Authored by

SMB Group
Actionable Market Insight

Big Regulations, Small Business:
The Case for Workforce Management

Table of Contents

Workforce Regulations and Your Business

Among the many, ever-changing federal, state and local laws that govern businesses are employment and labor laws. These laws pertain to minimum wages, benefits, safety and health compliance, work for non-U.S. citizens, working conditions, equal opportunity employment and privacy regulations. Different laws govern different types of workers, from hourly and salaried employees to contingent workers. In fact, employment laws represent the largest subject area of all business regulations.

Given these complexities, understanding and complying with a growing array of employment and labor laws is a daunting task.

Small business owners, human resources (HR) professionals and other managers must first wade through an alphabet soup of acronyms to figure out which laws apply to them. Some laws, such as the Fair Labor Standards Act (FLSA), apply to all businesses, regardless of size. Others kick in when a business has more than 10, 19, 49 or 99 employees.

Complicating matters further, you need to understand and comply with both federal workforce regulations, which are determined by the U.S. Department of Labor, and specific laws mandated by individual states.

In some cases, businesses are accountable to city- and county-specific regulations as well. These laws and regulations are always subject to change—and all too often, the onus is on the small business to stay on top of these changes.

Regulations Put a Bigger Burden on Smaller Companies

It's all too easy for any organization to make mistakes when applying wage and labor laws that vary by state or locale, for different types of workers.

And the compliance burden is disproportionately greater for smaller companies than large ones. This is partly because larger firms can spread the fixed costs of compliance over more employees and greater revenues compared to smaller firms. The disparity is substantial: Small businesses pay $2,830 more, per employee, than larger firms to comply with government regulations1, according to a September 2010 report by the Office of Advocacy of the U.S. Small Business Administration (SBA).

Meanwhile, failure to comply puts a business at risk for potential financial liability in terms of court costs and attorneys' fees, not to mention the potentially substantial damage to reputation and brand.

Changing regulations can also trigger uncertainty, especially if it's unclear how regulations will impact your business. For instance, many small and medium businesses (SMBs) have been uncertain about how the Affordable Care Act (ACA) would affect them. As a result, 71% of small business executives surveyed by the Chamber of Commerce and Harris Interactive said the ACA would make them less likely to hire employees.[2]
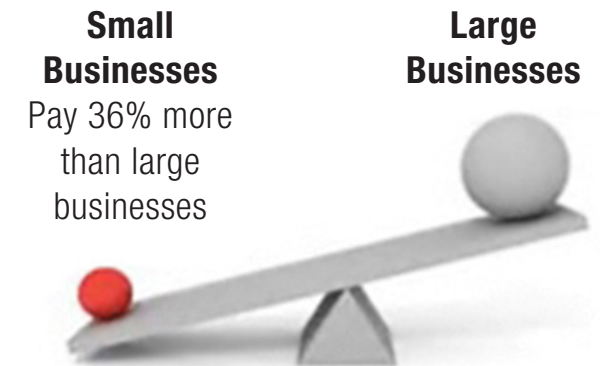
Small Businesses Pay 36% more than large businesses

Large Businesses

Small businesses pay 36% more per employee to comply with government regulations than larger businesses.[1]

The High Cost of Information That Falls Through The Cracks
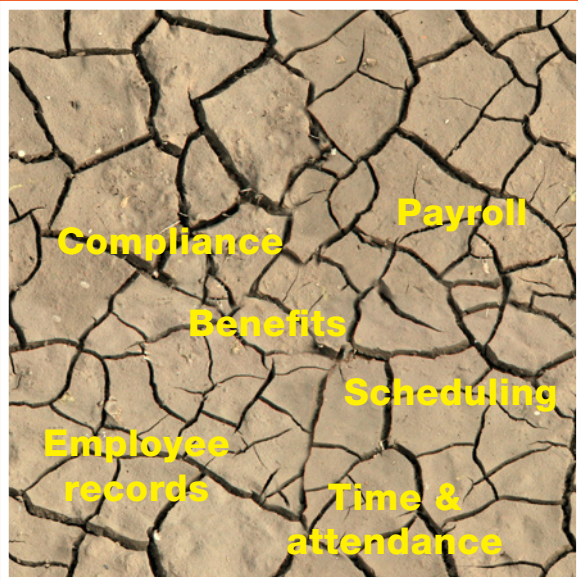
As small businesses grow, the volume of employee information and interaction rises—coupled with more demanding compliance requirements. At some point, using disparate applications and spreadsheets that "don't talk to each other" becomes untenable.

Although numerous businesses have automated payroll processing, many still rely on spreadsheets or point applications for time and attendance, scheduling and benefits administration.

In fact, among companies that use workforce management, just one in five has integrated its payroll management system with time tracking and other workforce management applications. Although time tracking is at the heart of compliance, nearly half export data from the time and attendance system and import it into payroll manually.[3]

This creates inefficiencies, errors and inconsistent application of policies and procedures—and an unproductive paperwork drag for HR, managers and supervisors.

These errors can lead to mistakes and, in turn, regulatory penalties. In fact, according to the U.S. Department of Labor, 7 out of 10 companies are not compliant with wage and labor laws.[4] In 2013 alone, U.S. businesses spent an average of $4.5 million to settle wage and hour disputes—fines that are significant enough to cripple a small or medium business.[5]

Payroll

Compliance

Benefits

Scheduling

Employee records

Time & attendance

Knowledge and Expertise Are Critical

Although workforce regulations may seem overwhelming for smaller companies, you can't afford to ignore them. SMB decision makers need to have at least a basic understanding of which federal, state and local employment laws apply to the business, and they must stay abreast of each law's requirements and updates.

With so many labor laws, this is easier said than done, of course. You can start by taking advantage of pertinent agencies and websites related to compliancy—such as the Small Business Administration (SBA), HR AnswerLink, CCH by Wolters Kluwer and SCORE—for general updates and guidance.

But due to the breadth, complexity and volatility of labor regulations, most businesses will also want to obtain professional HR advice—from either an internal HR professional or an external HR consultant. This is especially important as businesses expand and hire different types of employees and contractors.

HR professionals or HR outsourcing companies can review your company's employment policies.

They can help you understand the laws you need to comply with, learn the steps you must take to ensure compliance, and establish a timeline for regular compliance checks. These safeguards can help you stay ahead of new or changing regulations and avoid compliance risks and penalties. In addition, they can also lend expertise to other human resources needs, such as creating handbooks and using software to automate functions including performance reviews, compensation and benefits administration.

Automation and Integration Help Streamline Compliance

Once you understand what regulations are relevant, you must be able to apply them to your business.

With so many complex employment laws on the books, a growing number of businesses are realizing they need to take a more automated and integrated approach to administering and managing workforce legislation changes.

Because time tracking is at the heart of many compliance challenges, SMBs that automate time and attendance, scheduling, and employee record keeping along with payroll and benefits can reap significant rewards.

Replacing paper timesheets, disjointed workforce applications and processes with a unified, cloud-based workforce management solution provides the visibility and controls required to increase efficiency, avoid and reduce errors, and save time.

Configuring workforce management systems gives your business the guardrails necessary to align your employment practices with labor laws and regulations.

With a centralized system, you can set up different rules for each type of employee and contingent worker as well as manage compliance for various state and local laws.

Once the rules are created, the system should apply them uniformly, giving you peace of mind that the entire organization is correctly adhering to the policies.

This reduces errors and streamlines compliance with labor laws and regulations. A strong reporting engine can help make providing proof of compliance a breeze.

Dashboards

Time and Attendance

Payroll

Compliance

Benefits

Scheduling

Reporting/ Self-service
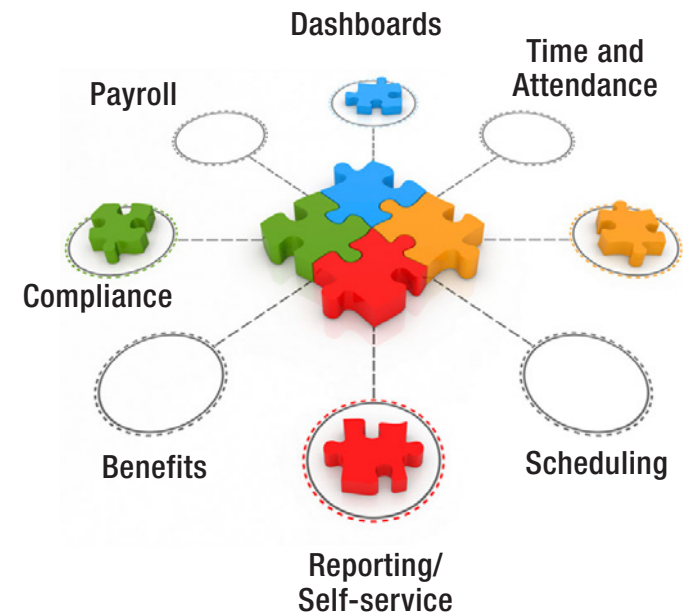
Cloud Computing Levels the Playing Field

Cloud-based workforce management solutions designed with SMB needs in mind provide SMBs with a simpler, faster and more cost-effective way to automate workforce management processes and ease compliance when compared to traditional, on-premises software packages.

Cloud solutions eliminate the burdens of selecting, installing and managing systems and software. As a result, they can provide you with an almost instant HR infrastructure, putting automated solutions for scheduling, time and attendance, benefits and other information at managers' fingertips.

Cloud-based workforce management tools help managers perform "what if" scenario planning, paving the way for better strategic labor decisions to help manage legislative change and minimize financial risk.
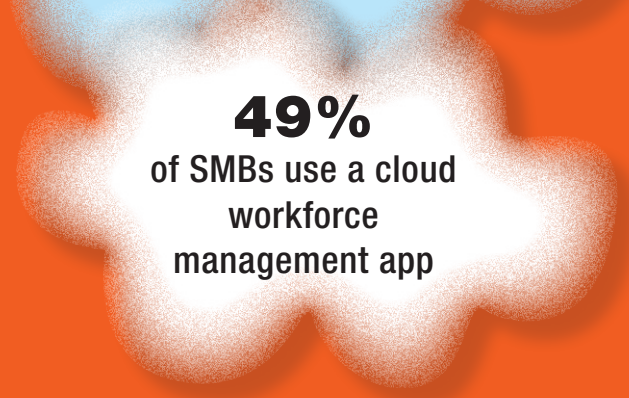
By providing updated information in real time, cloud-based solutions also provide the visibility needed to optimize labor costs, make better decisions, operate more efficiently and professionally, and avoid compliance risks on a day-to-day basis.

For these reasons, cloud computing is quickly becoming the "new normal" for SMBs. 92% of SMBs now use at least one cloud business solution, and 49% use at least one cloud application for a workforce management function.[6]

In the next few pages, we look at how cloud-based workforce management solutions help SMBs manage key federal regulations more easily and effectively.

92%
of SMBs use at least one cloud business solution

49%
of SMBs use a cloud workforce management app

Fair Labor Standards Act (FLSA)

The U.S. **Fair Labor Standards Act** is foundational employment legislation, ensuring that employees are fairly paid for the work they do and the time it takes them to do it. FLSA underpins the rules that govern workforce wages and hours, from overtime to lunch breaks.

To comply with FLSA, you must verify the following, among other things:

- If exempt, non-exempt and independent contractors are correctly classified

- Whether meal and rest breaks are in accordance with regulations

- When workers need to be compensated for work performed "off the clock," such as checking email at 3 a.m.

- Whether you're handling overtime correctly

If your organization is geographically dispersed, you also need to manage varying wage and hour rules for different municipalities as well.

Workforce management solutions should "bake in" policies for time tracking, scheduling, breaks and overtime so you can consistently apply and accurately manage employee time and pay information.

This makes it easier to track and total hours worked as well as calculate pay and overtime, which reduces the risk of non-compliance.

For instance, with paper timecards, employees may not be paid overtime even if it was approved. But an automated workforce management system applies overtime rules directly to employee timecards, ensuring they receive credit for the overtime hours they've worked.

You can also see, in real time, whether the time being captured is realistic and accurate, so you can monitor actual employee time patterns and correct problems before they escalate.

Family and Medical Leave Act (FMLA)

The **Family and Medical Leave Act** rrequires that employers with 50 or more employees grant eligible employees up to 12 work weeks of unpaid leave during a 12-month period for qualified reasons, including medical issues, maternity leave and military service.

Maternity leave, which is mandated as three months of continuous unpaid leave, is relatively straightforward to track. But managing intermittent leave is complicated. For instance, if an employee needs occasional outpatient medical treatment, some time may fall into the FMLA category, while some is considered paid time off (PTO). Variables such as employee tenure, status, total hours worked in the past 12 months, state of residency, health and military status add to the confusion.

In addition, employers are responsible for detecting and responding to a need for leave within five business days, even if the employee doesn't submit a formal FMLA request. Many states have their own variations on FMLA as well.

Due to these intricacies, tracking leave with sticky notes and spreadsheets is a recipe for non-compliance.

Automation is key to reducing FMLA management headaches and minimizing compliance risks. Workforce management tools can help track leave periods, required and completed documents, and accrual balances, and they provide real-time reporting that enables managers to see how absences affect the employee's accrual balances and work schedule. These tools can also improve the employee experience by offering more transparency between the employee and management as well as a paper trail to help reduce miscommunication regarding leave requests and open leave cases.

Affordable Care Act (ACA)

Essential Benefits?

?

Emploer Mandate?

?

Part time or full time?

?

The **Affordable Care Act**, also known as the Patient Protection and Affordable Care Act (PPACA), was signed into law in 2010 and has already undergone many changes.

Depending on whether you are an employer with fewer than 25 employees, fewer than 50 employees, or 50 or more employees, different requirements of the ACA may apply to you.

For example, as of January 2016, businesses with 50 or more full-time equivalent (FTE) employees must provide health coverage to full-time employees or pay penalties.

ACA administration and compliance is complex, especially for businesses with variable-hour staff. ACA eligibility is determined based on the average number of hours worked per month. Companies must calculate health care coverage for employees who work a 30-hour work week, and then enroll eligible employees or weight penalties for non-compliance.

Companies must also comply with a second mandate, which is to report to the IRS on the employee health coverage offered or not offered. Initial reports will be due by January 31, 2016, for the 2015 tax year.

This complexity is driving businesses to adopt workforce management solutions that help simplify processes and improve reporting accuracy by providing:

- Access to both real-time and historical data

- Compliance alerts

- Automated benefits enrollment for eligible employees

These solutions also help you perform "what if" assessments to weigh the impact of different labor strategies and alternatives.

Occupational Safety and Health (OSH) Act

Employers are responsible for providing a safe and healthful workplace for employees under the **Occupational Safety and Health Act**, which sets and enforces standards that covered employers must comply with. Most OSH Act rules keep employees safe and can also help you keep costs down by preventing injuries.

But not all the rules are helpful to small businesses, and some businesses are exempt. For instance, those with 10 employees or fewer are exempt from the OSH Act's injury and incident reporting as well as programmed inspections by Occupational Safety and Health Administration (OSHA) employees. Some businesses with more than 10 employees may also be exempt from programmed inspections if they are in OSHA-identified "low-hazard industries."

The exemptions may seem clear at first glance, but it can be difficult to figure out where a complex and evolving business falls under OSH Act regulations. Understanding your status is key to avoiding penalties while also taking advantage of exemption benefits you may be eligible for.

Workforce management solutions provide tools to help you more easily track, measure and improve OSH Act compliance once you understand your eligibility. For example, you can use the system to help administer:

- Policies and procedures for employees to report hazards

- Hazard, hazard prevention, and safety and health training for employees and managers

- Tracking of injuries and illnesses including those that have been averted

As important, analyzing this data over time can help you identify trends and patterns that need to be resolved to improve compliance.

CAUTION

SAFETY GLASSES REQUIRED

Selecting a Workforce Management Solution

Of course, the labor regulations we've discussed represent just the tip of the iceberg.

Therefore, it's important to select a workforce management platform that can evolve to meet the mounting and changing regulatory requirements that your business must comply with.

Here are some key criteria that are important for all SMBs to evaluate when considering cloud-based workforce management solutions:

Solution Considerations

✓ Is it easy to learn, use and access from different desktop and mobile devices?

✓ Does it have the capabilities you need to configure it to various laws and requirements?

✓ Does it provide visibility and consistency across different workforce management functions?

✓ Does it have the report generation and sharing capabilities you require?

✓ Can you deploy just the modules you need now and easily add or integrate new functionality as needed?

✓ How does it integrate with other key applications and services that your business relies on?

✓ Is it secure, as evidenced by having built-in redundancy, security and data protection as well as adhering to cloud audits such as SAS 70 Type II to validate security measures?

✓ Is it cost effective for your business?

✓ Does it present a clear return on investment?

Selecting a Workforce Management Business Partner

The business partner you choose to work with is as important as the solution you select. It's the partner that provides the "last mile" services—consulting, configuration, implementation, training and support—that make or break even the best solution.

Look for a business partner that will invest time up front to understand your unique needs and workflows as well as configure the solution so your business gets the most from the technology. Ask potential partners for details about implementation and how long it will take to be up, running and productive with the solution. And don't just take their word for it. Get references from customers who can talk to you about their experiences. Was the solution delivered on time? What problems did they encounter? What did they like best and least about working with the partner? Is the solution working the way they need it to, and how are they measuring the impact on their business?

Finally, remember that you don't need to do everything at once. Choose a partner that can help you tackle your biggest pain points first, and then take incremental steps to develop an evolutionary approach to address workforce and compliance requirements.

Business Partner Considerations

✓ Understands your business needs, workflows and constraints in this area

✓ Has demonstrable expertise in the solution and the ability to tailor it to your needs

✓ Has experience working with businesses in your area and solving their individual compliance challenges

✓ Thoroughly explains how they will build the solution for your business, from the beginning to going live

✓ Offers the support your business requires

✓ Provides references from customers who can talk to you about their deployment experience and business results

✓ Offers flexible contracts that enable you to scale up or down as your needs change

Summary and Perspectives

From accurate timesheet reporting to properly administering benefits, SMBs face growing challenges when it comes to managing increasingly complicated workforce compliance regulations.

As employee headcount grows, SMBs need more than cursory knowledge and a patchwork quilt approach consisting of manual processes, spreadsheets and mismatched applications to meet these challenges. Hiring or contracting with a human resources consultant that is familiar with labor law is essential to zero in on the specifics that apply to your business, and to help you craft and enforce policies that will protect your business.

Armed with this knowledge, your business can take advantage of cloud-based workforce management solutions to help you streamline and improve compliance. At the same time, these solutions can give you the visibility, controls and efficiencies needed to ensure viability and growth—and peace of mind.

About

Legal Disclaimer: The information contained in this publication has been obtained from sources believed to be reliable. SMB Group disclaims all warranties as to the accuracy, completeness or adequacy of such information and shall have no liability for errors, omissions or inadequacies in such information. This publication consists of the opinions of SMB Group and should not be construed as statements of fact. The opinions expressed herein are subject to change without notice. Although SMB Group may include a discussion of related legal issues, SMB Group does not provide legal advice or services and its research should not be construed or used as such. You must not rely on information found on this paper as an alternative to professional advice.

Sources:

1. Nicole V. Crain and W. Mark Crain, Lafayette College, The Impact of Regulatory Costs on Small Firms (September, 2010), found at: https://www.sba.gov/sites/default/files/The%20Impact%20of%20Regulatory%20Costs%20on%20Small%20Firms%20(Full).pdf, (Source for: Small businesses pay 36% more per employee to comply with government regulations than larger businesses.)

2. UPI, 2-in-3 small-business executives say they're not ready for Obamacare (July 17, 2013), found at: http://www.upi.com/Business_News/2013/07/17/2-in-3-small-business-executives-say-theyre-not-ready-for-Obamacare/25751374035015/, (Source for: For instance, many SMBs have been uncertain about how the Affordable Care Act (ACA) would impact their businesses. As a result, 71% of small business executives surveyed by the Chamber of Commerce and Harris Interactive said the ACA "would make them less likely to hire employees.")

3. Ventana Research, 2014 Payroll Management Benchmark (March 2014) found at: http://www.ventanaresearch.com/resources/resources.aspx?id=4317, (Source for: Although time tracking is at the heart of compliance, nearly half export data from the time and attendance system and import it into payroll manually.)

4. DOL News Brief, A Quarter Billion Dollars in Back Wages (December 2013), found at: http://www.dol.gov/_sec/newsletter/, (Source for: Theses errors can lead to mistakes, and in turn, regulatory penalties. In fact, according to the U.S. Department of Labor, 7 out of 10 companies are not compliant with wage and labor laws.)

5. NERA Economic Consulting, Trends in Wage and Hour Settlements: 2013 Update (November 2013), found at: http://www.nera.com/news-events/press-releases/2013/nera-economic-consulting-releases-trends-in-wage-and-hour-settle.html, (Source for: In 2013 alone, U.S. businesses spent an average of $4.5 million to settle wage and hour disputes—fines that are significant enough to cripple a small or medium business.)

6. SMB Group, found at http://www.smb-gr.com

Sponsored by **SaaShr** A Kronos Company