

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 non-leased 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 too 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, but is not limited to:

- Submitting a complete application.
- Providing evidence of workers' compensation coverage.

- Authorization 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 Web site at www.wcd.oregon.gov. Click on the Worker Leasing Company link.

Contact information

The Workers' Compensation Division is eager to provide information and assistance to ensure workers and businesses are protected and in compliance with Oregon law. The Employer Compliance Program and Worker Leasing Program work together to answer questions as well as help with compliance and worker leasing licensing. Employees from either program can be reached at:

Workers' Compensation Division

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

Web: wcd.oregon.gov

E-mail: WCD.employerinfo@state.or.us

Phone: (503) 947-7815

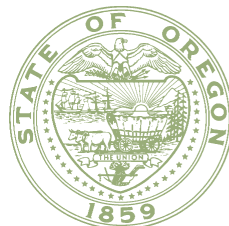
Toll free: (888) 877-5670

TTY: (503) 947-7993

Direct access to a worker leasing representative:

Phone: (503) 947-7544

Cell: (503) 689-5696



440-3487 (7/07/COM)

Worker Leasing vs. Temporary Staffing



Are you providing staffing services on a *worker leasing* or *temporary staffing* basis?



Workers' Compensation Division

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The Oregon Department of Consumer and Business Services, Workers' Compensation Division, protects and serves Oregon's consumers and workers while supporting a positive business climate in the state. One of the ways it achieves this is by licensing worker leasing companies, as required by Oregon law, to ensure they are providing safe workplaces and have the required workers' compensation insurance coverage.



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, pharmacists, etc., 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 where 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 assistance on a construction site to help 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 where the work contract is part of the client's overall employment selection program, such as a "temp to hire" situation where 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.