

## Protecting Temporary Workers

Workers employed through staffing agencies are generally called temporary or supplied workers. "Temporary workers" are workers supplied to a host employer and paid by a staffing agency, even if the job is not actually temporary. Whether temporary or permanent, all workers have a right to a safe and healthy workplace. The staffing agency and the staffing agency's client (the host employer) are joint employers of temporary workers and, therefore, both are responsible for providing and maintaining a safe work environment for those workers. The staffing agency and the host employer must work together to ensure that the workplace is safe.

## Employer Responsibilities to Protect Temporary Workers

To ensure that there is a clear understanding of each employer's role in protecting employees, DOSH recommends that the temporary staffing agency and the host employer set out their respective responsibilities for compliance with applicable DOSH standards in their contract. Including such terms in a contract will ensure that each employer complies with all relevant regulatory requirements, thereby avoiding confusion as to the employer's obligations.

## Joint Responsibility

While the extent of responsibility under the law of staffing agencies and host employers is dependent on the specific facts of each case, staffing agencies and host employers are jointly responsible for maintaining a safe work environment for temporary workers - including, for example, ensuring that DOSH's training, hazard communication, and recordkeeping requirements are fulfilled.

DOSH could hold both the host and temporary employers responsible for the violative condition(s) - and that can include lack of adequate training regarding workplace hazards. Temporary staffing agencies and host employers share control over the worker and are therefore jointly responsible for temporary workers' safety and health.

DOSH has concerns that some employers may use temporary workers as a way to avoid meeting all their

compliance obligations under the WISH Act and other worker protection laws; that temporary workers get placed in a variety of jobs, including the most hazardous jobs; that temporary workers are more vulnerable to workplace safety and health hazards and retaliation than workers in traditional employment relationships; and that temporary workers are often not given adequate safety and health training or explanations of their duties by either the temporary staffing agency or the host employer. Therefore, it is essential that both employers comply with all relevant DOSH requirements.

DOSH Dual Employers Information:

<https://lni.wa.gov/dA/96edf1ea0f/DD115.pdf>

The following checklists provide guidance for staffing agencies and employers that hire temporary workers regarding the steps each party should take to ensure it is meeting its responsibilities for worker safety. This document is meant to provide guidance only; host employers and staffing agencies can agree on different arrangements from those suggested below as long as temporary workers are trained and protected from workplace hazards.

## BOTH PARTIES

BEFORE temporary workers are hired:

- Consider the hazards of the jobs to which temporary workers will be assigned.
- Determine which party is better equipped to prevent and correct the hazards temp workers will face through training, work practice controls, and other methods.
- Resolve any substantial differences in safety policies or programs between the two parties.
- Agree in a contract on:
  - The jobs and tasks temporary workers will perform
  - The necessary qualifications and/or experience of temporary workers selected to perform these tasks
  - The training that each party will provide and the language(s) in which it will be offered
  - Hazard controls that will be in place in the work environment

- The personal protective equipment (PPE) that workers must use and who will provide and pay for it
- Any hazardous tasks temporary workers will NOT perform, if applicable, such as confined space entry, working from heights, or live electrical work
- The procedures for reporting and recording work-related injuries and illnesses, coordinating medical care and treatment, and returning to work following an injury

## **DURING the work assignment:**

- Communicate about safety issues, including:
  - Any incidents that occur
  - Changes to job tasks or processes
  - New hazards introduced into the workplace.

## **BEFORE sending workers to a client site:**

- Research the host employer's safety record. Areas to examine include:
  - Workers' compensation experience modification rate (EMR) and/or days away from work, restriction, or job transfer (DART) rate
  - OSHA inspection reports and violations
  - OSHA 300 Logs
  - Recent incidents
- Review the host employer's written safety programs, plans, and policies, including:
  - An injury and illness prevention program or similar plan (if one exists)
  - Emergency action and fire prevention plans
  - Safety and health policies in the employee handbook
  - Disciplinary policies for breaking safety rules
  - The hazard communication plan if workers are exposed to hazardous chemicals
  - Any other written plans required for the facility. See a complete list here

- Ask the client about:
  - The jobs your employees will perform
  - The hazards workers will be exposed to
  - The protective measures that will be taken
  - The skills required
  - The employee training required beforehand or provided on-site
- Visit the client's site and perform a basic safety assessment. Ask the client about any hazards you observe and how they will be handled. Areas to assess include the following:
  - Housekeeping. Is the facility clean, and are work areas free of obvious slip and fall hazards?
  - Exit routes. Are they accessible and clearly marked?
  - Machinery. Do tools and machinery seem to be in safe working condition? Are parts of machines that could cause injury guarded if necessary?
  - PPE. If PPE is required in the facility, are workers wearing it consistently, and is it in good condition?
  - Ergonomics. Are there any obvious ergonomic hazards, such as frequent heavy lifting without lifting aids, repetitive motion, or awkward postures? Are workstations designed to allow employees to work comfortably and safely?
  - Emergency preparedness. Are there fire extinguishers and first aid kits in the facility? If not, what is the company's plan for handling fires and medical emergencies?
- Match employee experience and qualifications to job demands when selecting workers to send to a site. Factors to consider include:
  - Training workers have previously received
  - Any relevant certifications workers hold
  - Experience with machinery or equipment that will be used at the worksite
  - Experience in the industry of the host employer

- Provide general safety training applicable to many workplaces on:
  - Workers' rights and responsibilities under the OSH Act
  - The basics of a safe and healthy workplace
  - Important safety standards such as hazard communication
  - Any other applicable topics agreed to in the contract

## **DURING the work assignment:**

- Verify that the host employer has fulfilled its responsibilities for a safe workplace by conducting a follow-up visit. Consider the following:
  - Are temporary workers receiving the same level of protection offered to permanent employees?
  - Have workers received the agreed-upon training in a language and vocabulary they understand?
  - Have temporary workers been informed of workplace hazards, site safety policies, and emergency procedures?
  - Has the host employer corrected any hazardous conditions which it agreed to correct?
  - Has the host employer provided temporary workers with any necessary PPE, and are employees wearing it consistently? If the staffing agency has agreed to provide PPE, is the host employer ensuring that employees wear it?
  - Have there been new hazards introduced into the workplace, and if so, are they being adequately controlled?
- Talk to your employees at the site throughout the assignment and encourage them to raise any safety concerns. Consider the following:
  - Do they feel they have been adequately trained?
  - Do they feel safe in the work environment?

- Do they know what to do if they encounter a hazard?
- Communicate with the host employer regarding your employees' job performance, adherence to safety policies, and other relevant issues.
- Coordinate with the host employer following any work-related injuries or illnesses your employees experience to ensure that measures are taken to prevent future incidents.
- Maintain records of any medical surveillance the host employer conducts for hazards such as lead, asbestos, and noise, and make these records available to the employees they affect.

## **BEFORE hiring temporary workers:**

- Research the staffing agency's safety record and background, including:
  - Workers' compensation experience modification rate (EMR) and/or days away from work, restriction, or job transfer (DART) rate
  - OSHA inspection reports and violations,
  - OSHA 300 Logs
  - Recent incidents
- Review the staffing agency's safety programs, policies, and plans, including:
  - An injury and illness prevention program or similar plan (if one exists)
  - Safety and health policies in the employee handbook
  - Disciplinary policies for breaking safety rules
- Ask the staffing agency what training they provide to workers and the language(s) in which training is provided. Verify the quality of the training by reviewing materials and/or attending a training session.
- Analyze the hazards temporary workers will be exposed to and the type of protection they will require. Document your job hazard analysis and PPE assessment.
- Specify the job duties and tasks temp workers will perform, the skills required, and the training you expect beforehand or will provide on-site.

## **AFTER hiring temporary workers:**

- Provide site-specific and job-specific training in a language and vocabulary workers can understand. The training should cover:
  - The hazards workers will be exposed to
  - Safe work practices to mitigate these hazards
  - Emergency procedures
- Inform temporary workers of:
  - Site-wide safety policies
  - Their rights in the workplace
  - Procedures for reporting hazards they encounter
  - What to do in case of injury or illness
- Conduct initial (baseline) monitoring of workers if they will be exposed to a hazard or condition that requires medical monitoring, such as lead or noise.
- Inform the staffing agency if a temporary worker is injured or becomes ill on the job and coordinate medical treatment if necessary.
- Conduct medical surveillance and monitoring of temporary workers if they are exposed to a workplace condition that requires it and share the results with them.

## **DURING the work assignment:**

- Offer the same level of safety training and protection from hazards to temporary workers that you provide to permanent employees.
- Provide workers with any PPE necessary to work safely (unless the staffing agency or workers themselves have provided it).
- Assess the quality of any PPE provided by the staffing agency or the workers to ensure it provides adequate protection.
- Include temporary workers in any safety programs you offer at your facility, including safety meetings, toolbox talks, and scheduled training.
- Encourage temporary workers to report any hazards they encounter and to communicate any concerns to a supervisor or other individual.
- Communicate with temporary workers periodically about their job performance and safety-related behavior.
- Record any work-related injuries or illnesses temporary workers experience on your OSHA 300 Log, unless the temp agency provides an on-site supervisor who oversees the workers' day-to-day operations. (NOTE: This is an OSHA requirement.)