

# *What Washington Employers Need to Know*

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Washington State Department of  
Labor & Industries

Small Business Office

1. Some Employment Laws
2. Payroll Related Requirements
3. Best Practices
4. Resources

# AGENDA

# 1. Some Employment Laws

- Independent Contractors
- Minimum Wage
- Overtime
- Youth Employment
- Breaks & Meal Periods
- Equal Employment Opportunity
- Equal Pay & Opportunities Act
- Safety & Health
- Work-Related Injuries



- Employee Leaves
- Isolated Worker Protections
- Prohibited Employment Restrictions
- Workplace Posters

# Independent Contractors

- **Strict laws define “employee”**
  - State law stricter than federal
- **Independent contractor must:**
  - Have a contract
  - Be free from your direction and control
  - Be a fully licensed and tax-reporting business
  - Keep good business financial records
  - Have multiple clients
  - Have their own work location
  - Do something other than what you do



[Lni.wa.gov/IndependentContractor](http://Lni.wa.gov/IndependentContractor)

# Minimum Wage in Washington

- \$15.74/hour in 2023
  - Seattle \$16.50 - \$18.69/hour; SeaTac \$19.06/hour (hospitality & transportation workers); Tukwila \$17.06 - \$19.06
- Increases each year based on inflation rate
- Tips don't count in the calculation of minimum wage
- Unpaid interns – must be a formal program of study
  - Typically only okay if earning credit toward a school program, certification or degree
- Volunteers – only in nonprofit organizations
  - They can receive a stipend, but it can't be directly tied to work

[Lni.wa.gov/MinWage](https://lni.wa.gov/MinWage)

# Overtime

## Overtime pay

- 1.5 x hourly rate of pay for all hours over 40 in a workweek, unless specific exemption in law
- “White collar” exemptions
  - Job must meet a duties test: executive, administrative, professional, outside sales; **and**
  - Must be paid at least the minimum exempt salary
    - \$57,294 in 2023 (minimum wage x 1.75)
    - Phasing in as a multiple of MW until 2028, when will be 2.5 x minimum wage thereafter

## Agricultural overtime pay

- Fully in place for dairies (1.5 x hourly rate of pay for all hours over 40)
- Other agricultural industries being phased in over time
  - In 2023, 1.5 x hourly rate for all hours over 48 in a workweek
  - Over 40 in 2024



Compensatory time can't substitute for overtime pay unless within the same workweek

[Lni.wa.gov/OvertimeRulemaking](https://lmi.wa.gov/OvertimeRulemaking)

# Youth Employment

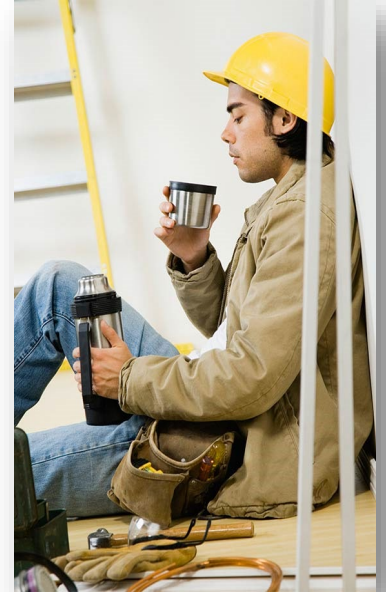


- Minor work permit required for workers under 18
  - Obtain through the Dept. of Revenue/Business Licensing
- Parent/School Authorization form required for each teen
- Job activities and hours restricted for youth
- Teens 14 & 15 can be paid less than minimum wage (85% or more – at least \$13.38/hour in 2023)

[Lni.wa.gov/TeenWorkers](https://lni.wa.gov/TeenWorkers)

# Breaks & Meal Periods

- Breaks: A minimum of a 10-minute paid break for every 4 hours of work
  - No later than the 3<sup>rd</sup> hour
  - Intermittent breaks okay (shorter, more frequent)
  - Employees can't waive right for breaks
- Meal periods: A minimum of a 30-minute meal period during a 5+ hour shift
  - Must start meal period between the 2<sup>nd</sup> & 5<sup>th</sup> hours
  - Must be entirely off duty, or be paid
  - Employee can waive (get request in writing)
- Best practice to have employees acknowledge that they took their breaks and meal periods



[Lni.wa.gov/WorkplaceRights](https://lmi.wa.gov/WorkplaceRights)



# Equal Employment Opportunity

- Can't discriminate in employment on the basis of:
  - Race, creed, color, national origin, sex, marital status, age, sexual orientation/gender identity, pregnancy status, disability, use of a trained dog guide or service animal by a person with a disability, retaliation, HIV/AIDS and Hepatitis C status, honorably discharged veteran or military status
- “In employment” includes recruiting, hiring, evaluating, promoting, etc.
- Further information:
  - Washington Human Rights Commission: [hum.wa.gov](http://hum.wa.gov)
  - U.S. Equal Employment Opportunities Commission: [eeoc.gov](http://eeoc.gov)

# Equal Pay & Opportunities Act

- Gender can't be the basis for pay and advancement decisions
- Can't ask applicants for past salary history
- Must provide job salary range (or salary minimum if no established range)
- Can't prohibit employees from sharing salary information with each other
- If you have 15+ employees:
  - Job announcements must include full wage/salary range, plus description of other compensation and benefits

[Lni.wa.gov/EqualPay](https://lni.wa.gov/EqualPay)

# Safety & Health

- Employers must provide a safe and healthy workplace
  - **Required to have a written accident prevention program**
    - Including for home-based workers
  - Must provide employee safety training, even if employees are located off-site
- Best practice:
  - Schedule a free, confidential safety consultation from L&I
    - No citations or fines



[Lni.wa.gov/Safety](https://lmi.wa.gov/Safety)

# Work-Related Injuries

- Required to have a workers' compensation insurance account with the Dept. of Labor & Industries
- Required to notify L&I if the nature of the work of the business changes or the nature of the work for some employees change
- Required to complete quarterly reports, and pay premiums if due to L&I
  - Include all full-time, part-time, and temporary workers
  - Include casual labor and independent contractors
  - Can choose to cover owners (must apply separately for owner coverage)
- If an employee is injured, encourage them to get medical attention
- Employers cannot:
  - Discourage a worker from filing a claim or seeking medical attention
  - Pay for a worker's medical treatment instead of filing a claim
  - Discriminate or retaliate against an employee for filing a claim



[Lni.wa.gov/Insurance](https://lmi.wa.gov/Insurance)

# Employee Leaves

## Required

- Washington Paid Sick Leave [Lni.wa.gov/PaidSickLeave](https://lmi.wa.gov/PaidSickLeave)
  - All employees, including part-time, seasonal, and temporary
  - A minimum of 1 hour of sick leave accrued per 40 hours of work
  - Accrual begins at hire; must make available for use no later than 90 days from hire
  - Must provide notification in writing at hire, and statements monthly
- Washington Paid Family & Medical Leave [PaidLeave.wa.gov](https://PaidLeave.wa.gov)
  - Shared cost between employee and employer (if 50+ employees)
  - Employer remits quarterly premium to Employment Security Department
- Other Leaves:
  - Family Care Act, Domestic Violence Leave Act, Leave for Military Spouses & Certain Emergency Personnel, federal Family & Medical Leave Act

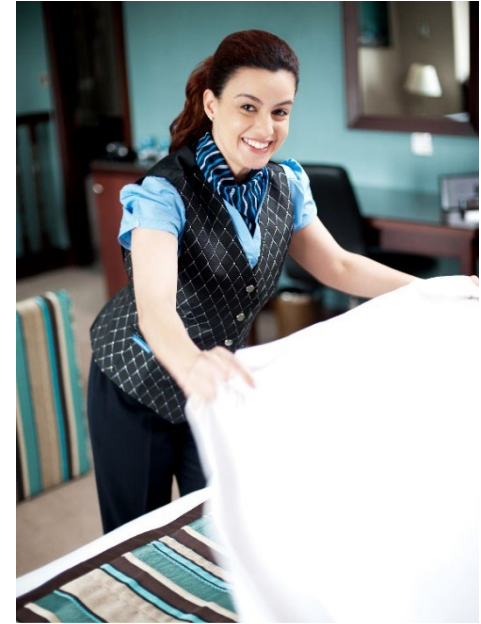
**Optional:** Vacation, PTO (Paid Time Off), Holiday, Bereavement, etc.

# Isolated Worker Protections

Affects hotels, motels, retail, security guard services, janitorial services (doesn't apply to contracted security guard companies)

Employers must:

- Adopt a sexual harassment policy
- Provide mandatory anti-harassment and assault training
- Provide information about available resources and protections for reporting violations
- Provide a panic button to each employee



[Lmi.wa.gov/IsolatedWorkers](https://lmi.wa.gov/IsolatedWorkers)


# Prohibited Employment Restrictions

- Employers can't restrict their employees' outside employment or self-employment unless they're paid more than 2x minimum wage (\$31.48/hr or \$65,478/yr)
  - Other than for clear conflict of interest, or for scheduling
- Non-compete agreements are only allowed:
  - With employees paid at least \$116,593 per year
  - With independent contractors paid at least \$291,483 per year
  - For 18 months maximum after an employee terminates employment
  - Law doesn't affect nondisclosure, confidentiality, and nonsolicitation agreements
- Franchisors can't restrict their franchisees from recruiting each other's employees

# Workplace Posters

- Several required
  - Federal, state, local
  - 3 Labor & Industries; 3 Employment Security
- Several recommended
- All available for free
- For employees off-site,
  - Send to them by mail or email
  - Document that they were sent
- Posters publication with links:

[lni.wa.gov/forms-publications/f101-054-000.pdf](http://lni.wa.gov/forms-publications/f101-054-000.pdf)



**Workplace Posters:**  
Required and Recommended

The following posters are available FREE from the issuing State of Washington, federal, or other agency. Contrary to some advertisements you may have received, employers aren't required to purchase posters from private companies. If you feel you have been misled by advertisements claiming posters must be purchased, you may file a complaint with the Washington State Office of the Attorney General at: [www.atg.wa.gov/file-complaint](http://www.atg.wa.gov/file-complaint).

Online access to posters is indicated, when available. Otherwise, call the phone number listed to request that posters be mailed. Employers must post required posters where their employees can read them. If employees work remotely, posters or links to posters should be sent to them. Keep records of what was sent and when.

**Disclaimer:** While efforts have been made to provide correct information regarding posters and notices, no assurance is offered that the following is accurate and comprehensive at the time reviewed. Use the links below to verify requirements for organization.

**Washington State**

**Department of Labor & Industries** (required posters)  
[www.lni.wa.gov/RequiredPosters](http://www.lni.wa.gov/RequiredPosters) • 1-800-547-8367

- Job Safety and Health Law (F416-081-909)
- Your Rights as a Worker (F700-074-909)
- Notice to Employees — If a Job Injury Occurs (F242-191-909)

**Or**

Notice to Employees — Self-Insured Businesses (F207-037-909)  
*This poster is for self-insured businesses. All others use F242-191-909.*

*Printed posters are also available in English and Spanish from your local L&I office.*

**Employment Security Department** (required posters)  
[www.esd.wa.gov/about-employees/forms-and-publications](http://www.esd.wa.gov/about-employees/forms-and-publications)

- Unemployment Benefits poster (EMS 9874)
- Paid Family and Medical Leave poster
- Domestic Violence Resources (EMS 10427)

**Human Rights Commission** (recommended poster)  
[www.hum.wa.gov/publications](http://www.hum.wa.gov/publications)  
1-800-233-3247 (in Washington State) or 360-753-6770

- Washington State Law Prohibits Discrimination in Employment

**United States**

**Equal Employment Opportunity Commission** (required poster)  
[webapps.dol.gov/elaws/posters.html](http://webapps.dol.gov/elaws/posters.html)  
1-866-487-2385

- Equal Opportunity Employment is the Law  
– Also covers Americans with Disabilities Act.

**Department of Labor** (required posters)  
[www.dol.gov/general/topics/posters#CA\\_Materials](http://www.dol.gov/general/topics/posters#CA_Materials)  
1-866-487-2385

Most businesses are required to post the following notices in the workplace.

To determine which specific federal posters your business is required to post, please visit the DOL eLaws Poster Advisor ([webapps.dol.gov/elaws/posters.html](http://webapps.dol.gov/elaws/posters.html)).

- Fair Labor Standards Act (FLSA)
- Federal Minimum Wage Poster (WH Pub.1088)
- Employee Polygraph Protection Act (WH Pub.1462)
- Family and Medical Leave Act of 1993 (WH Pub.1420)
- Your Rights Under USERRA — The Unformed Services Employment and Reemployment Rights Act\*

**Affordable Care Act** (required notice)  
[www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/far-employers-and-advisers/coverage-options-notice](http://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/far-employers-and-advisers/coverage-options-notice)  
1-866-444-3272

\* Federal law requires employers to notify employees of their rights under USERRA; employers may meet this requirement by displaying this notice where they customarily place notices for employees.  
Please note that generally, whether your organization is nonprofit or for-profit has no bearing on whether you have to post notices.



# 2. Payroll Related Requirements

- Pay Frequency & Requirements
- Hiring Forms & Processes
- Payroll Taxes & Filings
- Recordkeeping



# Pay Frequency & Requirements

- Pay no less frequently than monthly
- Establish a standard 7-day workweek (required for overtime calculations)
- Timesheets required for non-exempt employees
  - Signed by employee & supervisor
  - Consider sign-off for break & meal periods
  - Include detail if different job activities affect workers' compensation insurance risk class
- Provide check stubs, detailing pay, taxes, deductions & accrued sick leave
- Deduct only allowed taxes and what the employee has voluntarily agreed to



[Lni.wa.gov/Wages](http://Lni.wa.gov/Wages)

# Hiring Forms & Processes

## Forms – Required

- W-4 (IRS)
- I-9 – Eligibility to work in the U.S. (Homeland Security)
- Paid sick leave notification (L&I)

## Forms – Recommended

- Emergency contact information
- Company policy manual acknowledgement
- Benefit programs

## Processes – Required

- New hire reporting (WA DSHS – Child Support)



[Business.wa.gov/Payroll](https://www.business.wa.gov/Payroll)

# Payroll Taxes & Filings - Federal

## Federal Taxes

- Social Security & Medicare Taxes – half paid by employer/half paid by employee (7.65% each)
- Income Taxes – paid by employee
- Federal Unemployment Taxes – paid by employer (typically 0.6% of \$7000, or \$42/year)
- All paid to the IRS through the Electronic Federal Tax Payment System – EFTPS
  - Payment frequency based on tax volume

## Federal Reports

- Quarterly – Form 941 to the IRS (related to Social Security, Medicare & Income Taxes)
- Annually
  - W-2s to employees
  - W-2s & W-3s to the Social Security Administration
  - Form 940 to the IRS (related to Federal Unemployment Taxes)

[IRS.gov](https://www.irs.gov)

# Payroll Taxes & Filings - State

## Employment Security Department Responsibilities

- **State Unemployment Taxes**
  - Employers pay ~2-3% of gross payroll
  - Report and pay quarterly
- **Paid Family & Medical Leave**
  - 0.8% of gross wages: Employees pay 73%; employers pay 27% of rate (if 50+ employees)
  - Employers with fewer than 50 employees aren't required to contribute
  - Report and pay quarterly
- **Long-Term Care Insurance**
  - Employee pays 0.58% of gross payroll
  - Some employees can apply for an exemption

[ESD.wa.gov/Unemployment](https://esd.wa.gov/Unemployment)

[PaidLeave.wa.gov/Employers](https://PaidLeave.wa.gov/Employers)

[WACaresFund.wa.gov/Employers](https://WACaresFund.wa.gov/Employers)

## Department of Labor & Industries Responsibilities

- **Workers' Compensation Insurance premiums**
  - Employer & employee paid
  - Rate based on type of business and worker activity
  - Report and pay quarterly

[Lni.wa.gov/Insurance](https://lni.wa.gov/Insurance)

# Small Business Guide



## Small Business Guidance

PAYROLL your business

PLAN

START

OPEN

RUN

GROW

CLOSE

August 2010

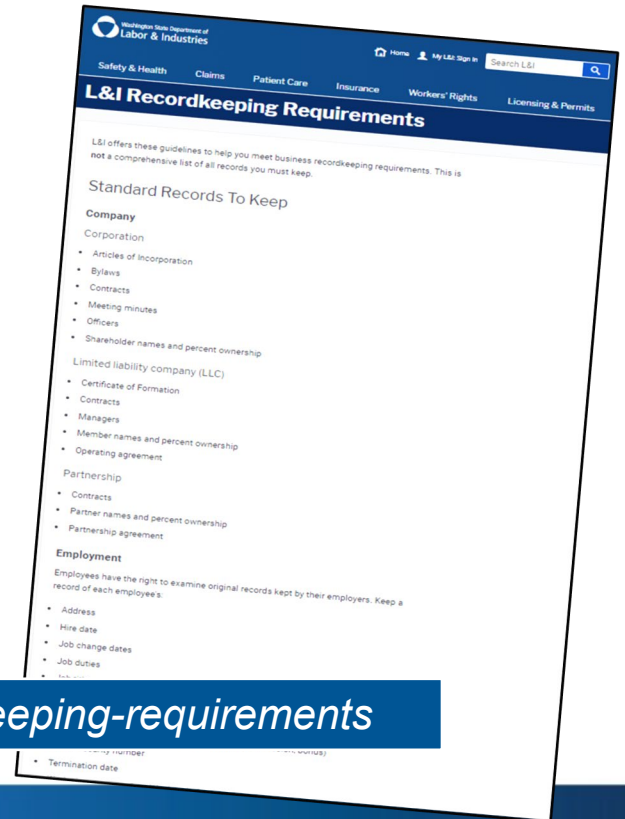
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Requirement (in order of action timing)	Purpose	Action	Agency
<b>W-4 Form</b> (Completed by employee prior to first payroll; new forms can be completed at any time)	Needed for employee information and to determine federal income tax withholding	Keep on file	IRS
<b>I-9</b> (Completed by both employee & employer within 3 days of hire)	Needed to provide proof of an employee's eligibility to work in the U.S.	Keep on file	U.S. Department of Homeland Security
<b>Employee Paid-Sick Leave Notification form</b> (Completed by employee and employer at hire)	Required to provide notice of employee's entitlement to paid sick leave	Give copy to employee and keep copy on file	WA Dept. of Labor & Industries
<b>New Hire Reporting</b> (Completed by employer within 20 days of hire or rehire)	Agency determines if employee has a child support case and also shares new hire information with Employment Security and Labor & Industries	<a href="#">online</a> , fax to DSHS (800-782-0624) or call in to DSHS (800-562-0479)	U.S. Internal Revenue Service
<b>IRS Electronic Federal Tax Payment System (EFTPS)</b>	Need account to pay federal taxes.	Set up account	U.S. Internal Revenue Service
<b>IRS Form 941 - Employer's Quarterly Federal Tax Return</b> (1 each calendar quarter per employer)	Report employee earnings, employer and employee paid Social Security and Medicare taxes, and employee-paid income taxes.	Send forms quarterly to IRS by mail (due 4/30, 7/31, 10/31, 1/31). Send payments using IRS online system EFTPS	U.S. Internal Revenue Service
<b>Workers' compensation premium report</b> (1 each calendar quarter per employer)	Workers' compensation insurance for medical costs and wage replacement if injured on the job.	Complete and pay online at <a href="#">www.lni.wa.gov</a> (due 4/30, 7/31, 10/31, 1/31)	WA Dept. of Labor & Industries
<b>State unemployment tax report</b> (1 each calendar quarter per employer)	Unemployment benefits for employees who lose their jobs.	Complete and pay online at <a href="#">sdia.wa.gov</a> (due 4/30, 7/31, 10/31, 1/31)	WA Employment Security Dept.
<b>Paid Family and Medical Leave report</b>	Paid leave for employee to care for themselves or their family	Complete and pay online at <a href="#">paidleave.wa.gov</a> (due 4/30, 7/31, 10/31, 1/31)	WA Employment Security Dept.
<b>IRS Form 940 - Employer's Annual Federal Unemployment Tax Return</b>	Pays for administration of the national unemployment insurance program	Send form to IRS by mail and transmit payment using IRS online system by 1/31 for the preceding year	U.S. Internal Revenue Service
<b>IRS Form W-2 - Wage and Tax Statement for a calendar year</b>	Employees need the forms to file their federal income taxes, IRS and Social Security Administration need for record-keeping.	Give three copies to each employee by 1/31 of the following year. Send original with the W-3 to the Social Security Administration by 2/28	U.S. Internal Revenue Service and Social Security Administration
<b>IRS Form W-3 - Transmittal of Wage and Tax Statements (W-2 Forms)</b>	Social Security Administration needs for record-keeping. IRS needs for reconciliation with Forms 940 & 941.	Send with W-2 Forms to Social Security Administration by 2/28 of the following year.	U.S. Internal Revenue Service and Social Security Administration

# Recordkeeping Requirements

- Employee information
- Completed employee forms
- Job information
- Timesheets
- Payroll records
- Payroll tax filings
- Business records
- Ownership records
- Company financial records
- Etc.

[Lni.wa.gov/agency/small-business/recordkeeping-requirements](https://lni.wa.gov/agency/small-business/recordkeeping-requirements)



# 3. Best Practices

For problem avoidance and staff retention:

- Staff policy & procedures handbook
- Regular performance appraisals
- Promotion, education & other growth opportunities
- Employee benefits
  - Vacation or PTO, holidays, bereavement, etc.
  - Health insurance (required by the Affordable Care Act if more than 50 employees) [WAHealthPlanFinder.org](https://www.wahealthplanfinder.org)
  - Retirement [Washington's Retirement Marketplace: Retirement-Marketplace.com](https://www.retirement-marketplace.com)
  - Life & disability insurance, fitness club membership, employee assistance programs, etc.
- Flexible work schedules
- Options for remote work



# 4. Resources

- Washington Small Business Guide
  - Business.wa.gov
  - HTML and PDF
  - Available in English, Spanish, Mandarin, Korean, Vietnamese, Russian

**BUSINESS.WA.GOV** | Small Business Guidance

- Business Advising



Home > Small Business Guide

# SMALL BUSINESS GUIDE

Plan Your Business



Start Your Business



Payroll Your Business



Open Your Business



Run Your Business



Grow Your Business



Close Your Business



Loan Programs For Your Business



Download the Guide (Six languages)



- If you want your business to be certified as a [woman, minority or economically disadvantaged business](#), or a [veteran-owned business](#), complete the certification paperwork.

## 10. Hire employees

- Prepare to hire employees, if needed. Having employees with the right attributes and skills for your business is critical for successful growth. There are resources to help you with employment planning, including [Labor Market Information](#).
- There are also programs to help you find and train qualified employees.
  - [WorkSource](#) can bring you applicants that are skilled and ready to work.
  - Job fairs and [free, online job posting](#) can help increase your pool of applicants.
  - [Tax credits](#) can help lessen the cost of new employees.
  - Options for employee [training assistance](#).
  - [On-the-job training wage subsidies](#).
  - Employee training resources - [Career Bridge](#)
  - [Apprenticeship programs](#)
  - [WorkSource Apprenticeship](#)
  - [Work study employees](#)
- If you noted on the form that you would be hiring employees, information from your Business License Application will be forwarded to the Employment Security Department to set up a state unemployment tax account, and the Department of Labor & Industries to set up a workers' compensation insurance account and issue your minor work permit, if applicable. You will have quarterly filing responsibilities with both agencies, plus the IRS (see the [RUN Your Business](#) chapter of the Small Business Guide).
- Every new employee will need to complete the federal [I-9 Employment Eligibility Verification Form](#) within three days of hire, and the Internal Revenue Service (IRS) [W-4 Form](#).
- You'll also need to report each newly hired and rehired employee through the

## Labor Law

[Wage and hour laws \(such as minimum wage, overtime, breaks, etc.\)](#)

- [Workplace poster requirements](#)
- [Employment of minors](#)
- [Non-Discrimination Laws](#)
- [Independent contractors \(Labor & Industries\)](#)
- [Independent contractors \(Employment Security\)](#)
- [Independent contractors \(IRS\)](#)
- [Workplace safety](#) (including required written accident prevention program)
- [Federal payroll taxes](#)
- [Child Support Withholding Laws](#)
- Restrictions on [noncompete agreements](#), [salary history](#), and [salary secrecy](#)
- [Isolated worker protection](#)
- [Changes to Overtime Rules](#)

## Worker Benefits

- [State unemployment taxes](#)
- [Workers' compensation insurance](#)
- [Washington Health Benefit Exchange](#)
- [Washington Health Plan Finder](#)
- [Paid Sick Leave](#)
- [Paid Family and Medical Leave](#)
- [Other Types of Leave](#)

# Advising & Training

**BUSINESS.WA.GOV** | Small Business Guidance

Plan Your Business  
Chapter of  
Small Business Guide



SCORE



Washington Center for  
Women in Business



Washington Economic  
Development Association



Washington Procurement  
Technical Center (PTAC)



Washington Small  
Business Development  
Center



Washington State - The  
Start Your Business  
Playbook



Washington State  
Department of  
Commerce



Washington State Small  
Business Guidance

# Thank You for Attending!

- Please contact us with any follow up questions at [SmallBusiness@Lni.wa.gov](mailto:SmallBusiness@Lni.wa.gov) or 1-800-987-0145

*Be safe and merry businesssing!*



Washington State Department of  
Labor & Industries

Small Business Office