

Feds Increase Scrutiny of Racism and Sexism in Construction Workplaces

In a new strategy, the EEOC plans to tackle workplace discrimination in industries lacking in diversity, including construction.

by Elizabeth Waters

The construction industry has a diversity and discrimination problem, and in January, the U.S. Equal Employment

ticularly those receiving federal funding, and referenced the construction industry specifically.



Photo: Seattle Municipal Archive. License: CC BY 2.0.

A 2021 social equity survey found people of color and women face rampant discrimination and harassment in construction and across the building industry.

Opportunity Commission (EEOC) took formal notice. In its recently proposed Strategic Enforcement Plan (SEP), effective from 2023 through 2027, the EEOC explains that it will prioritize discrimination cases in certain industries, par-

Construction call-out

The EEOC, a federal agency created by the Civil Rights Act of 1964, is responsible for enforcing laws against discrimination in the workplace. The proposed

SEP updates and coordinates the EEOC's priorities nationwide, focusing on activities with the most strategic impact. The EEOC determines the impact of an issue by its significance and potential positive effect on future equal employment opportunities within six subject-matter priorities:

- recruitment and hiring
- discrimination against vulnerable workers
- emerging issues
- equal pay
- access to the legal system
- systemic harassment

The EEOC named the construction industry with concern regarding the first item on the list: eliminating barriers to recruitment and hiring. Described as discriminatory policies and practices aimed at people in protected groups, these barriers include:

- using automated systems or screening tools to exclude protected groups from hiring and recruitment processes
- using job advertisements or application processes to discourage people from protected groups from applying
- steering people into specific jobs based on their gender, race, ethnicity, etc.
- limiting access to training or development opportunities, or available full-time positions, based on their membership in a protected group

The EEOC says it will focus its efforts to tackle such discrimination in industries that are homogenous and receive significant federal funding, writing, "The lack of diversity in certain industries and workplaces (such as construction and high tech, among others), especially in growth industries and industries that benefit from substantial federal invest-

ment, are also areas of particular concern."

Diversity and discrimination in construction

So, what's going on with diversity and discrimination in the construction industry? According to [2022 data from the Bureau of Labor Statistics](#), 87% of people employed in the construction industry are white and almost 90% are male (see [Re-Forming the Building Industry: Equity, Diversity, and Inclusion](#)). A 2021 [Social Equity Survey](#) published by the National Institute of Building Sciences (NIBS), a nonprofit connecting building industry stakeholders to solve industry-wide challenges, found people of color and women, along with those in other protected groups, face rampant discrimination and harassment in construction and across the building industry. The data, collected from 12,000 people across all building industry professions, showed that almost three-quarters of Black or African American respondents experienced discrimination or harassment based on race or ethnicity; nearly half of the people who identify as Asian, Hispanic or Latinx, Native American, Alaskan Native, and First Nations reported the same; and two-thirds of women who responded reported experiencing gender-based discrimination or harassment.

Industry and federal action

In May 2022, the EEOC held a hearing to examine racism and discrimination in the construction industry and to explore possible solutions, listening to ten people who testified with "historical, statistical, and experiential evidence." The commission emphasized the importance of addressing these issues, particularly considering the recent federal investment in infrastructure, which it wants to ensure does not subsidize discriminatory practices.

In the nearly two years since NIBS released its survey results, the organization has convened two more roundtables on social equity and is planning a fourth for May 2023. During this meeting, it hopes to develop a strategy to improve industry-wide diversity, equity, and inclusion. It will also release results from the second social equity survey, administered biannually, in May. Meanwhile, the EEOC has filed (and settled) a spate of workplace discrimination cases against construction companies, including a notable March settlement that awarded \$2.6 million to 48 female employees who experienced gender discrimination at a Maryland staffing firm. The agency believes tackling workplace discrimination in the construction industry could significantly and positively effect equal employment opportunities across the country. Its recent lawsuits and the targeted language in its new SEP show that the EEOC is ready to use litigation to make that happen.

Published May 1, 2023