

Worker Leasing vs. Temporary Staffing



What is worker leasing?

Worker leasing is an alternative for employers to manage the administrative functions of their workforce. A worker leasing company is commonly known as a professional employer organization (PEO). Employers enter into an arrangement with a worker leasing company that hires workers, perhaps even the same workers the employer already had, and leases the workers to the employer under a contract for a fee. Worker leasing companies take on the responsibility of payroll, employment taxes, and Workers' Benefit Fund assessments. They may also offer workers' compensation insurance, retirement options, and medical benefits.

What is the difference between worker leasing and temporary staffing?

Providing workers on a temporary basis is defined by Oregon law and rules as providing workers to a client for special situations such as (full text in ORS 656.850 and OAR 436-050-0420):

- ◆ To **cover employee absences or leaves** from which the permanent worker will return to work, such as maternity leave, vacation, or jury duty.
- ◆ To **fill professional skill shortages**. These are usually licensed professionals, such as engineers, electricians, architects, plumbers, and pharmacists to supplement or satisfy a shortage of that skill for a known duration.
- ◆ To **staff for seasonal workload**. This is not necessarily a season of the year but is a temporary increase in

demand upon an employer's normal workload that requires additional assistance to meet the demand. When the demand is over, the additional positions are eliminated. For instance, this can happen on a tree farm where work is ongoing during the year, with an influx of work to be accomplished toward the end of the year for the Christmas harvest.

- ◆ To **staff a special assignment or project** in which the worker will be terminated or assigned to another temporary project upon completion. A special assignment would be one that is outside of the routine activities of the business. For example, a construction contractor may need help on a construction site to clear pine needles, branches, and other debris after a severe windstorm so the regular construction crew can continue its work.
- ◆ To **hire a student worker** provided and paid by a school district or community college through a work experience program.
- ◆ To **cover situations in which the work contract is part of the client's overall employment selection program**, such as a "temp to hire" situation in which new workers satisfactorily pass a probationary period before becoming permanent employees.

Providing workers on a temporary basis requires written documentation that:

- ◆ Indicates the duration of the work.
- ◆ Establishes the work is being provided under a client's special situation.

Without the written documentation and an assignment to fill a client's staffing needs on a temporary basis, all workers provided to the client are leased workers.

In some situations, a staffing company may pay the workers at the end of each day. These situations may be either temporary or leasing, depending on whether the worker is provided for a special situation. Even if the staffing company pays the workers daily, if the job they are doing is not filling a special situation, it is a worker leasing arrangement.



Who is responsible for workers' compensation coverage?

A client using temporary staffing will have its own workers' compensation insurance policy or be self-insured to cover its regular workforce. A temporary staffing provider covers the workers' compensation insurance for the temporary workers, and the client of a temporary staffing provider covers the workers' compensation insurance for its own workers.

In a worker leasing arrangement, the worker leasing company's workers' compensation insurance covers both the provided workers and any subject workers the client may have, unless the client has its own coverage. Workers' compensation coverage for a client employer can be maintained by either the worker leasing company or the leasing client, but not both. An employer can have only one workers' compensation insurer at a time that is responsible for injury claims. Worker leasing companies cannot provide coverage for only the workers they supply to clients, nor can leasing clients provide coverage only for nonleased workers. Even if a staffing provider is providing just one worker that is not for a special situation of an uninsured client, the provider must provide the workers' compensation coverage. If the client company has workers' compensation coverage, the client's insurer covers all the workers.

If the staffing company is providing payroll services that cause the worker's taxes to be paid under the staffing services' tax number, that also is a role of a worker leasing company. Such a "payroll service" is actually a leasing arrangement requiring licensing as a worker leasing company.

Licensing information

Worker leasing companies must be licensed in Oregon before providing worker leasing services.

The licensing process includes:

- ◆ Submitting a complete application.
- ◆ Providing evidence of workers' compensation coverage.
- ◆ Being authorized by from the Oregon Corporation Division to conduct business in Oregon.
- ◆ Having a representative in Oregon with a principal place of business for records retention.
- ◆ Providing a plan of operation.
- ◆ Providing verification of tax compliance.
- ◆ Paying the required licensing fee.

You can find required application materials on the Workers' Compensation Division website at wcd.oregon.gov. Click on Worker leasing under Employers.

For more information, contact:

Worker Leasing Program

503-947-7800

workerleasing.wcd@oregon.gov

Direct access to a worker leasing representative:

503-947-7591 or

503-947-7544

Workers' Compensation Division

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Workers' Compensation



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