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## EMPLOYER RESPONSIBILITIES TO PROTECT TEMPORARY WORKERS

Who are temporary workers? They are perhaps the fastest growing sector in the American economy. Temporary workers are workers assigned to host employers, paid by a staffing firm, to perform work for a host employer on a temporary basis for one year or less. The use of temporary workers has been on the rise over the past four years – the American Staffing Association’s 2015 third quarter survey showed there were 3.32 million temporary workers in the U.S.

With the infusion of temporary workers into the workforce comes new issues employers need to plan for and manage. Too often in the news it’s reported a temporary worker has suffered a fatal injury during the first days on a job – in 2014, over 4,000 temp workers were killed on the job.

Employers play a significant role in the well-being of the temporary workers they hire. Temporary workers are entitled to the same protections under the Occupational Safety and Health Act of 1970 (the OSH Act) as all other covered workers. There is a distinction between the terms “temporary employees” and “independent contractors”: temporary employees are individuals a host employer receives from a staffing firm, while independent contractors are found mostly in the construction industry who are hired to perform their specialized set of skills. Independent contractors are hired to perform without explicit orders from the employer on how to carry out the task.

Under the “Temporary Worker Initiative” launched in 2013, OSHA seeks to bring attention to the issue of safety for temporary workers and change how worker safety is handled by both host employers and staffing firms. The initiative directs its field

personnel to place an increased focus on temporary worker safety during their compliance inspections.

Injury data specific to temporary workers is not available because host employers are required to record injuries of temporary workers on their organization’s OSHA 300 log, but are not required to identify whether the injured worker is temporary or permanent.

As an employer, implementing rules and regulations will ensure your temporary workers are provided a safe working environment. Here are a few things employers need to know:

- The host employer, staffing agency and employee must be held accountable for safe working practices and environment.
- The key is *communication* between the agency and host employer to ensure the necessary protections are provided.
- Employers must assign occupational safety and health responsibilities and define the scope of work in the contract.
- Staffing agencies must take responsibility to review the progress and condition of their employees and environment periodically.
- Host employers must treat temporary workers *like any other workers* in terms of training and safety and health protections and must provide training in the language their temporary workers understand. A few areas to focus on include:
  - Supply required Personal Protective Equipment (PPE)
  - Train and fully discuss work duties
  - Provide compliance and risk safety training
  - Arrange training on recognizing safety hazards
- If any changes occur in the temporary employee’s work environment, the staffing agency should be notified.
- Always treat any report of unsafe acts or conditions, no matter the source, with due diligence.
- If a loss does occur, all responsible parties should be required to complete a separate incident investigation and there should be a discussion on implementation of controls to stop this incident from happening again.

There should be a clear understanding of each party’s role in protecting temporary employees. OSHA recommends the temporary staffing agency and the host employer detail their respective responsibilities for compliance with applicable OSHA standards in their contract. Including such terms in a contract will ensure each party complies with all relevant regulatory requirements, thereby avoiding confusion regarding the employer’s obligations. *BV*

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