



University of Idaho

Out of State Flexible Work Risk Assessment

This agreement is subject to reevaluation at the end of each semester or sooner should either party request a review.

This Information is for Deans and VPs to assess risk issues presented by employing people in other states/countries.

Examples of potential issues: litigation, workers compensation, claims of discrimination, leave accruals, tax withholdings, legal advice, export controls, and international travel.

Litigation: Suits filed by the employee or by others as a result of the actions of the employee would subject the University to the jurisdiction in other states or countries. The University may not have sovereign immunity in such cases or the ability to use the protections that exist in the Idaho tort claims act including caps on recovery by litigants.

Workers Compensation: Workers compensation laws differ from state to state so the University would be required to ensure compliance with state laws where the employee works. The University is self-insured for workers compensation in Idaho and it is conceivable that at least one other state may not allow the University to be self-insured which would likely result in having to obtain additional insurance for these situations.

Discrimination: There is a potential for the employee to file complaints against the University with the other state's agencies related to discrimination (e.g. their equivalent of the IHRC), potentially forcing the University to respond to another state's agency to defend processes, and potentially require the supervisor to appear before another state's agency to defend the supervisor's actions.

Leave Issues: Other states may have laws requiring employers to offer more generous leave than what the University does for sick leave, parenting leave, etc., making it more expensive for the unit to employ the person in the other states.

Tax Withholding: Each state has different income tax rates and specific withholding requirements. There are some municipalities in the U.S. that also have withholding requirements.

Legal Advice: The attorneys in the University office of general counsel are licensed in the state of Idaho. Two of the University's attorneys are also licensed in two other states. The University will have to hire outside counsel to provide legal advice specific to the jurisdiction where the issues arise if the University has legal issues arise from employees working in other jurisdictions. A common issue experienced in multiple jurisdictions could result in costs associated with hiring outside counsel in each jurisdiction.

Export Controls: Consult Administrative Procedures Manual (APM) 45.19 – U.S. Export Controls
<https://www.uidaho.edu/governance/policy/policies/apm/45/19> .

International Travel: Consult Administrative Procedures Manual (APM) 70.23 – University International Travel
<https://www.uidaho.edu/governance/policy/policies/apm/70/23>

Questions for the Dean/VP to consider:

- How unique is the skillset of the individual that would be working from the other state or country?
- Was an attempt made to locate candidates for this position in Idaho?
- How difficult would it be to find someone with this skillset within Idaho?