

The Office of Federal Contract Compliance Programs

A Guide to Combatting Harassment in the Construction Industry



OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS



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A Guide to Combatting Harassment in the Construction Industry

As the federal government makes historic investments in infrastructure, the Office of Federal Contract Compliance Programs (OFCCP) is committed to fighting discrimination and harassment in the construction industry. Harassment in construction remains a common issue. For example, a recent report, [Building for the Future: Advancing Equal Employment Opportunity In the Construction Industry](#), cites that one in four women in construction experiences sexual harassment.

This guide helps the public understand OFCCP’s jurisdiction in the construction industry, clarifies what is harassment, includes helpful information for workers, and offers information and guidelines for federal construction contractors and subcontractors and federally assisted construction contractors (for simplicity, collectively referred to as “contractors” in this guide).

Question	Answer
What is the Office of Federal Contract Compliance Programs (OFCCP)?	<p>OFCCP is a federal agency within the U.S. Department of Labor that protects workers, promotes diversity, and enforces the law.</p> <p>OFCCP holds contractors responsible for complying with the legal requirement to take affirmative action and not discriminate on the basis of race, color, sex, sexual orientation, gender identity, religion, national origin, disability, or status as a protected veteran. In addition, contractors are prohibited from discharging or otherwise discriminating against applicants or employees who inquire about, discuss or disclose their compensation or that of others, subject to certain limitations. These are referred to as “protected characteristics” in this guide. The laws and regulations OFCCP enforces explicitly prohibit harassment based on any these protected characteristics.</p> <p>OFCCP enforces Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended (VEVRAA). Implementing regulations are found at 41 CFR Part 60.</p>

Question	Answer
<p>Do OFCCP’s laws and regulations apply to the construction industry?</p>	<p>Yes. OFCCP’s laws and regulations cover construction contractors who meet certain jurisdictional thresholds related to dollar amount and employee count (for a detailed breakdown of the thresholds, see OFCCP’s website).</p> <p>Construction contractors must follow regulations and requirements specific to construction work. Construction contractors are subject to OFCCP’s compliance evaluations and complaint investigations. For more information on OFCCP’s construction program, visit OFCCP’s Construction website.</p> <p>OFCCP also oversees the Mega Construction Project (Megaproject) Program. This program is an initiative within the agency’s construction program. Projects eligible for designation as a Megaproject are large federal and federally assisted construction projects valued at \$35 million or more, some part of which must be federal funding, and that are expected to last more than one year. Through the Megaproject Program, OFCCP focuses its efforts to bring the public and private sector together on designated Megaprojects to provide a diverse pool of qualified workers with access to good jobs in the construction trades and to promote equitable hiring and fair workplaces by contractors.</p> <p>For more information on the Megaproject Program, visit OFCCP’s Megaproject Construction Project Program website.</p> <p>Note: If your employer is not a federal contractor, other federal laws and state laws may provide protections against harassment.</p>

Question	Answer
<p>What are OFCCP’s general responsibilities?</p>	<ul style="list-style-type: none"> • Help contractors comply with regulatory requirements and understand OFCCP’s processes for evaluating contractor compliance. • Engage with contractors, workers, and other stakeholders through compliance assistance and outreach. • Conduct complaint investigations and compliance evaluations of contractors (this includes examining their personnel policies, actions, and practices). • Connect contractors with sources to help them identify and recruit qualified employees (such sources include the U.S. Department of Labor’s employment and training programs, outside organizations, and recruitment sources that help employers). • Negotiate agreements for workers with contractors that have violated the laws that OFCCP enforces. • Monitor contractors’ progress in fulfilling the terms of these agreements by reviewing periodic compliance reports. • Take additional enforcement actions, as needed.
<p>What is harassment? Is it considered discrimination?</p>	<p>Harassment is unwelcome conduct that is based on a protected characteristic. It can also be a form of unlawful discrimination that OFCCP will investigate during a compliance evaluation or complaint investigation. Harassment becomes illegal under the laws and regulations that OFCCP enforces if it is so frequent or severe that it creates a hostile or offensive work environment or if it results in an adverse employment decision (such as the victim being fired or demoted).</p> <p>Harassment may take a variety of forms, including slurs and offensive remarks about an individual; derogatory speech or actions that are directed at a specific individual or group of individuals; and other unwelcome communication, action or physical conduct. Sexual harassment may include unwelcome sexual advances, requests for sexual favors and other conduct of a sexual nature (see questions below for more information).</p> <p>The laws and regulations OFCCP enforces also prohibit retaliation, which covers harassment, intimidation, threats, or discrimination against a person because they filed a complaint, participated in an investigation or compliance evaluation, opposed discrimination or exercised a right protected by OFCCP’s regulations.</p>
<p>Is harassment unlawful only if it comes from the victim’s supervisor?</p>	<p>No. The harasser may be the victim’s supervisor, a supervisor in another area, a co-worker, or a third party (such as a client, customer, vendor, subcontractor, etc.).</p>

Question	Answer
<p>What are some examples of harassment?</p>	<p>Harassment can take many forms and characteristics; it can be verbal, physical, or visual. Some examples include but are not limited to:</p> <ul style="list-style-type: none"> • Using racial slurs and nicknames • Making derogatory remarks about someone’s race- or color-related physical features • Making sexual advances • Criticizing someone’s participation in a job or industry because they are deemed to not belong because of their sex • Labeling someone as incompetent because of pregnancy, childbirth, or related medical conditions • Criticizing someone’s sexual orientation or gender identity • Mocking someone’s religion or religious practices • Making derogatory remarks related to someone’s national origin • Teasing someone about their disability • Treating someone rudely because of their veteran status • Engaging in behaviors that negatively alter the working conditions of a particular individual or group because of their protected characteristic(s) • Creating an unsafe work environment for a particular individual or group because of their protected characteristic(s) • Making unwelcome remarks related to a protected characteristic and guising them as a joke • Subjecting certain employees to an abusive or hostile work environment because of their protected characteristic(s) • Displaying, in writing, derogatory remarks related to a protected characteristic at a job site • Failure to maintain women’s restrooms to the same standards as men’s restrooms as a part of creating a hostile or abusive work environment for women on the job site <p>For more examples, please see the EEOC’s Enforcement Guidance on Harassment in the Workplace.</p>
<p>Does harassment have to be of a sexual nature to be considered harassment?</p>	<p>No. The conduct does not have to be of a sexual nature. Harassment based on any of the protected characteristics may be considered unlawful discrimination and will be investigated by OFCCP during a compliance evaluation or complaint investigation.</p>

Question	Answer
<p>What is sexual harassment?</p>	<p>Sexual harassment is a type of harassment on the basis of sex prohibited by Executive Order 11246. Pursuant to OFCCP regulations, unwelcome sexual advances, requests for sexual favors, offensive remarks about a person’s sex, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:</p> <ul style="list-style-type: none"> • Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; • Submission or rejection of such conduct by an individual is used as the basis for employment decisions against the individual; or • Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment <p>Harassment because of sex also includes sexual harassment based on gender identity or transgender status; harassment based on pregnancy, childbirth, or related medical conditions; and harassment that is not sexual in nature but that is because of sex or sex-based stereotypes.</p>
<p>What is the impact of gender- or sex-based harassment in the construction industry?</p>	<p>Gender- or sex-based harassment remains a serious problem in the construction industry. Discrimination, including harassment, is a significant barrier to women finding and maintaining jobs in construction. Harassment does not only have physical and psychological consequences but usually comes alongside serious safety and economic consequences for the impacted individuals. Harassment can also have a safety, health, and economic impact on a construction site in general. For example, since construction work is sometimes dangerous and requires the work of a team, harassment can endanger the well-being of more than the direct victim of the harassment.</p>
<p>What are contractor obligations related to combatting harassment?</p>	<p>Harassment based on a protected characteristic can be a form of unlawful discrimination under the laws and regulations OFCCP enforces.</p> <p>Under Executive Order 11246, construction contractors are required to make good faith efforts to meet participation goals for minorities and women by, at a minimum, taking 16 affirmative action steps. The first of these steps requires that contractors ensure and maintain a working environment free of harassment, intimidation, and coercion at all work sites.</p> <p>Under Section 503 and VEVRAA, contractors must develop and implement procedures to ensure that employees are not harassed on the basis of disability or because of their status as a protected veteran.</p>

Question	Answer
<p>What are worker rights related to harassment?</p>	<p>All workers have the right to a harassment-free workplace.</p> <p>It is also a violation of the laws and regulations OFCCP enforces to harass an individual who files a complaint, opposes an act or practice believed to violate one of the laws, participates in any activity related to the administration of these laws (such as a compliance evaluation), or exercises any other right protected by law.</p> <p>For more information on how to file a complaint, visit OFCCP's Complaint Process website.</p>
<p>What are some promising practices that contractors should follow?</p>	<p>Federal construction contractors have several regulatory obligations related to harassment, including the obligation to ensure and maintain a harassment-free working environment. More information on these obligations can be found on OFCCP's Construction website and OFCCP's Megaproject Construction Project Program website.</p> <p>This list provides some promising practices contractors can implement to try to eradicate harassment in the construction industry.</p> <ul style="list-style-type: none"> • Contractors should communicate to all personnel, as often as possible, that harassment will not be tolerated. • The contractor should provide examples of harassment to its employees so they have a better understanding of what constitutes harassment. • The contractor should provide training to its staff and others as needed on how to identify and combat harassment. • The contractor should produce and post equal employment opportunity (EEO) policy statements prohibiting unlawful harassment at all sites where posting is reasonably possible. • The contractor should develop formal procedures on how to handle harassment and on how to accept and investigate harassment complaints. These procedures should include how to file a complaint, where to file the complaint and the name of the person who is responsible for accepting complaints. • The contractor should take immediate and appropriate action when an employee reports harassment. • The contractor should promote a workplace culture of respect for everyone. • The contractor should encourage apprenticeship programs that are available and accessible to all individuals regardless of gender or other characteristics. • The contractor should post and share information in a manner that is visible and accessible to workers and in the language(s) that workers can understand.

Question	Answer
<p>Where can I get more information on this topic?</p>	<p>OFCCP has multiple resources on the OFCCP website.</p> <p>Additional helpful resources include:</p> <ul style="list-style-type: none"> • OFCCP’s Construction website • OFCCP’s Construction Contractors Technical Assistance Guide • OFCCP’s Construction Compliance Frequently Asked Questions • DOL Women’s Bureau’s Tools For Building An Equitable Infrastructure Workforce • EEOC’s Enforcement Guidance on Harassment in the Workplace • EEOC’s Building for the Future: Advancing Equal Employment Opportunity In the Construction Industry • EEOC’s Promising Practices for Preventing Harassment in the Construction Industry
<p>How can I contact OFCCP or file a complaint?</p>	<p>To contact OFCCP, call 1-800-397-6251 or submit a written inquiry on OFCCP’s online intake form.</p> <p>OFCCP’s Contact Us website contains additional contact information such as directories to OFCCP’s regional offices.</p> <p>To submit a pre-complaint inquiry, visit OFCCP’s Instructions for Submitting a Pre-Complaint website. By submitting a pre-complaint inquiry, OFCCP can provide information about your workplace rights and protections and help you determine if it is the right federal agency to handle the matter. OFCCP will not notify the employer that you submitted a pre-complaint inquiry.</p> <p>To file a complaint, visit OFCCP’s Instructions for Filing a Complaint website and follow the instructions listed on the page.</p>

Appendix: Website References

1. [EEOC's Building for the Future](https://www.eeoc.gov/building-future-advancing-equal-employment-opportunity-construction-industry) (https://www.eeoc.gov/building-future-advancing-equal-employment-opportunity-construction-industry)
2. [41 CFR Part 60](https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60) (https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60)
3. [OFCCP Jurisdictional Thresholds Infographic](https://www.dol.gov/sites/dolgov/files/ofccp/posters/Infographics/files/JurisdnThresholds-7_ENGESQA508c.pdf) (https://www.dol.gov/sites/dolgov/files/ofccp/posters/Infographics/files/JurisdnThresholds-7_ENGESQA508c.pdf)
4. [OFCCP's Construction Website](https://www.dol.gov/agencies/ofccp/construction) (https://www.dol.gov/agencies/ofccp/construction)
5. [OFCCP's Megaproject Construction Project Program Website](https://www.dol.gov/agencies/ofccp/Mega-Construction-Project-Program) (https://www.dol.gov/agencies/ofccp/Mega-Construction-Project-Program)
6. [EEOC's Enforcement Guidance on Harassment in the Workplace](https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace) (https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace)
7. [41 CFR 60-20.8 Discrimination on the Basis of Sex](https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-20) (https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-20)
8. [41 CFR Part 60-4.3](https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-4/section-60-4.3) (https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-4/section-60-4.3)
9. [16 AA Steps, as referenced in the Construction Contractors Technical Assistance Guide](https://www.dol.gov/sites/dolgov/files/OFCCP/Construction/508_cctag_12032020.pdf) (https://www.dol.gov/sites/dolgov/files/OFCCP/Construction/508_cctag_12032020.pdf)
10. [OFCCP's Section 503 Website](https://www.dol.gov/agencies/ofccp/section-503) (https://www.dol.gov/agencies/ofccp/section-503)
11. [OFCCP's VEVRAA website](https://www.dol.gov/agencies/ofccp/vevraa) (https://www.dol.gov/agencies/ofccp/vevraa)
12. [OFCCP's Complaint Process](https://www.dol.gov/agencies/ofccp/contact/file-complaint) (https://www.dol.gov/agencies/ofccp/contact/file-complaint)
13. [OFCCP's website](https://www.dol.gov/agencies/ofccp) (https://www.dol.gov/agencies/ofccp)
14. [OFCCP's Construction Technical Assistance Guide](https://www.dol.gov/sites/dolgov/files/OFCCP/Construction/508_cctag_12032020.pdf) (https://www.dol.gov/sites/dolgov/files/OFCCP/Construction/508_cctag_12032020.pdf)
15. [OFCCP's Construction Compliance Frequently Asked Questions](https://www.dol.gov/agencies/ofccp/faqs/construction-compliance) (https://www.dol.gov/agencies/ofccp/faqs/construction-compliance)
16. [DOL Women's Bureau's Tools For Building An Equitable Infrastructure Workforce](https://www.dol.gov/sites/dolgov/files/WB/media/508_WB_Issuebrief-Equity-Module_10022023.pdf) (https://www.dol.gov/sites/dolgov/files/WB/media/508_WB_Issuebrief-Equity-Module_10022023.pdf)
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18. [EEOC's Building for the Future Advancing Equal Employment Opportunity In the Construction Industry](https://www.eeoc.gov/building-future-advancing-equal-employment-opportunity-construction-industry#Key) (https://www.eeoc.gov/building-future-advancing-equal-employment-opportunity-construction-industry#Key)
19. [EEOC's Promising Practices for Preventing Harassment in the Construction Industry](https://www.eeoc.gov/sites/default/files/2024-06/Construction%20Harassment%20Promising%20Practices_508.pdf) (https://www.eeoc.gov/sites/default/files/2024-06/Construction%20Harassment%20Promising%20Practices_508.pdf)
20. [OFCCP's Online Intake Form](https://ofccphelpdesk.dol.gov/s/) (https://ofccphelpdesk.dol.gov/s/)
21. [OFCCP's Contact Us Website](https://www.dol.gov/agencies/ofccp/contact) (https://www.dol.gov/agencies/ofccp/contact)
22. [OFCCP's Regional Offices](https://www.dol.gov/agencies/ofccp/contact/regional-offices) (https://www.dol.gov/agencies/ofccp/contact/regional-offices)
23. [OFCCP's Pre-Complaint Inquiry](https://www.dol.gov/agencies/ofccp/contact/file-PCI) (https://www.dol.gov/agencies/ofccp/contact/file-PCI)
24. [OFCCP's Instructions for Filing a Complaint](https://www.dol.gov/agencies/ofccp/contact/file-complaint/special-instructions) (https://www.dol.gov/agencies/ofccp/contact/file-complaint/special-instructions)