



OSHA's Temporary Worker Initiative and How to Stay Compliant





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2015 ASA

Staffing Law
CONFERENCE

Worker Memorial Day 2015

- Work injuries and illnesses exact a tremendous toll on society.
- The financial and social impacts of these injuries and illnesses are huge, with workers and their families and taxpayer-supported programs paying most of the costs.
- Work injuries hamper the ability of many working families to realize the American dream.

Protecting Temporary Workers

- Temporary worker industry has grown 125% since 1990
 - 861,000 temporary jobs added to the U.S. economy since August 2009
 - Approximately 10 million people work in temporary jobs each year
- There has been a shift in the use of temporary workers in hazardous work
- Continued reports of temporary workers suffering fatal injuries, some during their first day on the job

Protecting Temporary Workers

- New workers have a higher injury risk
 - Lack of training
 - Inexperience and unfamiliarity with the work environment
- Temporary workers are often new to a job site several times per year
- Host employers may be less likely to devote resources to fully train temporary workers

Protecting Temporary Workers

- Temporary Worker Initiative was launched April 2013
- Field guidance to clarify temporary workers receive required training and other safety and health protections
- Developing compliance assistance bulletins
- Issued Recommended Practices with NIOSH
- OSHA Alliance with ASA
- Balanced approach—outreach and cooperative activities

Employer Responsibilities

- The host employer and the staffing firm are joint employers of the worker, and therefore have a shared responsibility
- Effective communication and common understanding of the division of responsibilities
- Preplanning and ongoing communication

Employer Responsibilities

- Host employer generally has **primary responsibility** for identifying hazards and complying with work site-specific health and safety requirements
- Staffing firm employer must ensure its workers are equipped with protections and have the necessary training

OSHA Inspection Data—Summary

- Inspections involving temporary workers since the initiative began through March 2015:
 - 1,361 inspections when the host employer was cited
 - 35 cases where both host and staffing firm were cited at the same location
 - 25 temporary worker fatalities investigated

Federal Inspection Data

Most cited federal standards with temporary worker exposure

- Hazard communication
 - Written program and employee information and training
- Machine guarding
 - Guarding not provided
- Lockout/Tagout
 - Energy control procedure
- Powered industrial trucks
 - Safe operation
- Personal protective equipment
 - Hazard assessment and equipment selection

Outreach Products

- Series of bulletins
 - Issued: record-keeping
 - Issued: whistleblower protections
 - Issued: personal protective equipment
 - Planned: training, hearing conservation, hazard communication, respiratory protection, powered industrial vehicles, and lockout
- Recommended practices (cobranded with NIOSH)

Recommended Practices

- Evaluate the host employer's work site
- Train agency staff to recognize safety and health hazards
- Ensure each employer meets standards of the other
- Assign responsibilities/define scope of work in contract
- Injury and illness reporting and tracking
- Training including new-project orientation
- Injury and illness prevention programs
- Maintain communication

Temporary Worker Initiative Resources

- OSHA.gov Temporary Worker Initiative page
- Overview of employers' responsibilities and OSHA's enforcement policy
- All TWI-related memoranda, bulletins, and press releases
- List of fatalities involving temporary workers
- Letters of interpretation
- Press releases

OSHA Alliance With ASA

- Signed May 21, 2014
- OSHA and ASA work together to provide ASA members and others with information, guidance, and access to training resources
- Alliance's goals
 - Raising awareness of OSHA's rulemaking and enforcement initiatives
 - Outreach and communication

Summary

- Both the staffing firm and the host employer are responsible for the safety of temporary workers
- The staffing firm has a basic duty to inquire into the conditions of the host work site
- Both employers must communicate, coordinate and collaborate to best achieve this responsibility
- Thank you for your work to protect all workers!

TWI Overview—Points in History

- TWI Initiative (April 2013)
 - Bulletins released:
 - Injury and Illness Record-Keeping Requirements
 - Personal Protective Equipment
 - Whistleblower Protection Rights

Who's Responsible for What?

OSHA/NIOSH *Recommended Practices*

Safety Program	✓	YES	YES
General Safety Training	✓	YES	Maybe
Educate Temp Agency Staff on Hazard Identification	✓	YES	NO
Hazard Identification (Jobsite)	✓	YES	YES
Job-Specific Safety Training	✓	Maybe (on-site)	YES
Defined Assignment for EE	✓	YES	YES
Injury Reporting Process	✓	YES	YES
Follow up with EE	✓	YES	Maybe
Recordkeeping (OSHA 300 Log)	✓	Maybe (on-site)	YES

What Is in Your Contract?

- Define the roles and responsibilities of clients
 - Job/site-specific safety training and PPE
 - Work site inspections for hazards
 - Abating hazardous conditions
 - Defined assignments for employees
 - Process for injury reporting and tracking (Record-keeping—OSHA 300 Log)

Stumbling Blocks and How to Overcome Them

- Client
 - Totally unaware that this is a reality—it is here!
 - False protection from contract language
 - Access to work site locations

Stumbling Blocks and How to Overcome Them

- Employees
 - Not speaking up
 - Employee handbook with defined responsibilities
- OSHA
- Internal commitment
 - Understanding your due diligence responsibilities
 - Training your staff

What Makes a Successful Partnership With Clients?

- Communication
 - Do your salespeople discuss this with clients?
 - Agree in writing—look at your contract
 - Are your clients aware of OSHA’s “balanced enforcement” approach?
 - Regardless of what is agreed to contractually

What Makes a Successful Partnership With Clients?

- Mutual understanding
 - This benefits both sides
- Effort



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