



women
in **construction**
still breaking ground

ABOUT THE CENTER

The National Women's Law Center is a nonprofit organization working to expand opportunities for women and their families, with a major emphasis on education and employment opportunities, women's health and reproductive rights, and family economic security.

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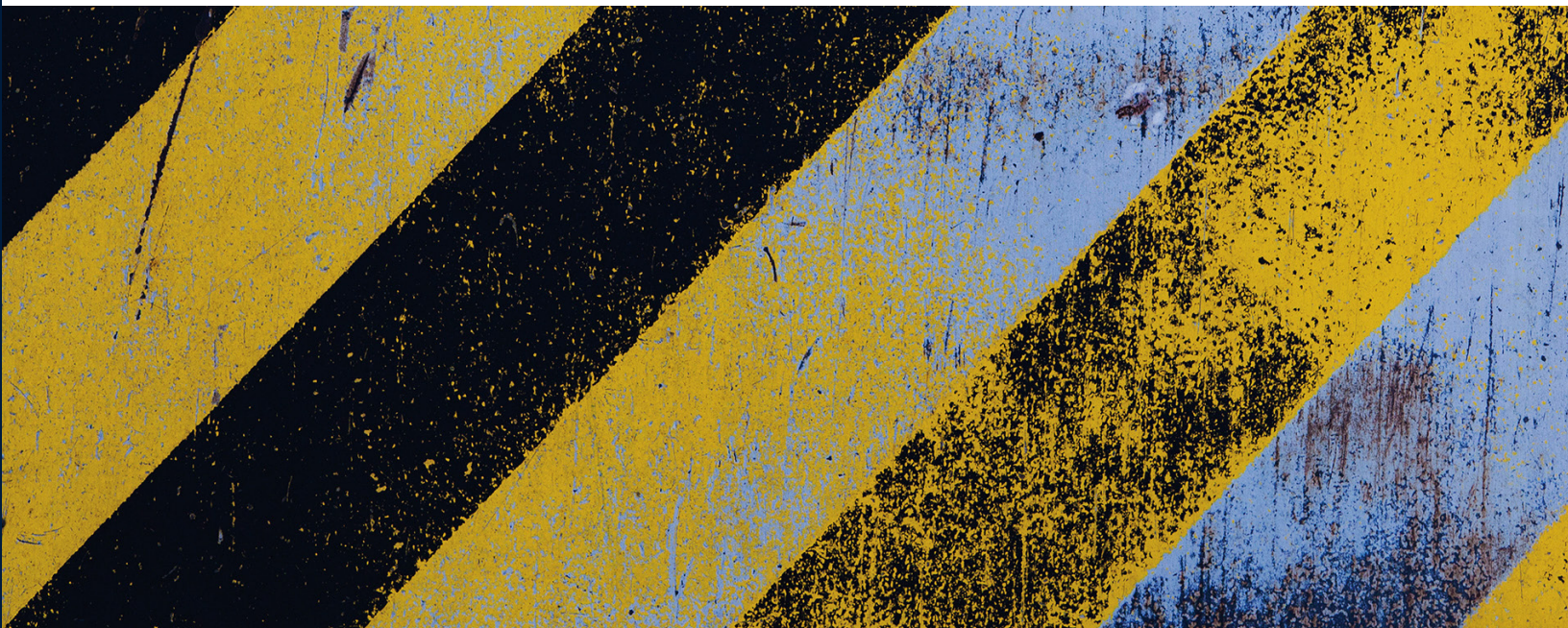


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Introduction

THE SHARE OF WOMEN IN THE CONSTRUCTION INDUSTRY HAS REMAINED SHOCKINGLY LOW—under 3 percent—for decades, due in large part to the discrimination that blocks women from entering and staying in the field. Sexual harassment and hostility, lack of mentors, and stereotyped assumptions about women's capabilities all contribute to the problem. Unequal access to construction jobs in turn negatively affects women's income, as traditionally male fields pay higher wages and have a lower wage gap than those dominated by women. More must be done to reverse this trend in construction, and the growth of women's participation in similar nontraditional fields shows that it is possible.

THIS REPORT DELVES INTO THE DATA ON WOMEN IN CONSTRUCTION, examines the roadblocks they face, and offers practical recommendations to increase women's access to high-paying construction careers. The National Women's Law Center is sounding the alarm because without focused attention, no progress will be made. There are new tools available, such as the President's "American Apprenticeship Initiative" to increase apprenticeships in high-growth fields, that can help improve the situation for women in construction. If we are to fulfill the decades old promise of women's full participation, enforcement of applicable federal laws is critical. The federal government, contractors, unions and advocates should work together to address this problem, which has significant negative consequences for the financial security of women and their families.

IN 1976, THE NATIONAL WOMEN'S LAW CENTER

filed a lawsuit against the U.S. Department of Labor for its failure to fulfill its duties under Executive Order 11246. This Executive Order "prohibits federal contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin."¹ The lawsuit resulted in the Office of Federal Contract Compliance Programs (OFCCP), the U.S. Department of Labor agency tasked with enforcing the Executive Order, issuing regulations designed to integrate women into construction by requiring specific steps, including setting a goal to increase the participation of women to 6.9 percent of the work hours on federal contractors' sites.²

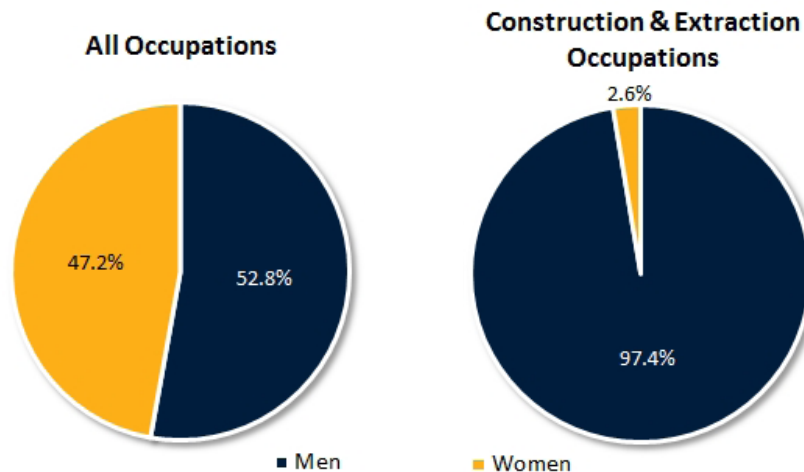
Women, particularly women of color, are severely underrepresented in construction jobs and apprenticeships.

DESPITE COMPOSING ALMOST HALF OF WORKERS in all occupations (47 percent),³ women make up only 2.6 percent of workers in construction and extraction occupations, and this number is about the same as it was three decades ago.⁴ There are about 7,615,000 male construction workers in the U.S. and only about 206,000 women.⁵

When employment rates of women in construction are examined by race, ethnicity, and gender together, these figures are even more dismal. White, non-Hispanic women make up the largest group of women in construction—2.0 percent of all construction workers in the construction industry. Hispanic women constitute the next largest group at 0.4 percent; African American women are 0.2 percent; and Asian/Pacific Islander and American Indian/Alaska Native women are each 0.1 percent of all construction workers.⁶

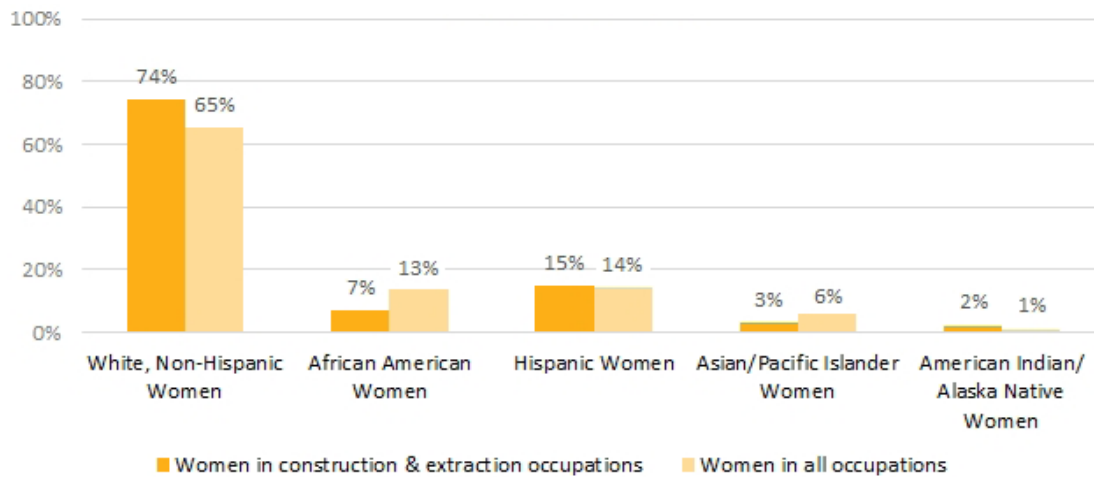
Comparing shares of subgroups of women in construction to their shares in the overall workforce sheds further light on the disparities. Of the approximately 206,000 female construction and extraction workers, white, non-Hispanic women make up the largest share—74.1 percent, which is greater than their share of women in all occupations (65.4 percent). Hispanic women are 14.6 percent of female construction workers (compared to 14.2 percent of women in all occupations); African American women are 6.7 percent (compared to 13.5 percent of women in all occupations); and Asian/Pacific Islander women are 2.8 percent (compared to 6.0 percent of women in all occupations). American Indian/Alaska Native women are 2.1 percent of female construction workers, compared to 1.0 percent of all female workers.⁷

FIGURE 1: SHARE OF WOMEN IN CONSTRUCTION/EXTRACTION AND ALL OCCUPATIONS



Source: NWLC calculations using Miriam King et al. *Integrated Public Use Microdata Series, Current Population Survey 2013*.

FIGURE 2: SHARE OF WOMEN IN CONSTRUCTION/EXTRACTION AND ALL OCCUPATIONS, BY RACE/ETHNICITY



Source: NWLC calculations using Miriam King et al. *Integrated Public Use Microdata Series, Current Population Survey 2013*.

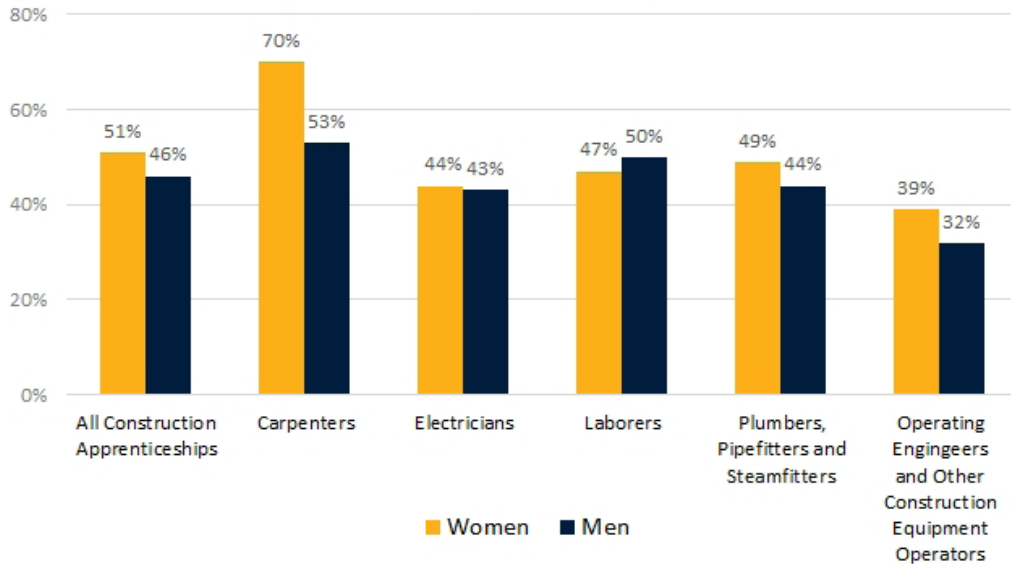


Among the largest groups of construction and extraction occupations, women make up just 4.5 percent of the over 1.9 million construction laborers, 1.0 percent of the almost 1.4 million carpenters, and 1.5 percent of the nearly 727,000 supervisors of construction and extraction workers within the industry.⁸ Women of all racial and ethnic backgrounds are most likely to be concentrated in office positions in the construction industry, and least likely to be found in more labor intensive positions (skilled and unskilled labor).⁹ This concentration only serves to reinforce the notion that women belong in clerical, traditionally female positions, as opposed to physical, traditionally male construction positions. And office clerks in the construction industry make less on average than construction laborers.¹⁰

Women are also underrepresented in federal construction apprenticeship programs. At the end of fiscal year 2012, women were 6.3 percent of all active apprentices within federally-administered programs, but only 2.2 percent of

active apprentices in the construction industry—a figure that has remained constant since fiscal year 2008.¹¹ Women also are less likely to complete their apprenticeships as compared to men. Between 2006 and 2007, out of 120,000 apprenticeship agreements, 51 percent of female construction apprentices left their apprenticeship programs, compared with 46 percent of males.¹² While all construction apprentices face obstacles to completion, such as financial insecurity due to the cyclical nature of the work, women also face outright gender discrimination.¹³ In four of the top five construction occupations with the highest shares of women, a greater percentage of women than men did not complete their apprenticeship programs. For carpenter apprenticeships, the attrition rate was especially high: 70 percent of women left their programs, compared to 53 percent of men. Although apprentices benefit from participating in these programs for any length of time, the career-long financial benefit is much higher if they complete their programs.¹⁴

FIGURE 3: ATTRITION RATES FOR CONSTRUCTION APPRENTICES, BY SEX
 Percentage of Construction Apprenticeship Agreements Cancelled



Source: The Aspen Institute, Workforce Strategies Initiative, 2013. Figures represent new apprentices federally registered between 2006 and 2007. The construction occupations shown are the top five occupations in which women are most represented in the national data set.



“A BRAND NEW WORLD OPENED UP TO ME when I enrolled in a pre-apprenticeship and construction skills training program when I was 27. A. The minute I lit a torch and started cutting metal, I fell in love with it. I graduated at the top of my class and was thrilled to be offered a job as an apprentice with the Ironworkers. I loved the work, but the hostility and discrimination I faced every day on the job shocked me. On the construction site, men don’t see you as a plumber or as an electrician—they only see you as a woman who shouldn’t be there. They give you a hard time to press you to quit. Women are groped, grabbed, and relentlessly harassed. A lot of women leave the job before a year is out. It’s just too stressful. It’ll never change without having more women on the work site and training women to compete in Ironwork. I’m one of three women still working in welding out of the 22 that started in my apprentice class. I love welding and make a good living, but I’m frustrated by constantly having to prove myself just to be considered a player in the game. And even then, I don’t get the opportunities to advance that I deserve.”¹⁵

Shané LaSaint-Bell, San Francisco, California

Increasing women's participation in high-wage, high-skill nontraditional fields, such as construction, is vital to their economic security.

ALTHOUGH WOMEN CONSTITUTE NEARLY HALF OF THE U.S. LABOR FORCE,¹⁶ they remain disproportionately clustered in jobs with lower pay and fewer benefits.¹⁷ Nontraditional fields, such as construction, typically offer women the opportunity to earn higher wages.¹⁸ The median hourly wage for construction and extraction occupations was \$19.55 in 2013, which is roughly double the median hourly wage for female-dominated occupations such as home health aides, maids, housekeepers, and child care workers.¹⁹

Women in construction also face a smaller wage gap than women overall. In general, women make only 77 cents on the dollar compared to their male counterparts working full time, year round.²⁰ Over the course of a 40-year career, this gap adds up to \$464,314 in lost wages.²¹ The wage gap is even larger for women of color working full time, year round. African American women make only 64 cents and Hispanic women only 54 cents, for every dollar paid to white, non-Hispanic men working full time, year round.²²

In the construction industry, where it makes more sense to compare weekly earnings given the transient nature of the work, the typical woman working full time in a construction and extraction occupation earned \$654 per week, or 89 percent of the \$736 per week earned by a typical man in the same occupation.²³ By contrast, when the median weekly earnings of all full-time working men and women are compared, women typically make only 82 percent of what their male counterparts make.²⁴ The smaller wage gap in construction can make a big difference for women and their families.

Given that construction jobs have the potential to provide women with better pay and career opportunities, it is critical that women have equal access to these jobs.

JENNY, A SINGLE MOTHER OF TWO, broke a three-generation reliance on public assistance when she began her electrical apprenticeship. She was met with harassment and hazing, but hoped that once she passed the apprenticeship stage and became a journeywoman, it would stop and her coworkers and supervisors would respect her. Instead, the hostility increased. Men exposed themselves, sexually harassed her, and accused her of sleeping with the boss when she was promoted to forewoman. On her way to earning \$85,000-plus per year as a journey level electrician, Jenny considered taking an entry-level job as a daycare worker with an annual salary of \$35,000 just to escape the hostile work environment.²⁵

Rates of women's participation in other nontraditional fields show room for growth in construction.

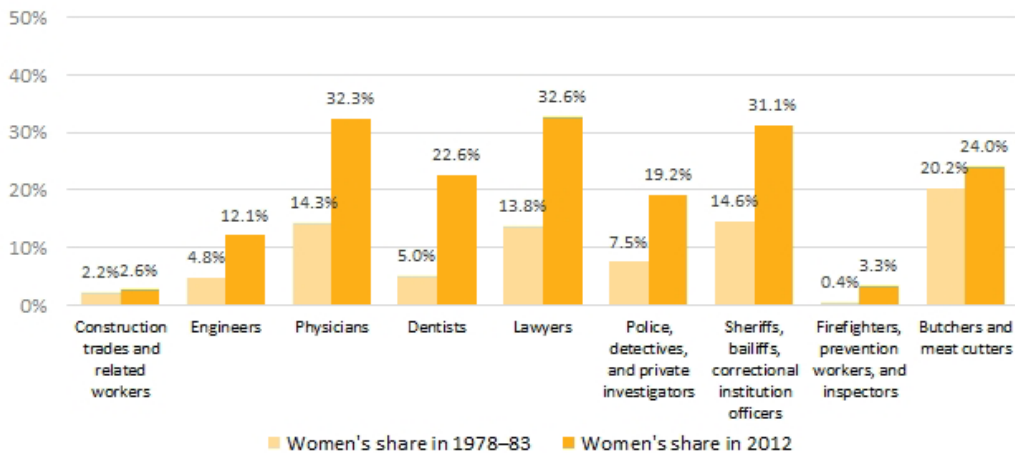
WOMEN'S PARTICIPATION IN CONSTRUCTION IS PARTICULARLY LOW when compared to other nontraditional fields. In fact, the share of women in many other “dirty and dangerous” jobs, such as correctional officers and firefighters, has grown dramatically in the past three decades. In firefighting, for example, while the overall percentage of women in the field is still very low, women represent significant percentages of the workforce in many jurisdictions: Minneapolis, Minnesota (17 percent); Madison, Wisconsin (15 percent); San Francisco, California (15 percent); Boulder, Colorado (14 percent); and Miami-Dade, Florida (13 percent).²⁶ These numbers refute the stereotype that women are not able to handle physically demanding work.

Recent research indicates that women's share of construction jobs should be much higher. A 2008 report card on women in firefighting estimated that the proportion of women in firefighting should be about 17 percent, when currently it is 3.7 percent.²⁷ Researchers reached the 17

percent benchmark by examining the percentage of women in the nation's labor force of typical firefighter age (20-49) and educational background (high school graduate without a college degree) working full-time in one of 184 occupations that resemble firefighting in terms of strength, stamina, and dexterity, or involving outdoor, dirty, or dangerous work.²⁸ Because jobs that resemble firefighting resemble construction as well, the report provides support for a similarly higher goal for women in construction. In the year 2012, if women made up 17 percent of those in the construction industry, there would have been a total of over 1.33 million women in construction and extraction occupations—more than six times their actual number.²⁹

Yet women's share of construction jobs has remained virtually unchanged for decades,³⁰ highlighting the need for more attention to the impediments that women face to entering and staying in the field and the affirmative efforts that can help increase their numbers.

FIGURE 4: WOMEN'S SHARE OF NONTRADITIONAL OCCUPATIONS: 1978–83 AND 2012



Source: NWLC calculations using Miriam King et al. *Integrated Public Use Microdata Series, Current Population Survey 1979–84, 2013.*

Women face many barriers to entering and staying in the construction field.

THE LOW PERCENTAGE OF WOMEN IN THE CONSTRUCTION INDUSTRY IS DRIVEN by discrimination that starts in education programs and continue all the way up the employment chain. In career and technical education (CTE) programs, young women are often subtly encouraged and explicitly steered into occupations that align with traditional gender stereotypes instead of being encouraged to enter traditionally male programs such as construction.³¹ Women and girls in nontraditional CTE programs report facing harassment and differential treatment, which further serves to discourage them from entering or staying in these fields.³² Such practices contribute to career and technical education programs that are highly segregated by gender, with female students concentrated in low-wage, traditionally-female fields.³³

Likewise, the obstacles that women face in pre-apprenticeship and apprenticeship programs drive their miniscule share of the field.³⁴ While apprenticeship is the traditional path to jobs in the skilled trades, entry into apprenticeship programs is highly dependent on access to information about when, where, and how to apply, as well as the training and skills necessary for particular occupations.³⁵ Access to such information has historically been tightly controlled by construction workers, who are overwhelmingly male. This has helped to perpetuate what has been described by female construction workers as the “FBI,” or “Friends, Brothers, and In-laws” network, which operates to exclude women and minorities and illustrates the extremely insular nature of the trades.³⁶ Many of the skilled construction trades (which are the highest paid jobs in construction) also require a large, up-front investment of training.³⁷ Women face a disadvantage in accessing high-skill training programs as well as numerous roadblocks to completing training programs once they are enrolled, such as hazing and outright hostility by some men who see women as intruders.³⁸

“I STUDIED CIVIL ENGINEERING

and worked at a major construction management company during my sophomore year of college to get on-the-job experience. The first day of my internship I arrived with three other interns—two young men and one other female. The foreman called in two construction managers who would become our mentors. The first manager arrived and immediately stated, ‘I’ll take the two boys’ and ‘Sorry ladies, I don’t deal with women on this job.’ Shortly after another manager arrived, he looked at the other woman and me and said ‘Are these the interns? I was expecting a couple of guys.’ Since we were all that was left, he had no choice. He took us to the only other woman on the site that day and told her to ‘take care of us.’ Then the harassment began. Men would stop their work to stare and wolf whistle. Several times a day I had to say ‘no thank you’ to men asking for my number or requesting to take me out on a date. On a few occasions I got called a bitch for refusing to reply to inappropriate remarks. Some men felt the need to give me ‘get fit’ advice and make comments about my body. Once, I was alone in the middle of a storage room with one construction worker blocking the doorway and refusing to let me leave unless I accepted his request for a date. I worked on the site for a year until I decided the stress of constantly being harassed, belittled, and intimidated was not worth the effort. We need more women in the construction industry so we’re no longer a rarity. Women deserve to have access to skilled trades, and they deserve to be respected as fellow colleagues.”³⁹

Patricia Valoy, New York, New York

The small number of women in the construction industry also limits access to mentoring and other supports that would help women complete apprenticeship programs and progress throughout their careers.⁴⁰ Securing jobs as apprentices within the trades to get on-site training is almost always a requirement of apprenticeship programs. But women's access to this required training is once again impeded by discrimination, particularly given that apprentices are often hired by experienced tradesmen who have to offer to formally supervise them.⁴¹ Unequal access to the required on-the-job training leaves many female apprentices without a way to complete a necessary part of their programs. In fact, research shows that women leave apprenticeship programs at higher rates than men, citing problems such as hostile work environments, sexual harassment, and lack of child care.⁴² In many cases these problems consist of "conscious discriminatory" behavior, designed to discourage and push women out of the industry.⁴³

Given the hurdles that women face in accessing and completing training programs, it is no wonder that the total number of women in construction has not increased over time. Discrimination continues to hinder women's long-term employment in the industry. For example, tradeswomen describe a practice called "checkerboarding," where women are sent to a worksite solely to show that they are meeting gender (and for women of color, gender and race) goals.⁴⁴ Once the goals are met, women are often fired, regardless of their performance, skills, or work history.⁴⁵ According to one study, a woman reporting for a job was told, "We thought we had to hire women, but we

don't so 'bye.'"⁴⁶ In addition, journeyworker⁴⁷ tradeswomen report that contractors trying to meet their goal for women's hours often hire apprentices to save money.⁴⁸

Yet even outright hiring discrimination is difficult to challenge, given that rejected female job applicants typically do not know why they were not hired, who was hired in their place, or what policies and practices might operate to exclude women from being hired.⁴⁹ In many instances, antidiscrimination laws require direct proof that a woman was denied a job based on her sex, making it hard for women to challenge discriminatory hiring practices.⁵⁰

Even if women are ultimately hired for construction jobs, they are often subject to gender stereotypes that make it harder for them to retain their jobs, such as employer assumptions about actual or perceived caregiving responsibilities or women's physical capabilities in the field.⁵¹ Even worse, women face extreme sexual harassment and denigration.⁵² A study by the U.S. Department of Labor reported that 88 percent of women construction workers experience sexual harassment at work,⁵³ compared to 25 percent of women in the general workforce.⁵⁴ Another study referred to construction as "the industry that time forgot" due to the employment practices related to women.⁵⁵ Some of the practices cited include: negative stereotypes about women's ability to perform construction work; sexual tension injected into work contexts; intentions to reserve well-paid employment for men, "who deserve it"; and reluctance by supervisors and other officials to discipline perpetrators of discrimination.⁵⁶ These discriminatory work environments persist despite the fact that the Civil Rights Act of 1964 has prohibited such practices for 50 years.

"I LOVE MY TRADE VERY MUCH. I love watching nothing become something. As a woman, you are not always given the hours that men get, but we are always the first ones sent home. The men would say to me, 'You should stay home, have babies, and be in the kitchen.' People often say 'you have a hard job.' It's not a hard job; it's hard to deal with the people we work with. But no matter what anyone says to you, don't quit. They'll harass and belittle you to try to make you quit. But we must stick with it, or else things won't ever get better for women on the job. I have worked in cement masonry for more than 30 years, and we are still dealing with the problems we had back then. No one is making it better for us to get in or stay in the trade. Since 2012 I've been Business Manager of Plasterers and Cement Masons Local 891 in Washington, D.C., and I'm the first woman in the union's history to hold the post. But even though I've made it this far, people still look at me like I don't belong. Since I've held this post, I've helped to double the number of women in the union from five to 12."⁵⁷ *Mary Battle, Washington, D.C.*

Policymakers must increase their efforts to ensure that women have equal opportunities in construction.

MUCH WORK REMAINS TO REMOVE THE NUMEROUS ROADBLOCKS to women's access to construction jobs. Making sure that women are not left out of high-wage jobs that can contribute to their economic security is especially important as the nation continues its economic comeback.

There are several federal agencies that need to step up their enforcement of nondiscrimination laws affecting women in construction. In addition, there are particular laws that can be strengthened or passed to help address the barriers women face to getting and staying in these jobs.

THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

With approximately one-fifth of the civilian workforce under its jurisdiction, and construction contracts making up approximately 17 percent of federal contracts,⁵⁸ OFCCP plays a unique and vital role in combating unlawful employment discrimination in this industry. In addition to Executive Order 11246,⁵⁹ OFCCP also enforces laws that prohibit contractors from discriminating—and requires them to take affirmative action—with respect to disability and veteran status.⁶⁰

OFCCP should strengthen the affirmative action requirements for women in construction and increase its oversight and monitoring of contractors.

- OFCCP needs to increase the 6.9 percent goal for women, which was set in 1978 based on the overall population of women working at the time. The ongoing discrimination against women in construction, coupled with the dramatic increase of women in the workforce, relevant labor pool, and other nontraditional fields justifies a higher goal.⁶¹

OFCCP should strengthen the affirmative action requirements for women in construction and increase its oversight and monitoring of contractors.

- OFCCP should streamline and strengthen the 16 good faith steps that contractors are required to take—steps such as establishing a written sexual harassment policy, keeping track of recruitment sources for women and minorities, and engaging in outreach and recruitment of women and minorities.⁶² These steps should be strengthened to require contractors to, among other things, clearly document their recruitment efforts, worksite conditions, and employment data (such as apprentice and journey level work hours by occupation, work assignments, and overtime allocations).
- OFCCP should require construction contractors to provide a written plan indicating how they plan to improve their numbers of women and minorities.
- OFCCP must update the sex discrimination guidelines to include the employer's obligation under Executive Order 11246 to prevent and remedy sexual harassment at the workplace as a form of unlawful sex discrimination, and it should revise the agency's Compliance Manual accordingly.
- OFCCP should convene a task force of chief procurement officers to implement a set of criteria that all agencies must apply, before making any purchasing decisions, to assess prospective contractors' policies and practices for complying with the nondiscrimination mandates of Executive Order 11246.

- OFCCP should utilize project labor agreements⁶³ to attach registered apprenticeships to job opportunities.
- As soon as a contract is let, OFCCP should begin working with contractors, unions and advocacy groups for women and minorities to ensure that a plan is in place to meet the goals and affirmative action steps. OFCCP should conduct: regular on-site monitoring; review contractors' hiring, assignments, and layoffs; and provide incentives for contractors who fulfill or exceed their affirmative action obligations.
- OFCCP should work with the Office of Apprenticeship and the Department of Education to address the discrimination that women face in nontraditional education and employment programs and help increase the numbers of women in the pipeline for construction jobs.

OFFICE OF APPRENTICESHIP

The U.S. Department of Labor's Office of Apprenticeship⁶⁴ registers apprenticeship programs and apprentices in all 50 states. One of the Office's main roles is to protect the welfare of apprentices and ensure the quality of and equality of access to apprenticeship programs.

- The Office of Apprenticeship should revise its affirmative action regulations to help increase the numbers of women and minorities in apprenticeship programs. While there has been some increase in the numbers of female and minority apprentices since 1978, when the regulations were first issued, overall figures remain low. Allowing more innovative approaches; imposing aggressive apprentice utilization requirements; spelling out standards for compliance and consequences for failing to comply; and providing incentives for exceeding recruitment and retention goals are some of the steps necessary to increasing the numbers of women in registered apprenticeships.
- The Office of Apprenticeship should provide technical assistance to employers and community based organizations to address the obstacles female apprentices face and to implement best practices for their training and advancement.

OFCCP RECENTLY INVESTIGATED A FEDERAL CONSTRUCTION CONTRACTOR

in San Juan, Puerto Rico. They discovered that some worksites had no restroom facilities for female employees, forcing them to relieve themselves outdoors without privacy. Women workers were also subjected to unwelcome sexual comments, and some did not receive equal pay compared to their male counterparts. OFCCP found that the company violated EO 11246 by discriminating against women in wages and by permitting sexual harassment and retaliation against employees who complained about a hostile working environment. The contractor ultimately agreed to provide adequate facilities for its female employees and develop anti-harassment policies.⁶⁵

This situation is not an anomaly.
OFCCP must increase its enforcement to help ensure that women are getting a fair shot to succeed in the workplace.

- The Office of Apprenticeship should coordinate with OFCCP to address the discrimination that women face at all points along the employment chain in nontraditional fields.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The U.S. Equal Employment Opportunity Commission (EEOC)⁶⁶ is responsible for enforcing federal laws that prohibit discrimination against a job applicant or employee on the basis of race, color, religion, sex, national origin, age, disability and genetic information. Most employers with at least 15 employees, labor unions, and employment agencies are covered by laws that fall under the EEOC's jurisdiction, including Title VII of the Civil Rights Act.

The EEOC can help address one of the major barriers for women in the construction industry by increasing its enforcement of and public education regarding sexual harassment protections.

- The EEOC should provide technical assistance to employers on model practices to proactively prevent workplace harassment based on sex, race, ethnicity, or any other protected status.
- The EEOC should convene meetings with appropriate stakeholders to discuss strategies for addressing workplace harassment, such as: increasing the percentage of women who pursue their rights through discrimination charges when they experience sexual harassment, and addressing cyber-harassment by coworkers.
- The EEOC must update the Policy Guidance on Current Issues of Sexual Harassment to reflect recent developments in case law.⁶⁷
- The EEOC must update its Policy Guidance on Employer Vicarious Liability to ensure proper interpretation of the recent Supreme Court decision *Vance v. Ball State University*, which makes it harder for employees to bring harassment claims against lower-level supervisors.⁶⁸
- The EEOC should analyze data on harassment charges by industry and make this information publicly available, so as to enable effective targeting of public and private enforcement, education and outreach efforts.

DEPARTMENT OF EDUCATION

The U.S. Department of Education's Office for Civil Rights (OCR)⁶⁹ enforces several laws that prohibit discrimination—on the basis of race, color, national origin, sex, disability, and age—in federally funded programs, which include vocational schools and programs. The Department of Education's Office of Vocational and Adult Education (OVAE)⁷⁰ administers and coordinates vocational education programs, also known as career and technical education programs (CTE).

Changing longstanding patterns of occupational segregation requires vigorous enforcement of civil rights laws and prioritizing the recruitment and retention of women in nontraditional CTE and STEM courses. To that end, the Office for Civil Rights should work with the Office of Vocational and Adult Education to ensure that girls and women are not being discriminated against in access to nontraditional fields and to provide technical assistance to states about ways to improve women's representation in these fields.

Changing longstanding patterns of occupational segregation requires prioritizing the recruitment and retention of women in nontraditional CTE and STEM courses.

- OCR should work with OVAE to investigate CTE programs where young women are overwhelmingly concentrated in low-wage, traditionally female courses and shut out of high-wage, traditionally male courses to ensure that girls are not being discriminated against in their access to nontraditional fields.
- OCR should use its authority to approve state agencies' Methods of Administration (MOA) for assuring compliance with civil rights laws in federally funded vocational education programs⁷¹ to increase its oversight of such programs and help increase the numbers of women in nontraditional CTE and STEM fields.
- OVAE should create a national network of experts who can provide technical assistance on building programs that increase gender equity in CTE.
- OCR should work with OVAE to coordinate approaches for addressing sex discrimination in CTE programs, including by conducting compliance reviews and providing joint technical assistance to states.
- OVAE, in conjunction with the Department of Labor, should work to ensure that the Obama Administration's new American Apprenticeship Initiative includes a focus on recruiting and supporting underrepresented groups in apprenticeships.⁷²

WOMEN IN APPRENTICESHIP AND NONTRADITIONAL OCCUPATIONS PROGRAM

The Women in Apprenticeship and Nontraditional Occupations Program (WANTO)⁷³ is the only federal grant program designed specifically to train women to work in nontraditional fields (defined as those where women make up 25 percent or less of the workforce), primarily the building trades. The Department of Labor awards competitive grants to help train employers and unions to recruit and retain

women for nontraditional jobs. Research shows that areas with WANTO programs have been successful at increasing the likelihood of women holding nontraditional jobs.⁷⁴ Despite this success, WANTO has received little or no funding in recent years.⁷⁵ The President's FY 2015 budget requests no funds for the program, instead asking for money for a new four-year initiative to double the number of apprenticeships.⁷⁶ While additional apprenticeships are certainly necessary, it is particularly important to ensure that women are getting a true opportunity to share in these apprenticeships and jobs.

- Increasing funding for WANTO would help more women gain access to nontraditional fields such as construction.

WOMEN & WORKFORCE INVESTMENT FOR NONTRADITIONAL JOBS (WOMEN WIN JOBS) ACT

The Women WIN Jobs Act⁷⁷ was introduced in the U.S. House of Representatives in March 2013 and would expand upon WANTO by broadening grants to include nontraditional occupations beyond the building trades and providing funding for partnerships in every state. The grants authorized by this bill would help states recruit and train low-income women for high-demand, nontraditional occupations and provide training to overcome gender stereotypes.

- Passing the Women WIN Jobs Act bill would enable women in every state to increase their access to nontraditional fields such as construction.

WORKFORCE INVESTMENT ACT

The Workforce Investment Act (WIA),⁷⁸ the main federal job training system, funds educational and career training for underserved workers. But only about 3 percent of the workers exiting WIA programs enter jobs that are nontraditional for their gender.⁷⁹

- The upcoming WIA reauthorization presents an opportunity to make progress by requiring states to submit plans to increase the numbers of women who enter nontraditional jobs after receiving training through WIA.

CARL D. PERKINS CAREER AND TECHNICAL EDUCATION ACT

The Carl D. Perkins Career and Technical Education Act⁸⁰ is the federal statute that funds CTE. It requires states to meet negotiated targets for participation and completion rates of males and females in programs that are nontraditional for their gender. It also authorizes sanctions for noncompliant states and requires state and local improvement plans for states not meeting performance measures. Many state and local CTE directors consider the nontraditional accountability measures critical to addressing the hurdles that women and girls face to entering and completing nontraditional CTE programs. The upcoming reauthorization of the Perkins Act provides an opportunity for Congress to take action on this issue.⁸¹

- Continuing to include in the Perkins Act accountability measures for states to increase women's completion of nontraditional CTE programs would go a long way towards helping more women and girls gain access to nontraditional fields.

STATES MUST INCREASE THEIR EFFORTS TO HELP

women obtain and retain construction jobs.

In addition to enforcing federal and state antidiscrimination laws, states can pass their own laws to help women gain access to nontraditional jobs. Minnesota recently did just that when it passed the Women's Economic Security Act, a law focused on helping women overcome economic barriers.⁸²

One part of the law establishes a grant program to increase the numbers of women in high-wage, high-demand nontraditional occupations. At least 50 percent of the total grant funds are to be awarded to programs targeting low-income women.

Conclusion

WOMEN HAVE MADE SIGNIFICANT INROADS IN OTHER NONTRADITIONAL FIELDS, but continue to face numerous hurdles at each step along the road to jobs in construction. As a result, women remain severely underrepresented in construction jobs today. The federal government plays a major role in ensuring that women have equal access to construction jobs, and it must increase its efforts to open up opportunities for women in this area. Promoting equal opportunity in the construction industry will provide greater economic security for women and their families and will benefit the nation as a whole by taking full advantage of all of its citizens' skills. The construction industry is projected to add 1.6 million new jobs over the 2012-22 decade.⁸³ Women deserve an equal chance to secure these high-wage, high-skill jobs.

endnotes

- 1 See *Women Working in Construction v. Marshall*, No. 76-527 (D.D.C. filed April 13, 1976) (on file at NWLC); Exec. Order No. 11246, 30 Fed. Reg. 12319 (Sept. 24, 1965).
- 2 41 C.F.R. 60-4.
- 3 National Women's Law Center (NWLC) calculations using Miriam King et al., *Integrated Public Use Microdata Series, Current Population Survey 2013: Version 3.0*, IPUMS-CPS: Minnesota Population Center (March 2013), available at <http://cps.ipums.org/cps/index.shtml> (Machine readable data).
- 4 *Id.*
- 5 *Id.*
- 6 *Id.*
- 7 *Id.*
- 8 *Id.*
- 9 Equal Employment Opportunity Commission, *Job Patterns for Minorities and Women in Private Industry (EEO-1)*, <http://www.eeoc.gov/eeoc/statistics/employment/jobpat-eeo1/> (last visited Nov. 4, 2013). EEOC EEO-1 data is filed by private employers with 100 or more employees and federal contractors with 50 or more employees.
- 10 Bureau of Labor Statistics, *National Industry-Specific Occupational Employment and Wage Estimates, Sector 23- Construction*, Occupational Employment Statistics (May 2013), http://www.bls.gov/oes/current/naics2_23.htm. Office clerks have a median hourly wage of \$13.95 an average annual salary of \$31,020. Construction laborers have a median hourly wage of \$14.77 and an average annual salary of \$35,390.
- 11 NWLC calculations from Registered Apprenticeship Partners Information Database System (RAPIDS), *Custom Report*, Office of Apprenticeship, Employment and Training Agency, U.S. Dept. of Labor (Nov. 16, 2012). Figures are calculated out of the total number of active apprentices at the end of each fiscal year. Each year includes a small number of apprentices (10 or fewer) who do not specify gender. The U.S. Department of Labor's Employment and Training Administration's Office of Apprenticeship (OA) registers programs and apprentices in 25 states, while in the other 25 states and the District of Columbia, State Apprenticeship Agencies (SAA) register programs and apprentices. OA and SAA programs are mostly similar but have some differences in the demographics and occupational distribution of the apprentices. See also MATHEMATICA POLICY RESEARCH, AN EFFECTIVENESS ASSESSMENT AND COST-BENEFIT ANALYSIS OF REGISTERED APPRENTICESHIP IN 10 STATES 46-53 (July 2012), available at http://www.mathematica-mpr.com/publications/pdfs/labor/registered_apprenticeship_10states.pdf.
- 12 ASPEN INSTITUTE WORKFORCE STRATEGIES INITIATIVE, APPRENTICESHIP: COMPLETION AND CANCELLATION IN THE BUILDING TRADES 22 (Oct. 2013), available at <http://www.aspeninstitute.org/publications/apprenticeship-completion-cancellation-building-trades>.
- 13 *Id.* at 32; see *infra* discussion of discrimination at page 6-8 and accompanying notes. See generally Timothy Casey, *There are Still Virtually No Women in the Federally Created and Supervised Apprenticeship System for the Skilled Construction Trades*, Legal Momentum (March 2013), available at <http://www.legalmomentum.org/resources/report-still-excluded>.
- 14 *Id.*
- 15 Telephone interview with Shané LaSaint-Bell, Ironworker Apprentice (June 3, 2014).
- 16 NWLC calculations from U.S. Department of Labor Bureau of Labor Statistics, *Current Population Survey, Annual Averages Table 2: Employment status of the civilian noninstitutional population 16 years and over by sex, 1973 to date*, <http://www.bls.gov/cps/cpsaat02.htm> (last visited Dec. 11, 2013). In November 2013, women 20 years and older made up about 47 percent of the civilian labor force age 20 and older.
- 17 In 2013, women made up about two-thirds of all workers who were paid the federal minimum wage or less. See NWLC, *Fair Pay for Women Requires Increasing the Minimum Wage and Tipped Minimum Wage* (March 2013), available at <http://www.nwlc.org/resource/fair-pay-women-requires-increasing-minimum-wage-and-tipped-minimum-wage>. Lower quartiles of wage earners are less likely to have access to retirement and health benefits. See U.S. Department of Labor Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in the United States, March 2013* 4, 13 (Sept. 2013), available at <http://www.bls.gov/ncs/ebs/benefits/2013/ebb10052.pdf> (excludes federal employees).
- 18 Bureau of Labor Statistics, *Current Population Survey: 2012 Annual Averages, Table 11: Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity and Table 39: Median weekly earnings of full-time wage and salary workers by detailed occupation and sex*, <http://bls.gov/cps/tables.htm#annual> (last visited Oct. 7, 2013.) See generally State of California Employment Development Department, *Nontraditional Employment for Women* (Oct. 2011), available at <http://www.labormarketinfo.edd.ca.gov/article.asp?ARTICLEID=657>; Carrie Mayne & Lecia Parks Langston, *Utah Careers Supplement for Women: Nontraditional Jobs for Women*, available at <http://jobs.utah.gov/wi/pubs/womencareers/nontradjobs.pdf>.
- 19 BLS, *Occupational Employment Statistics, Occupational Employment and Wages*, May 2012 (Mar. 2013), available at http://www.bls.gov/oes/current/oes_stru.htm; BLS, *CPS, 2012 Annual Averages (2013), Table 11: Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity*, available at <http://www.bls.gov/cps/cpsaat11.pdf>. In 2012, the median hourly wage was \$10.01 for home health aides, \$9.41 for maids and housekeeping cleaners, and \$9.38 for child care workers. In 2012, nursing, psychiatric, and home health aides were 87.9 percent women, maids and housekeepers were 88.1 percent women, and child care workers were 94.1 percent women.
- 20 National Women's Law Center, *The Wage Gap* (Oct. 2013), available at http://www.nwlc.org/sites/default/files/pdfs/wage_gap_over_time_overall.pdf.
- 21 BLS, *Occupational Employment Statistics, Occupational Employment and Wages*, May 2012 (Mar. 2013), available at http://www.bls.gov/oes/current/oes_stru.htm; BLS, *CPS, 2012 Annual Averages (2013), Table 11: Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity*, available at <http://www.bls.gov/cps/cpsaat11.pdf>. In 2012, the median hourly wage was \$10.01 for home health aides, \$9.41 for maids and housekeeping cleaners, and \$9.38 for child care workers. In 2012, nursing, psychiatric, and home health aides were 87.9 percent women, maids and housekeepers were 88.1 percent women, and child care workers were 94.1 percent women.
- 22 NWLC, *Closing the Wage Gap is Crucial for Women of Color and Their Families* (November 2013), available at <http://www.nwlc.org/resource/closing-wage-gap-crucial-women-color-and-their-families>.
- 23 NWLC calculations from Bureau of Labor Statistics, *Current Population Survey, 2013 Annual Averages (2013), Table 39: Median Weekly Earnings of Full-time Wage and Salary Workers by Detailed Occupation and Sex*, available at <http://www.bls.gov/cps/cpsa2013.pdf>.
- 24 NWLC calculations from Bureau of Labor Statistics, *Current Population Survey Annual Averages, Table 39: Median Weekly Earnings of Full-time Wage and Salary Workers by Detailed Occupation and Sex (2013)* available at <http://www.bls.gov/cps/cpsa2013.pdf>. These data differ slightly from the often-used measure of median annual earnings for full-time, year-round workers. Using that measure, women typically make 77 percent of what men make. NWLC, *The Wage Gap is Stagnant in the Last Decade* (Sept. 2013), available at <http://www.nwlc.org/resource/wage-gap-stagnant-last-decade>.
- 25 FRANCINE A. MOCCIO, *LIVE WIRE: WOMEN AND BROTHERHOOD IN THE ELECTRICAL INDUSTRY*, 4-5 (Temple University Press, 2010).
- 26 DENISE M. HULETT ET AL., *A NATIONAL REPORT CARD ON WOMEN IN FIREFIGHTING 2* (April 2008), available at www.i-women.org/images/pdf-files/35827WSP.pdf.

- 27 *Id.*
- 28 *Id.* at 5-7. These comparable occupations included bus mechanics, drywall installers, enlisted military personnel, highway maintenance workers, loggers, professional athletes, refuse collectors, roofers, septic tank servicers, tire builders, and welders.
- 29 NWLC calculation, *supra* note 3. Figure calculated by taking 17 percent of total number of workers in construction and extraction occupations in 2012.
- 30 NWLC calculations from U.S. Census Bureau, 2006-2010 Equal Employment Opportunity (EEO) Tabulation (2012), Table EEO-10W-A. Detailed Census Occupation by Industry (Agriculture, Forestry, and Hunting 11, Mining 21, Construction 23), Sex, and Race/Ethnicity for Worksite Geography, Total Population, available at <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>. Construction and extraction occupations include all occupations listed under "Construction and Extraction (47-0000)."
- 31 See, e.g., Reuma Gadassi & Itamar Gati, *The Effect of Gender Stereotypes on Explicit and Implicit Career Preferences*, 37 *Counseling Psychologist* 902, 904-06 (April 2009); National Coalition for Women & Girls in Education, Title IX at 40: Working to Ensure Gender Equity in Education 27 (June 2012) available at <http://www.ncwge.org/PDF/TitleXat40.pdf>.
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- 38 SUSAN MOIR ET AL., UNFINISHED BUSINESS: BUILDING EQUALITY FOR WOMEN IN THE CONSTRUCTION TRADES 8 (April 2011), available at http://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1004&context=lrc_pubs.
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- 41 Berik, *supra* note 36, at 11.
- 42 Moir, *supra* note 38, at 8-9.
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- 44 Moir *supra* note 38, at 8-9.
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- 46 Moir, *supra* note 38, at 10.
- 47 "Journeyworker" means a worker recognized within an industry as having mastered the skills and competencies required for the occupation. 29 C.F.R. § 29.2.
- 48 Moir, *supra* note 35, at 10.
- 49 See generally NWLC, 50 YEARS & COUNTING: THE UNFINISHED BUSINESS OF ACHIEVING FAIR PAY (June 2013), http://www.nwlc.org/sites/default/files/pdfs/final_nwlc_equal_pay_report.pdf; Marianne DelPo Kulow, *Beyond the Paycheck Fairness Act: Mandatory Wage Disclosure Laws—A Necessary Tool for Closing the Residual Gender Wage Gap*, 50 *HARV. J. ON LEGIS.* 385, 419 (2013).
- 50 *Id.*
- 51 Joan C. Williams & Stephanie Bornstein, *The Evolution of "Fred": Family Responsibilities Discrimination and Developments in the Law of Stereotyping and Implicit Bias*, 59 *Hastings L. J.* 1311, 1321 (2007).
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- 55 Marc Bendick, Jr., Ph.D., Economist, and Egan Economic Consultants, Inc., written testimony to the U.S. Equal Employment Opportunity Commission: *Disparate Treatment in Hiring* (June 22, 2011), available at <http://www.eeoc.gov/eeoc/meetings/6-22-11/bendick.cfm>.
- 56 *Id.*
- 57 Telephone interview with Mary Battle, Business Manager, Cement Masons, Local 891 (June 9, 2014).
- 58 See U.S. Department of Labor, History of Executive Order 11246, available at http://www.dol.gov/ofccp/about/History_EO11246.htm#UllbUGd20W8 (last visited March 7, 2014); U.S. Department of Labor, FY 2015: Congressional Budget Justifications Office of Federal Contract Compliance Programs (March 2014), available at <http://www.dol.gov/dol/budget/2015/PDF/CBJ-2015-V2-10.pdf>.
- 59 41 C.F.R. §§ 60-1.40, 60-4, 60-4.3(a)(7); 45 Fed. Reg. 85750.
- 60 See U.S. Department of Labor, Facts on Executive Order 11246: Affirmative Action (Jan. 2002), <http://www.dol.gov/ofccp/regs/compliance/aa.htm>; 41 C.F.R. § 60-741.36 (affirmative action programs for employees with disabilities); 41 C.F.R. § 60-300.45 (benchmarks for hiring veterans).
- 61 In the last four decades, the number of women participating in the labor force has increased by almost 33 percent, from a rate of 43.3 in 1970 to a rate of 57.7 in 2012. National Women's Law Center calculations based on U.S. Bureau of Labor Statistics, Current Population Survey Database (last visited Dec. 11, 2013), <http://data.bls.gov/pdq/querytool.jsp?survey=in>.
- 62 Steps include documenting the following: (a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities; (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses; (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional

actions the Contractor may have taken; (d) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations; (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above; (f) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed; (g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter; (h) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business; (i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process; (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force; (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3; (l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities; (m) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out; (n) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes; (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations; (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations. 41 C.F.R. 60-4.3(a)7.a-p; see also Office of Federal Contract Compliance Programs, Technical Assistance Guide for Federal Construction Contractors (May 2009), available at <http://www.dol.gov/ofccp/TAGuides/consttag.htm>.

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- 67 U.S. Equal Employment Opportunity Commission, Policy Guidance on Current Issues of Sexual Harassment (March 1990), available at <http://www.eeoc.gov/policy/docs/currentissues.html>.
- 68 See *Vance v. Ball State University*, 133 S.Ct. 2434, 2443-44 (2013) (holding that an employee is a "supervisor" for purposes of determining the employer's liability for harassment under Title VII of the Civil Rights Act only if the harasser is empowered by the employer to take tangible employment actions against the victim); see also NWLC, Reality Check: Sixteen Million Reasons Workers Need Strong Protections from Harassment (April 2014), available at <http://www.nwlc.org/resource/reality-check-seventeen-million-reasons-low-wage-workers-need-strong-protections-harassment>.
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- 73 29 U.S.C. §§ 2501-2509.
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- 75 *Id.*
- 76 See U.S. Department of Labor, FY 2015 Department of Labor Budget in Brief, at 12 (Feb. 2014), available at <http://www.dol.gov/dol/budget/2015/PDF/FY2015BIB.pdf>.
- 77 H.R. 951, 113th Cong. (2013).
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