

# Professional Employer Organizations and Law Firms: A Beneficial Partnership

By Todd Weber

**R**unning your own law firm is exciting, but also challenging. There are numerous laws and regulations business owners must follow, especially regarding their employees. Failure to comply with labor laws and other regulations can result in not only fines, but lawsuits, costing valuable time and money. Using industry parlance, partnering with a professional employer organization (PEO) can help alleviate some risks associated with workforce compliance. Here, we'll break down the ways a PEO can help firms remain compliant and avoid penalties and fines associated with business operations.

## What is a PEO?

A PEO may assume much of the administrative burden from a business while leaving the day-to-day operations in the hands of the business owner. Administrative tasks include human resource management, safety and risk control, employee benefits administration, and payroll processing — all of which can keep an owner from focusing on growing their business and supporting their clients. PEOs can, at times, become the

“employer of record” regarding payroll and payroll taxes, meaning the burden of wage and hour compliance remains with the PEO.

## Human resources and labor law compliance

Staying updated on constantly changing labor laws, rules, and regulations is a full-time job. Factor in how these laws can vary not only by state, but also by city and county, and even more time is needed to ensure compliance. Besides minimum wage requirements, there are regulations regarding overtime, tracking hours, certified and union payrolls, and much more. These regulations are typically dictated by the Fair Labor Standards Act (FLSA);<sup>1</sup> failure to comply can result in fines from the U.S. Department of Labor (DOL) and wage claims from employees. The DOL can conduct audits and any violations it finds may result in fines of \$1,000 per violation. Employee wage claims — when investigated — can cost employers back wages, or wages owed to the employee covering unpaid time worked or overtime pay.<sup>2</sup>

By supporting human resource management, PEOs may reduce these potential penalties for employers. If applicable, as the em-

ployer of record for payroll, the PEO must ensure businesses pay employees accurately and in compliance with all FLSA standards. The PEO reviews HR and payroll procedures and evaluates areas of vulnerability for each business and can set up new policies and procedures for a company to ensure compliance.

## Safety and risk compliance

Another area that opens a business to lawsuits and fines is safety and risk compliance. The Occupational Health and Safety Administration (OSHA) can fine businesses up to \$13,653 per incident for violating safety regulations.<sup>3</sup> In 2019, OSHA conducted nearly 9,200 inspections, resulting in almost 23,000 citations and about \$71.5 million in fines for U.S. businesses.<sup>4</sup> Often, employers can contest citations, but this can cost even more in legal fees.

Working with a PEO helps make the safety and risk management of the business a top priority. A PEO can assist in developing a strong safety culture and program, conduct routine worksite inspections, and offer trainings on specific safety measures. These efforts can help mitigate risk and avoid costly violations.

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## Benefits

Working with a PEO typically means you have access to employee benefit programs. Offering benefits not only makes worker retention easier, but also helps recruit quality employees. Through a PEO, businesses can access better health, dental, 401(k), and life insurance plans at a lower cost.<sup>5</sup>

## Payroll accuracy

Payroll is a time-consuming task with many items to review regarding wage laws and compliance. PEOs provide payroll and tax experts to process and verify payroll and tax compliance. Managing unemployment claims, withholdings, deductions, employee classification codes, and tax filings can be more complex than employers realize. Using a PEO for these tasks can free up more time to focus on the firm's core operations.

## PEOs and law firms

Here are some criteria law firms should consider when working with a PEO:

- First, the authority to hire, terminate, discipline, and contract with employees must remain the law firm's responsibility.
- Second, the firm cannot share information about their clients with the PEO.
- Third, the firm must ensure there are no conflicts of interest. For example, the firm should check for conflicts when hiring new employees (including when those hires will be co-employees of PEOs) to determine if they were employed by another firm that works with that same PEO.
- Finally, the law firm should not violate prohibitions against sharing fees with nonlawyers. A law firm cannot not share fees with a nonlawyer; that includes PEOs.<sup>6</sup>

## Behind the numbers

- About 80% of human resources employees find an easy way to boost employee attitudes toward the company is investing in improved HR technology.<sup>7</sup>

- Approximately 40% of small businesses turn an annual profit, while the remaining 60% break even or lose money.<sup>8</sup>
- 70% of businesses don't buy employment practices liability insurance for one or more reasons — but often, because they don't know they need it.<sup>9</sup> This is where a PEO can help.

## Conclusion

Partnering with a PEO can be a win-win scenario. Do your comparison shopping to find the best fit for you and your firm. ■



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## ENDNOTES

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