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# BOND INFORMATION MEMO

## Labor and Employment Law

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July 2013

### OSHA Announces Intent to Concentrate on Temporary Workforce and Staffing Agencies

The Occupational Safety and Health Administration (“OSHA”) issued a new policy in April of 2013 focused on protecting temporary workers. In a memorandum that was issued to all OSHA Regional Directors, the agency explained that the policy was needed because there were several 2013 workplace fatalities involving temporary workers who had not received adequate training. Going forward, all OSHA investigators have been instructed that they need to “determine within the scope of their inspections whether any employees are temporary workers and whether any of the identified temporary employees are exposed to a violative condition.”

OSHA’s new policy does not appear to be a dramatic or drastic change in the agency’s direction at this time. Employers who employ temporary workers through staffing agencies have always had – and will continue to have – an obligation to ensure that those workers are correctly trained and protected from workplace hazards (e.g., personal protective equipment, lockout/tagout, and HazCom, to name just a few). Similarly, staffing agencies who have absolutely no supervisory role over employees or any control over the workplace at issue would not appear to be subject to citations under OSHA’s multi-employer worksite doctrine. However, OSHA’s initiative seemingly includes a desire to place an affirmative “due diligence” obligation on staffing agencies to know what tasks their employees will be performing after being assigned to an employer and/or what safety hazards they might be exposed to. At this point, OSHA has not explained exactly what such a “due diligence” obligation might include.

We will report on any developments if and when the agency provides additional guidance.

To learn more, contact Patrick V. Melfi at (315) 218-8632 or [pmelfi@bsk.com](mailto:pmelfi@bsk.com).

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