

## **Temporary Worker Safety and Health -Who Is Responsible?**

Both host employers and staffing agencies have roles in complying with workplace health and safety requirements and they share responsibility for ensuring worker safety and health. Host employers should never presume that they are not responsible for the safety and health of temporary workers and should always treat temporary workers the same as they treat the safety and health responsibility for employees of their own company.

OSHA is emphasizing the safety and health of temporary workers. OSHA requirements for temporary workers are as follows:

- Establishment of responsibilities. OSHA recommends that before entering into a staffing agreement that host companies and temporary staffing agencies outline the requirements in their initial contracts. This will set the stage for their long term working relationship and not allow for an ambiguity in the responsibility for temporary worker safety and health.
- Joint responsibility. While each individual case will be determined by its own merits, staffing companies and their clients are considered equally responsible for the safety and health of temporary workers on the job. This means that even though the staffing administrators cannot be onsite to directly supervise safety and health procedures, they need to be aware and comfortable with the environment.
- Assessing hazards of the job. According to OSHA, failure to understand the potential hazards of the job is not a proper defense in avoiding responsibility. While a staffing agency does not need to become an expert in the business of the host employer, they need to assess the potential safety and health risks to their employees before consenting to placement.

The following are recommended best practices that should be considered regarding the safety and health of temporary workers:

- 1) Prior to entering into an employment relationship, staffing agencies and host employers should jointly review all worksites, tasks, and job hazard analyses in order to identify and eliminate potential safety and health hazards and identify necessary training and protective measures.
- 2) Staffing agency representatives should be trained to recognize safety and health hazards which will better equip them to discover hazards and work with the host employer to eliminate or lessen identified hazards commonly faced by its temporary workers.
- 3) When feasible, OSHA recommends joint employers share and review each other's injury and illness prevention program.
- 4) When feasible, the agency/host contract should clearly state which employer is responsible for specific safety and health duties.

- 5) The parties should discuss a procedure to share injury and illness information between the employers, ideally specifying that procedure contractually. Both the host employer and staffing agency should track and, where possible, investigate the cause of workplace injuries. However, for statistical purposes, OSHA requires that injury and illness records be kept by the employer who is providing day to day supervision.
- 6) OSHA standards require site and task specific safety and health training in a language the workers understand. Training temporary workers is a shared responsibility between the staffing agency and the host employer.
- 7) OSHA and NIOSH recommend that staffing agencies and host employers each have a safety and health program and ensure that their temporary workers understand it and participate in it.
- 8) It is critical that both the staffing agency and host employer jointly conduct thorough investigations of injuries and illnesses, including incidents of close calls, in order to determine what the root causes were, what immediate corrective actions are necessary, and what opportunities exist to improve injury and illness prevention programs.
- 9) The staffing agency should establish methods to maintain contact with temporary workers. The staffing agency has the duty to inquire and, to the extent feasible, verify that the host has fulfilled its responsibilities for a safe workplace.

The short answer to the question of who is responsible for temporary worker safety and health is that it is a joint responsibility of both the staffing agency and the host employer. OSHA could hold both the host and the temporary employer responsible for safety and health deficiencies such as lack of adequate training regarding workplace hazards. Staffing agencies might provide general safety and health training, while host employers provide specific training tailored to the particular workplace equipment/hazards. However, the bottom line is that both the staffing agency and the host employer are responsible.