

# Worker Leasing vs. Temporary Staffing

## What is worker leasing?

Worker leasing offers an alternative way for employers to manage the administrative functions of their workforce. Under a typical worker leasing arrangement, an employer (referred to as the client) contracts with a worker leasing company, commonly called a professional employer organization, to co-employ all or part of the client's regular workforce. The two employers contractually assign all employer responsibilities. The worker leasing company becomes the employer of record for certain employer obligations, such as payroll, employment taxes, and/or workers' compensation insurance. Worker leasing companies may also offer other services, such as human resources support, retirement plans, and health plan options. This allows the client to focus on the core aspects of its business.

## How is temporary staffing different from worker leasing?

Worker leasing differs from temporary staffing because the

employees are permanent. The law does not define temporary workers by the length of an assignment. Rather, a temporary worker must be provided to supplement an employer's regular workforce to cover a special situation, to work as a student intern, or as a probationary hire, as follows:

- **To fill employee absences or leaves.** This includes events such as family leave, vacation, jury duty, or illness from which the permanent worker will return.
- **To fill professional skill shortages.** These are usually professionals, such as nurses or engineers and are provided for a shortage of that skill for a known or expected duration.
- **To staff for seasonal workload.** This is not necessarily a season of the year, but a temporary increase in demand upon an employer's normal workload that requires more help to meet the demand. When the demand is over, the extra positions are eliminated.
- **To staff a special assignment or project.** A special assignment would be one that is outside of the routine activities of the business and in which the worker will be terminated or reassigned when the project is complete. For example, a company may hire a computer coder to write



new company software. This may be a long-term assignment, but once the project is completed the assignment ends.

- **To hire a student worker.** The worker is paid through a work experience program.
- **To cover probationary employment.** Often referred to as "temp to hire," new workers satisfactorily pass a probationary period before becoming permanent employees. The employer receiving the probationary worker must have a pre-established employment selection program under which the probationary worker was placed.

(See ORS 656.850 and OAR 436-180-0120 for full text.)

## WORKER PROTECTION



## Temporary service providers must maintain documentation or other evidence that:

- Sets out the expected duration of the temporary assignment, including any extensions.
- Describes the special situation that caused the need for the placement of a temporary worker.
- Lists the skill needed by an employer using a temporary worker to fill a professional skill shortage.
- Describes the nature of a temporarily increased workload causing the need for a temporary worker.
- Describes the project and how it is outside the routine activities of an employer's business when a temporary worker is provided to staff a special assignment or project.
- Provides the name of the school or institution and the work experience program for student workers.
- Establishes that an employer using a probationary new hire has established a probationary period in its overall employment selection program before getting a probationary new hire. Evidence may include copies of the employer's probationary new hire program or a written agreement between the temporary service provider and the client establishing the probationary period.

## Without evidence establishing the temporary nature of the placements, all workers provided to the client

## are considered leased workers.

Temporary companies that do not properly classify and document temporary workers they place with employers face civil penalties for operating as a worker leasing company without getting a worker leasing license. In addition, a temporary company that is found to be leasing may be liable for workers' compensation claims for a client's workers even when workers were not placed by the temporary company. This is because the laws regarding workers' compensation coverage for worker leasing companies are different than for temporary companies.

## Who is responsible for workers' compensation coverage?

An employer using temporary employees must have its own workers' compensation insurance policy or be self-insured to cover its regular workforce. The temporary staffing provider covers the workers' compensation insurance for the temporary workers placed with an employer.

In a worker leasing arrangement, workers' compensation coverage for a client employer can be maintained by either the worker leasing company or the client, but not both. An employer can have only one workers' compensation insurer at a time responsible for injury claims. Regardless of which of the two agrees to carry the coverage, all of the client's subject workers must be covered under the same policy. Worker leasing companies cannot provide coverage for only the

leased workers, nor can their clients provide coverage only for nonleased workers. Even if a leasing company is providing just one worker, the workers' compensation policy must cover all of the client's subject workers.

## Licensing information

Companies providing only properly documented temporary placements do not need to license in Oregon. 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
- Obtaining authorization from the Oregon Secretary of State Corporation Division to conduct business in Oregon
- Providing a plan of operation for worker safety
- Providing signed releases for verification of state and federal tax compliance
- Paying the required two-year licensing fee of \$2,050

## For more information, contact:

### Worker Leasing Program

Direct access to a worker leasing representative:  
503-947-7591 or 503-947-7544  
workerleasing.wcd@oregon.gov

### Workers' Compensation Division

350 Winter St. NE  
P.O. Box 14480  
Salem, OR 97309-0405

**community**  
Workers' Compensation

