

# Avoid Temporary Worker OSHA Citations

Most construction contractors try to classify their temporary employees correctly. However, it can be confusing and some make honest mistakes, while others may try to game the system.

Because of this, OSHA has cracked down on categorizing temporary employees.

## OSHA FINES INCREASE

In 2016, penalties for workplace safety violations will increase by

**80%**

OSHA fines range from \$12,600 to \$126,000

## CLASSIFY EMPLOYEES CORRECTLY

There are four types of employees:

**1**  
Direct employees receive W-2s from the company for which they work

**2**  
Temporary employees are paid by the temp agency

**3**  
Leased employees are provided by Professional Employer Organizations (PEO)

**4**  
Borrowed employees are loaned by a company that is not a temp agency or a PEO

If you don't know the category into which your employees fall, there are

## 4 TESTS TO DETERMINE YOUR EMPLOYEE TYPE:

**1 IRS "20 QUESTIONS"** - The IRS offers a list of questions to help companies decide whether they have sufficient control over a worker to be considered his or her employer.

**2 COMMON LAW RULE** - The IRS encourages businesses to weigh three factors—behavioral, financial, and relationship—to determine their relationship with employees.

**3 ECONOMIC REALITIES** - The DOL asserts that a number of "economic realities" serve as guides for employee status, including the worker's skill and initiative.

**4 THE "ABC" TEST** - If a worker meets at least two out of the three criteria in this test, he/she is an independent contractor. This test is used by two-thirds of U.S. states.

## Classifying employees correctly is important, but there are also 7 GENERAL METHODS YOU CAN USE TO AVOID AN OSHA AUDIT:



**1** Review contracts to ensure OSHA compliance

**2** Complete on-site safety inspections and suspend work until safety violations are corrected

**3** Designate expert subcontractors and require them to observe all OSHA regulations

**4** Review work practices to ensure that a joint employment relationship is not established

**5** Review safety records during the selection process and remove historically unsafe employees/contractors

**6** Ensure training on company safety rules and programs

**7** Complete required documentation for temporary workers

Temporary workers keep the construction industry running like a well-oiled machine. Put these best practices to use so your company can run smoothly and not incur costly fines.

For more information, read the Risk Management Considerations for Temporary Workers white paper by Assurex Global.

[assurexglobal.com](http://assurexglobal.com)



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