

TerranearPMC Safety Share

Week of October 2, 2017 – Protecting Temporary Workers

While hiring temporary workers has been a common practice for years, we are seeing this type of employment increase as many corporations are using this approach as a way to manage peripheral costs while ensuring they have a sufficient work force to perform their work objectives.

Temporary employees can have part-time or full-time status and are generally hired on a non-permanent basis. Such persons may work on a project or within an office environment and are typically treated like regular employees while attending company meetings and events. They may be contracted through an employment agency or hired on an individual basis. In the former case, the employment agency may act as the workers' employer, receiving a paycheck from that organization, rather than the company they have been assigned to perform services.

As a result, hiring companies may be dealing with issues they may not have anticipated. These include a continuous new hire orientation and having to constantly indoctrinate persons to proper safety and health protocol. This would include proper communications and use of PPE as well as ensuring that temporary workers understand their responsibilities to minimize their exposure to workplace hazards.

Statistics from the US Department of Labor, in 2011 show that 12% of all workplace fatalities were contract employees. In addition, temporary workers are much more likely to be seriously injured in the workplace than their permanent worker counterparts. These risks are higher in industries such as construction, manufacturing and warehousing. Typical injuries to these workers include laceration, fractures, dislocations and amputations.

The Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) are aware of numerous preventable deaths and disabling injuries of temporary workers. One example is the death of a 27-year-old employed through a staffing agency to work as an equipment cleaner at a food manufacturing plant. While cleaning a piece of machinery, the worker came into contact with rotating parts and was pulled into the machine, sustaining fatal injuries. Specific procedures that needed to be implemented included lockout/tagout (LOTO). LOTO would have ensured that the equipment could not be operated during his assigned maintenance task. While the company's permanent maintenance employees were provided the proper training on procedures to ensure workers were not exposed to energized equipment during maintenance or cleaning, this training was not provided to those employed through the staffing agency.



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Due to such unfortunate (and preventable) events, OSHA has been spear-heading initiatives to reduce risks for temporary workers. This includes conducting more workplace inspections and by clarifying employers' responsibilities. However, it is apparent that OSHA alone cannot solve this problem through increased workplace inspections. Each workplace needs to be committed to ensure S&H for temporary workers does not slip through the cracks.

The most important step is for employers need to recognize their responsibility for temp worker's health and safety. Although a staffing agency may have supplied the workers, it's essential that both the workers' host employer and staffing agency share responsibility for the well-being of the worker. While this may be accomplished through a contract designed to meet specific S&H (i.e. OSHA) regulations, the temporary worker that is hired as a free-lance contractor, will not have these contractual assurances.

Providing proper training is essential in keeping permanent and temporary workers, alike, safe. Adequate training may be provided by both host employer and staffing agency. But once again, this would not be applicable to an employee that has been hired without a staffing agency. In conjunction with proper training comes proper personal protective equipment, which includes proper selection and use. Bottom line: temporary workers are entitled to the same protections as permanent workers.

Maintaining proper records of injuries is a necessary element for identifying hazards and (as well as potential hazards) in the workplace. As far as who is responsible for keeping track, OSHA requires that the employer providing daily supervision for S&H is the responsible party for record keeping. Staffing firms have the responsibility to verify that the host employer has satisfied all its requirements in keeping a safe workplace.

According to the OSHA standard, *Recording and Reporting Occupational Injuries and Illnesses* (29 CFR 1904), the organization that is responsible for the day-to-day supervision of a worker (employee or contracted worker), has the ownership of workplace injury/illness recordkeeping. This means that any organization that hires temporary workers has the responsibility to ensure S&H and to list any workplace illnesses and injuries on the company OSHA 300 log. This includes the hours worked for all temporary workers.

Interestingly, OSHA can hold both the host and temporary employers responsible for any conditions that violate S&H regulations; 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.

Regardless of the "legal" responsibility to ensure the S&H of temporary workers, it is in the best interest of the hiring organization to consider temporary employees as part of their organization. This means that the unique projects and work activities that the hiring



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organization requires of temporary employees may require these employees to be trained in such regulations as the 40-hour HAZWOPER course, fire extinguisher use, or first aid/CPR as well as being qualified to wear a respirator. These concerns need to be presented up front, prior to hiring so the hiring company has the right personnel for the anticipated job tasks. Yet, because the work for which the hiring organization needs additional staff is specific, topics such as hazard identification and reporting protocol cannot be assumed and therefore, must be provided during the time of hire. Otherwise, should an accident occur (that involves a temporary worker), the hiring organization can be charged with negligent behavior while in certain states, criminal charges can be imposed.

An appropriate way to ensure temporary workers are properly trained for their assigned tasks is to get S&H involved and review the anticipated projects/tasks so that hazard identification and their required controls have been effectively communicated. All this information needs to be properly documented (topic, date, instructor, content, etc.) and placed into the employee folder.

Great Works are Performed, not by Strength, but by Perseverance

Samuel Johnson

