- Manage key areas of expertise such as OH&S

To Employees

- Variety and diversity of work;
- Flexibility of working hours;
- Flexibility in choosing jobs;
- Multi-skilling through broad experience;
- On-the-job training;
- Superior wages and working conditions;
- Excellent OHS policies including rehabilitation and return to work.

**Based on SKILLED's Auspoll survey 2003-2004

2.5 Casualisation of the Workforce

Over the past 20 years the nature of work has changed considerably. Tariffs have been dismantled, imports have increased and the deregulation of financial markets has integrated the domestic economy into global markets. Today, businesses are under increasing pressure to deliver profits through cost

reduction, productivity increases and growth opportunities. As a result, they are experiencing fundamental changes in the way they operate.

Today, labour hire plays a critical role in a modern and growing economy allowing Australian companies to meet their business objectives through a flexible workforce without taking business off-shore.

2.6 Employees preference for casual work

Some academics have been quick to condemn casual employment, often referring to it as 'precarious' employment or contingent work characterised by insecurity and the absence of a career path. Quantitative evidence documenting differences in the quality of jobs by employment status is scarce and Wooden and Warren¹ argue that many writers presume that casual employment is synonymous with inferior, sub-standard jobs.

Wooden and Warren said that recent survey data suggests that the 'bad job' tag that is traditionally attached to casual employment may not be deserved and in their analysis of the 1995 Australian Workplace Industrial Relations Survey Hall, Harley and Whitehouse conclude that on average casual workers report higher levels of overall job satisfaction and more favourable responses on a range of other attributes such as fairness of pay and job stress.

This is consistent with data collected from SKILLED employees in a 2003-2004 study conducted by Auspoll whereby 79% of respondents were very happy or happy with their employment at SKILLED.

While SKILLED employs many permanent workers, the majority of labour hire placements in Victoria remain placements of casual employees. According to Wooden, many casuals prefer casual employment possibly because they are attracted to the immediate cash awards provided by the pay loading that often accompanies casual employment.

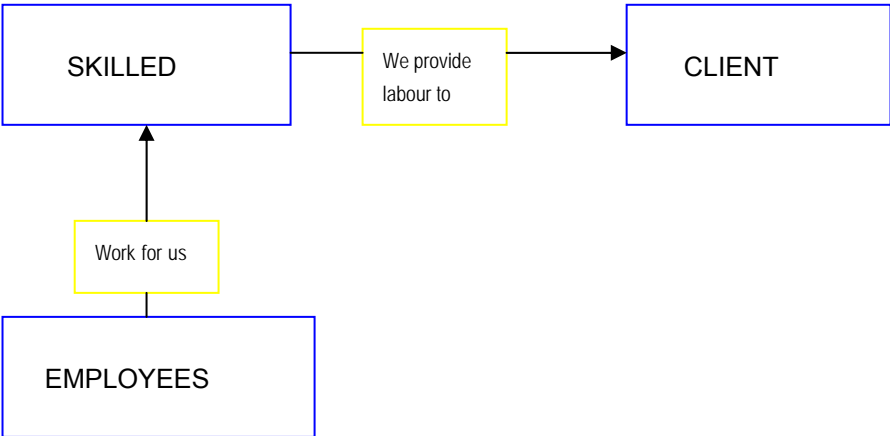
¹ The Characteristics of Casual and Fixed-Term Employment: Evidence from the HILDA Survey - Mark Wooden and Diana Warren, June 2003

3.1 The labour hire client-employee relationship

At the onset, we want to clarify the relationship between SKILLED, our employees and our clients.

Some people refer to the clients as host employers. We reject this notion and find that its use adds to the confusion about the real relationship.

We have a contractual relationship with our clients by providing the services of our employees to them. The people who work for SKILLED are our employees and as such we have a legal and moral obligation to them.



3.2 A fragmented Industry.

Over the past 40 years SKILLED has witnessed significant change to the labour hire industry. The size of the industry in Australia is now estimated to have total revenue of around \$10 - \$12 billion.

Because the barriers to entry are low, it is difficult to estimate the number of labour hire companies in Australia. A 2001-2002 Australian Bureau of Statistics survey showed there were 2,704 organisations in the employments services sector. However this is likely to be a conservative estimate since the WorkCover submission to the Victorian Labour Hire Inquiry said there are approximately 1200 employers classified as labour hire in Victoria alone.

Table 1 Labour Hire - Three tiered Industry

Tier I	Large reputable companies with good cash flow, OH&S, IR, Workers comp
Tier II	Medium sized companies may provide some of above but unable to fund others
Tier III	“Fly by Night” operators with questionable business practices

We would classify SKILLED as a Tier I company that meets all its financial and ethical obligations to its staff, employees and the wider community. Some of the small players (Tier III) can set up shop with an office and a phone and may not adhere to all current legislation regarding OH&S, IR and taxation.

3.3 Tarnished Industry Image

SKILLED is concerned about the failure to distinguish between the Tier III and the ethical operators in Tier I such as SKILLED. There is a perception that Labour Hire operators have been delinquent in their responsibilities to their employees.

This has resulted in a negative image of the labour hire industry through broad brush statements by some unions and academics, often with little or no supporting evidence.

SKILLED welcomes the Federal Governments industry inquiry and the opportunity to clarify some misconceptions about labour hire.

3.4 How SKILLED operates within the industry

SKILLED was the pioneer of labour hire in Australia and continues to be this country’s leading labour hire operator. With over 40 years experience in the community, SKILLED leads the way in providing a strong commitment to OH&S and industrial relations.

3.4.1 SKILLED’s Commitment to OH&S.

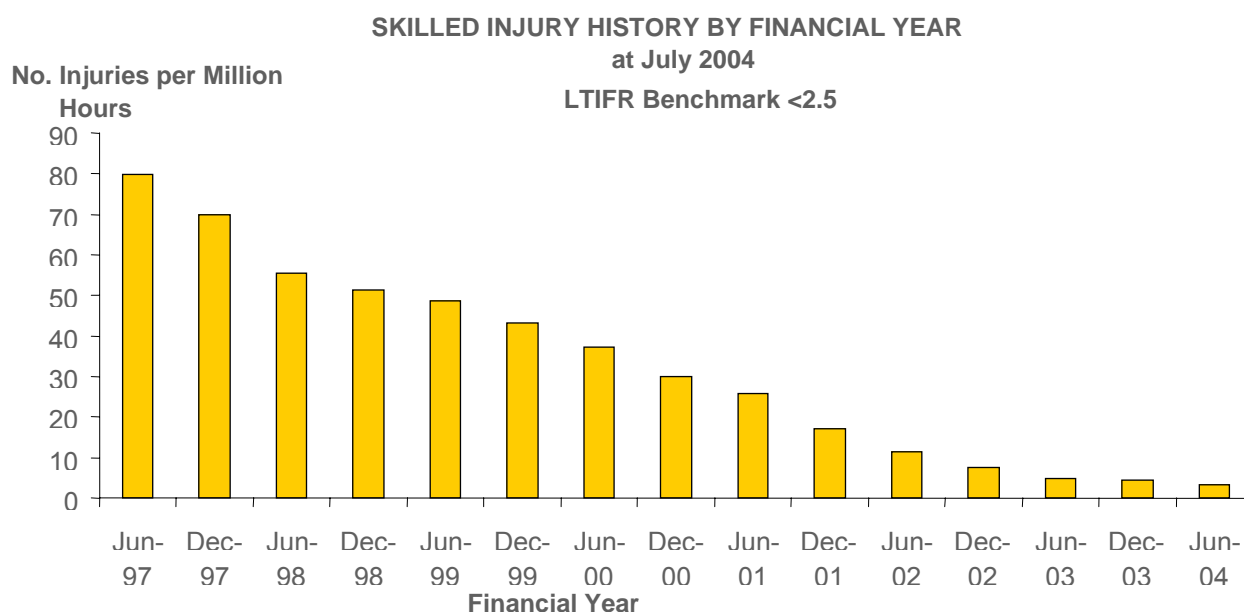
SKILLED’s current objective is ZERO injuries. A key business value of the company is that each of our employees returns home safely each day;

Our commitment starts with leadership from the Boardroom and permeates the entire organisation. SKILLED is the only labour hire company in Australia to be OH&S accredited under AS/NZS 4801.

SKILLED is also the recipient of numerous awards for OH&S performance. We work with our clients to help them improve their workplace standards and provide a safer working environment.

SKILLED continues to commit resources for continuous improvement and achievement of best practice in OHS and is committed to the principle of providing fair and equitable compensation to employees injured at work. Rehabilitation and return to work is an integral part of our OH&S philosophy.

Since 1997, SKILLED has cut its lost-time injury rate by 94%.



In October 2003 the average claim cost for SKILLED was 56% less than the average claims cost for employers with a remuneration greater than \$1m (Insurance Australia Group, Oct 2003).

SKILLED's average days lost is five times less than the average days lost for large employers (CGU claims data, Oct 2003);

SKILLED's percentage of claims that are of greater than 12 weeks duration is five times less than the average of large employers (CGU claims data, Oct 2003).

It would not be surprising to find that a number of Tier III companies pay no Worker's Compensation and bear no responsibility for OH&S performance.

3.4.2 SKILLED's Commitment to Industrial Relations

SKILLED is committed to best practice Industrial Relations policies and procedures operating within statutory requirements regarding rates of pay and other terms and conditions of employment. This includes:

- Federal Award responsiveness
- Over 20 negotiated Certified Agreements applicable throughout Australia
- About 52% of our employees are union members
- SKILLED has a team dedicated to Industrial Relations

Our IR policies attract quality employees and protect employee entitlements and predictability of pay rates.

Anecdotal evidence (such as business lost on price) indicates to us that some of our competitors are failing to pay award conditions

3.4.3 SKILLED's Commitment to Training and Apprenticeships

Australia's skills shortages, particularly in technical trades, are well documented. This has been an issue for SKILLED over the past 10 years, where we have witnessed a general reduction in the pool of experienced workers.

SKILLED has a strong, ongoing commitment to training and apprenticeships and has more than 550 New Apprentices. This includes 123 four-year Trades apprentices nationally.

SKILLED also has 300 traineeships nationally and last year launched a telecommunication traineeship program with Telstra around the country. The program is expected to educate more than 300 young people across Australia over the next two years.

The SKILLED Trades Foundation was launched in July last year in honour of SKILLED's founder, Frank Hargrave and his contribution to the industry. With \$1 million of funding, the Foundation's activities will include education and encouragement of trades skills.

SKILLED launched Operation Tech in 2004 to address job satisfaction among current trades employees and win back those who have left the trades. The program also aims to stimulate the development of apprenticeships and traineeships.

SUMMARY AND RECOMMENDATION

4.1 Raising the Industry Standard

SKILLED supports the introduction of measures to lift the bar and raise the standards of labour hire operators so that we can remove the tarnished industry image and ensure that employees engaged in labour hire are protected in their work environment and paid award rates.

As such SKILLED supports industry regulation and the establishment of a licensing regime as one possible approach (as recommended by the NSW Inquiry into labour Hire in 2000)

We would also support the establishment of a Working Party, made up of representatives from all stakeholders to determine the detail of a licensing agreement (as recommended in the interim report into Victorian Labour Hire Employment released in December 2004)

Summary

- The labour hire industry in Australia is fragmented and has low barriers to entry
- This has resulted in some Tier III operators impacting negatively on the reputation of the whole industry
- SKILLED Group is a Tier I operator that meets all its financial and ethical obligations to its staff, employees, clients and the wider community
- SKILLED supports industry regulation and the establishment of a licensing regime as one possible approach.