



NEWS RELEASE

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USE OF LEASED- AND TEMPORARY-WORKER SERVICES REQUIRES CARE TO AVOID LAW-COMPLIANCE CONFUSION

(Salem) Oregon's help-supply industry has tripled since 1999, leading state officials to caution employers that while help-supply services may offer advantages, using them requires careful attention to compliance with employment and workplace laws.

Help-supply services contract with employers to provide either temporary staff or leased workers. Temporary employees remain employees of the temporary-staffing company in all cases and fill jobs on a contractual basis in certain circumstances for a specific period.

Leased employees, who are leased to an employer by a worker-leasing company (or "professional-employer organization"), may work in specialized jobs, some of which require a state license or certification. They differ from temporary employees in that they may make up all or part of an employer's permanent workforce. Leased employees are generally selected by the client employer and hired by the worker-leasing company, which then leases the employees back to the client company under a contract that has the professional-employer organization assuming specified employer rights, risks, and responsibilities. These include paying wages and employment taxes, and may include provision of health benefits, workers' compensation, and training.

Although using professional-employer organizations can save employers time, money, and paperwork, state agencies have seen problems when parties are unclear about who is responsible for ensuring compliance with laws governing workers' compensation coverage, workplace safety and health, apprentice-training programs, construction and landscape contractor licensing, and training and supervision requirements for licensed trades such as plumbers and electricians.

Apprentice training programs — Apprenticeship programs train workers in a variety of trades, allowing employers to pay half what they would pay journey workers at the start of employment, gradually increasing pay during the two- to five-year apprenticeship.

- Employers must register with the Bureau of Labor and Industries (BOLI) as training agents and provide journey-level supervision in order to hire apprentices. Employers and worker-leasing companies that have apprenticeship programs should contact BOLI to ensure that they meet requirements.
- Temporary-employment companies and employers that attempt to register temporary employees as apprentices may be subject to investigation and penalties from BOLI.

For more information, call the Bureau of Labor & Industries, (503) 731-4200.

Contractor licensing — Leasing companies that supply construction or landscape laborers need to be licensed as contractors with the Construction Contractors Board or the Landscape Contractors Board, respectively. A license held by a leasing company's client employer is not sufficient. For more information, call the Construction or Landscape Contractors Board, (503) 378-4621.

Licensed trades — Some worker-leasing companies supply plumbers and electricians, and these trades are licensed and regulated by the Building Codes Division.

- A worker-leasing company providing services for these trades must be licensed, and the workers must also be appropriately licensed.
- Supervising electricians leased to electrical contractors through a licensed worker-leasing company must comply with applicable laws and rules governing supervising electricians.
- A worker-leasing company providing plumbers must be registered with the Plumbing Board on or before July 1 each year.
- Because electrical and plumbing permits are not transferable between employers, the licensed contractors hired to do the work must obtain the appropriate permits.
- A client employer who contracts with a leasing company for electricians and plumbers is legally responsible for ensuring that the leased workers meet licensing requirements — even if the client employer is a licensed electrical or plumbing contractor and has acquired its own permits.

For more information, call DCBS Building Codes Division, (503) 378-4133.

Workplace safety and health — Under Oregon OSHA rules, client employers and temporary or leased employee providers are jointly responsible for ensuring on-the-job safety and health of employees.

- When the client employer directs and controls the employees in the workplace, which is usually the case, the client employer receives any safety-and-health-violation citations issued by OR-OSHA. The client employer is responsible for hazard-assessment and control, site-specific training, personal protective equipment (unless contract specifies otherwise), accident reporting and investigation, and record-keeping.
- The client employer must include any leased or temporary employees when determining whether or not a safety committee is required for the workplace.
- The worker-leasing company is responsible for ensuring that the client provides adequate training, supervision, and instruction to meet requirements on workplace safety issues, procedures and equipment. The temporary-staffing company is responsible for generic training of its temporary workers on workplace safety issues, procedures, and equipment (i.e., hazard identification, hazard communication, PPE, fall protection, etc., depending on the work to which employees will be assigned).
- Worker-leasing companies (when they are providing the workers' compensation coverage for the leased workers) or temporary-staffing companies must file 801 forms to report worker injuries or illnesses to the responsible workers' compensation insurer.
- Worker-leasing or temporary-staffing companies also share responsibility with client employers for accident investigations.
- A client employer can delegate its responsibilities for immediate direction and control over the workplace to the worker-leasing or temporary-staffing company by contract, *if* the latter can demonstrate the ability to take those responsibilities and act upon them appropriately.

For more information, call DCBS Oregon OSHA, (503) 378-3272 or (800) 922-2689, toll-free.

Workers' compensation — Most employees must be covered by workers' compensation insurance purchased by their employer. Under worker-leasing arrangements, such coverage may be acquired by the leasing company or the client company.

- The leasing company must be licensed as an worker-leasing company with the state's Workers' Compensation Division.
- Worker-leasing agreements between client employers and worker-leasing companies should state who is responsible for providing the workers' compensation coverage for all the leased workers and any subject workers.
- If both client and leasing company have coverage, the client company's coverage takes precedence for both leased and direct employees (subject workers).
- If the leasing company is to provide workers' compensation coverage, the client employer can obtain leased workers from only one leasing company at a time.
- When a worker-leasing company provides the workers' compensation coverage for a client employer, the leasing company must file written notice with WCD within 14 days after the effective date of the leasing agreement or contract. A copy of the notice must also be filed by the leasing company with its workers' compensation insurance company.

For more information, call DCBS Workers' Compensation Division, (503) 947-7810 or (800) 452-0288, toll-free.

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