



Temporary Worker Initiative

Construction Industry Employment

This is part of a series of guidance documents developed under the Occupational Safety and Health Administration's (OSHA's) Temporary Worker Initiative (TWI). The TWI focuses on compliance with safety and health requirements when **temporary workers** are jointly employed by a **staffing agency** and a **host employer**.

Introduction

The construction industry is growing fast in the U.S. as more people need housing, commercial spaces, and other infrastructure. However, construction activities can present significant hazards to workers, including falls from heights and exposure to electric energy, as well as struck-by and caught-in-between hazards.

Temporary workers have the same protections as all other covered workers under the [Occupational Safety and Health Act](#). When a staffing agency sends temporary workers to a jobsite, the staffing agency and the staffing agency's client (the host employer) are considered joint employers of those temporary workers. As joint employers, both the staffing agency and the host employer are responsible for assessing the temporary workers' working conditions and complying with the law. In these joint employment situations, there are common questions regarding how each employer can fulfill its duty to comply with the OSH Act and other applicable standards. This bulletin addresses what the staffing agency and the host employer can do to ensure that temporary workers in the construction industry stay safe.

Hazards in Construction

Construction is a high-hazard industry in which workers are potentially exposed to hazards during new construction, building alteration, or structure repair, including:

- Falls from roofs or scaffolds
- Getting caught in unguarded machinery

- Being struck by heavy equipment or materials
- Electrocutions
- Heat exposure
- Breathing in harmful dust such as silica and asbestos

Falls are consistently the leading cause of fatalities in construction, accounting for about one-third of all fatalities in the industry. According to the Bureau of Labor Statistics, 96 of the 345 deaths caused by falls in 2023 were in the construction industry, making it the industry with the most fall fatalities. OSHA recognizes that incidents involving falls can be complex events, frequently involving a variety of factors. In general, OSHA's requirements for fall protection in construction workplaces are found in 29 CFR 1926 Subpart M. Typically, each worker on a walking/working surface six feet or more above a lower level must be protected from falling by a guardrail system, a safety net system, or a personal fall arrest system. OSHA also requires that each worker be protected from falling objects, falls to the same level (e.g., slips, trips, or falls on a flat surface without any elevation changes), falling through holes, and hazards associated with working around dangerous equipment.

Noise levels on construction sites can be high, often exceeding the OSHA limits stated in 29 CFR 1926.52. Equipment such as excavators, jackhammers, trucks, loaders, dozers, saws, mixers, and drills can create substantial noise. For information about how to ensure temporary workers who are exposed to hazardous noise levels are appropriately protected per OSHA standards, see OSHA's TWI Bulletin on [Noise Exposure and Hearing Conservation](#).

Ladders can present safety hazards (e.g., falls from portable ladders). OSHA's requirements and criteria for ladders in construction are in 29 CFR 1926 Subpart X (for additional information, see [OSHA's Publication Page on Ladder Safety](#)). Trenches and excavations also present serious hazards. Employees engaged in trenching and excavating work are at risk of injury from a cave-in or collapse, which can be prevented with proper protection methods such as sloping, benching, shoring, or shielding (see 29 CFR 1926 Subpart P). Employers should also consider potential struck-by hazards from heavy equipment, falling loads, and public vehicular traffic near the site, as well as hazards associated with unstable sidewalks and buildings, hazardous air, and electrical hazards from overhead and underground power lines.

General Employer Responsibilities

Employers covered under the OSH Act must provide a safe and healthy workplace for their workers, protect them from recognized hazards, and free from unlawful retaliation.

The staffing agency and the host employer are responsible for training temporary workers. Training should be completed before the worker begins work and it must be in a language and vocabulary the worker understands. Training requirements vary depending on potential hazards, location of the worksite, and assigned duties. As a recommended practice, the staffing agency and host employer should discuss responsibility for each aspect of training.

Generally, host employers are in the best position to determine and provide worksite-specific training that covers hazards and control methods present at their establishment. While employers cannot discharge or subcontract their legal responsibilities to another party, the host employer may specify the qualifications required for temporary workers in its contract with the staffing agency; however, the host employer is responsible for providing any training required by an OSHA standard that relates to the specific hazards found in the host employer's workplace.

In summary, neither employer may avoid their responsibilities under the OSH Act by requiring another party to perform them. In most cases, the host employer is responsible for site-specific

training because it is in the best position to select and give any training required for their operations, while the staffing agency is responsible for general safety and health training. However, the staffing agency and the host employer are responsible for being familiar with applicable OSHA standards, complying with all training requirements, and defining their respective duties in their contracts. The goal is to ensure that workers know how to do their work safely, can identify hazards, and understand control and protective measures.

Host Employer Responsibilities

The host employer is usually in the best position to ensure compliance with OSHA requirements at the worksite and provide site-specific training because it generally controls the means, methods, and processes by which the work is accomplished and is familiar with the associated hazards. Therefore, the host employer is responsible for inspections, site-specific protections, policies, and procedures, including training. This may include assessing the adequacy of training the temporary worker acquired in the past and what training is required on the new worksite. For example, powered industrial truck (e.g., forklift) training and certification must be tailored to the worksite and the specific types of powered industrial trucks operated. For more information, see OSHA's TWI Bulletin on [Powered Industrial Truck Training](#).

Also, while the host employer may take the lead on performing the worksite hazard assessment (or job hazard analysis), it should share the results with the staffing agency and allow the staffing agency to conduct its own assessment. The host employer should provide the staffing agency with all task assignments, written job descriptions, job hazard analysis, and a list of equipment and/or machinery on the worksite. The host employer should also provide the staffing agency with any information on necessary protective measures related to scaffolds, fall protection, personal protective equipment (PPE), powered industrial trucks (e.g., forklifts), mechanical equipment such as mixers, and training requirements.

Several OSHA standards for the construction industry address safety and health program elements. For more information, see OSHA's [Construction eTool — Safety and Health Program](#).

The host employer is responsible for developing site-specific programs. OSHA recommends that the staffing agency also develop written injury and illness programs outlining how it and the host employer protect temporary workers. When feasible, the host employer and staffing agency should exchange and review each other's programs.

Staffing Agency Responsibilities

The staffing agency has a duty to inquire into the conditions of their workers' assigned workplaces and verify that the host employer has fulfilled its responsibilities for a safe workplace. The staffing agency is typically responsible for providing general safety and health training so that its employees can identify hazardous situations, report hazards, injuries, and illnesses, and understand their rights if confronted with a hazardous situation at a construction worksite. The staffing agency is also responsible for ensuring that employees receive site-specific training, although the host usually provides such training. To fulfill this obligation, the staffing agency must inquire and verify that the host employer's training adequately addresses the potential hazards to which employees will be exposed at the host employer's worksite. If the staffing agency believes training is missing or unsafe conditions exist, they must speak up or remove their workers from the jobsite.

Even where a staffing agency has a representative at the host employer's worksite, the presence of that representative does not transfer site-specific safety responsibilities to the staffing agency. The staffing agency should conduct a walk-through of the construction worksite to identify tasks that temporary workers will perform, and any hazards related to those tasks. However, the employer responsible for the site-specific training (determined by supervision and control over the workers and hazards — typically the host employer) should still ensure that workers complete the training and that the training is adequate before work begins.

The staffing agency should communicate effectively with its workers and the host employer. Such ongoing communication also alerts the staffing agency to additional or newly created workplace hazards that may need to be addressed.

Joint Responsibilities

The staffing agency and the host employer should both evaluate potential hazards the temporary worker might foreseeably be exposed to during assigned work at all worksites. Host employers are generally responsible for conducting worksite assessments (or job hazard analyses) to identify and abate potential safety and health hazards through design, training, work practices, and necessary protective equipment for each worker. Staffing agencies do not have to be experts on specific workplace hazards, but should determine what conditions exist at the worksite, what hazards may be encountered, and how to best ensure protection for the temporary workers. The information, tools, and resources provided in OSHA's [Construction Industry](#) web pages are designed to assist those in the industry — whether worker or employer — to identify, reduce, and eliminate construction-related hazards.

Employers must provide and ensure the proper use, maintenance, and fit of PPE when it is required by OSHA standards or by the employer. The host employer will usually have the primary responsibility for selecting, providing, and ensuring the use of adequate PPE for each process or operation workers are assigned. PPE requirements vary between industries and OSHA standards. Information on these requirements are available on [OSHA's Personal Protective Equipment \(PPE\)](#) page, in the [Construction \(29 CFR 1926\) standards addressing PPE Requirements](#), and in [OSHA's Temporary Worker Initiative Bulletin regarding Personal Protective Equipment](#). Both the host employer and the staffing agency are responsible for ensuring workers are provided with properly fitting PPE and trained on PPE use. Although the host employer is often best suited to provide the PPE and training, the staffing agency shares responsibility for its workers' safety and must take reasonable steps to ensure that the host employer conducts the appropriate hazard assessment and provides adequate PPE.

The staffing agency and the host employer may agree to have the staffing agency supply some or all the PPE and training if the host employer ensures that the PPE is appropriate for the worker's assigned tasks and provided at no cost to the worker. However, neither employer may escape its responsibilities under the OSH Act by agreeing that the other party will perform those tasks.

Example Scenario¹

Square Deal Finishing is a masonry contractor that employs 400 workers. Square Deal installs brick, block, and stone on commercial construction projects. Square Deal is currently working at a commercial construction site installing brick on the exterior of a new four-story office building. Square Deal has difficulty attracting and retaining qualified hourly workers, so it reaches out to Busy Brothers Staffing, a local staffing agency with a good reputation for sourcing qualified temporary workers. The two sides reach a written contractual agreement. Busy Brothers supplies 20 employees to Square Deal to erect scaffolding, dismantle scaffolding, and provide a consistent flow of materials to the masons as the brick are laid, including mortar and bricks. Before the first day on the construction site with Square Deal, the staffing agency informs the temporary workers about the work that will be performed — including the duties, breaks, physical requirements, and shift hours. Once the temporary workers arrive at the construction site, the site foreman from Square Deal provides the temporary workers with training. The training was provided in the primary language of each temporary employee to ensure maximum understanding. The training covered only the following topics: erecting and dismantling scaffolding, mixing concrete, and the PPE required on the construction site. The training did not cover what fall protection is necessary when guardrails are not in place. Square Deal then supplied the temporary workers with hard hats, safety glasses, and high-visibility vests.

On the fourth day of work, a Busy Brothers Staffing employee was working on the second level of a ground-based frame scaffold. The mortar was mixed on the ground and poured into a larger mortar trough, which was lifted by a forklift to reach the second level of the scaffold. The temporary workers placed the mortar into the smaller boxes/mud tubs with a shovel from a larger mortar trough lifted by the fork truck. A temporary worker removed the cross bracing and guardrail to access the larger mortar trough and manually shoveled the mortar from the large container into the smaller boxes. The temporary worker overextended while reaching and fell approximately 14 feet to the ground below. The temporary employee suffered fractures to his arms and legs, resulting in hospitalization, but is expected to make a full recovery.

Analysis

As the host employer, Square Deal Finishing is responsible for providing site-specific training. However, the training did not include the requirement for fall protection or the type of fall protection necessary for protection when guardrails were removed. Square Deal supervises and controls the day-to-day work of the temporary workers at its worksite and is best positioned to provide the site-specific training and procedures applicable to its workplace. For failing to provide appropriate site-specific hazard information and training, Square Deal may be subject to OSHA citations. Depending on the circumstances, Square Deal may face citations for failure to adequately train employees on the hazards of working from scaffolding, the requirement for guardrails while working on a supported scaffold 10 feet or more above a lower level, as well as the requirements for erecting, disassembling, moving, maintaining, or repairing scaffolds. Square Deal could also receive citations for failing to provide adequate/equivalent fall protection when the cross bracing or guardrails were removed.

The staffing agency also failed to fulfill its responsibilities because it did not provide general safety and health training about the jobsite or the work. The staffing agency only provided information about duties, breaks, physical requirements, and hours of the shift. Since the staffing agency knew the workers would be working at a construction site and with scaffolding, it should have inquired about what training the host employer has in place to ensure the temporary workers are adequately protected. Staffing agencies are obligated to provide their workers with training on general safety and health topics and verify they understand the elements included in the training. Additionally, staffing agencies must inform workers they have the right to refuse to do work they reasonably believe to be dangerous or if they have not been adequately trained and to contact the staffing agency immediately in the event of a safety incident or if working conditions or assignments change. Busy Brothers Staffing may, therefore, be subject to OSHA citations for not meeting its obligations as an employer.

1. Note: The company names in this scenario are fictitious. Any resemblance to real companies is entirely coincidental.

State Plans

Twenty-nine states and U.S. territories operate their own OSHA-approved occupational safety and health programs called State Plans. These State Plans have and enforce their own occupational safety and health standards that must be at least as effective as OSHA's but may have different or additional requirements. For a list of the State Plans and more information, see this webpage: [State Plans](#).

How Can OSHA Help?

Workers have a right to a safe workplace. If you think your job is unsafe or you have questions, contact OSHA at 1-800-321-OSHA (6742), or visit OSHA's [website](#). It's confidential. We can help.

For other valuable worker protection information, such as Workers' Rights, Employer Responsibilities, and other services OSHA offers, see this webpage: [OSHA Worker Rights and Protections](#). For information on Temporary Workers, see this webpage: [Protecting Temporary Workers](#).

The OSH Act prohibits employers from retaliating against their employees for exercising their rights under the OSH Act. These rights include raising a workplace health and safety concern with either employer, reporting an injury or illness, filing an OSHA complaint, and participating in an inspection or talking to an inspector. If workers have been retaliated or discriminated against for exercising their rights, they must file a complaint with OSHA within 30 days of the alleged adverse action to preserve their rights under section 11(c). For more information, see this webpage: [Whistleblowers Protection Program](#).

OSHA also provides help to employers through its On-Site Consultation Program. The program offers no-cost and confidential advice to small and medium-sized businesses in all states and several territories, with priority given to high-hazard worksites, and services are separate from enforcement. Consultants from state agencies or universities work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing and improving safety and health management systems. To locate the OSHA On-Site Consultation Program nearest you, call 1-800-321-6742 (OSHA) or see this webpage: [On-Site Consultation Program](#).

Disclaimer: This bulletin is not a standard or regulation, and it creates no new legal obligations. It contains recommendations as well as descriptions of mandatory safety and health standards. The recommendations are advisory in nature, informational in content, and are intended to assist employers in providing a safe and healthful workplace. The *Occupational Safety and Health Act* requires employers to comply with safety and health standards and regulations promulgated by OSHA or by a state with an OSHA-approved state plan. In addition, the [OSH Act's General Duty Clause, Section 5\(a\)\(1\)](#), requires employers to provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm.



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