



National Center for Women's Equity in Apprenticeship and Employment

RECOMMENDATIONS OF CHICAGO WOMEN IN TRADES FOR LABOR TRANSITION TEAM FOR FIRST YEAR OF BIDEN ADMINISTRATION

Founded in 1981, **Chicago Women in Trades** (CWIT) is a nonprofit organization committed to improving women's economic equity by increasing the number of women working in well-paid, skilled trades jobs traditionally held by men. Through education, preparatory training, support and policy programs our staff and members work to increase apprenticeship and employment opportunities and improve working conditions for women in the construction, manufacturing and other male-dominated sectors. CWIT's **National Center for Women's Equity in Apprenticeship and Employment** manages national technical assistance and policy initiatives to advance women's opportunities in male-dominated blue-collar occupations through customized guidance, advocacy and organizing. www.womensequitycenter.org

- I. **Recommendation for the Administration at the White House level**
 - A. **Announce EEO (encompassing nondiscrimination, equity, inclusion, and diversity) in general, and contract compliance for EEO and affirmative action in particular**, as an Administration priority, and incorporate an equity lens throughout Administration initiatives
 - B. **Issue guidance emphasizing all agencies' obligations to implement EO 11246**, including by explaining their EEO/affirmative action obligations to prospective contractors and contract-award winners in bid documents and pre- and post-award communications; giving OFCCP prior notice of major federal projects, and giving OFCCP their full cooperation.
 - C. **Appoint individuals with demonstrated record of implementing racial and gender equity, inclusion, and justice** in positions with responsibility for employment policy and enforcement, including the following positions –
 1. At DOL:
 - a. Secretary
 - b. Deputy Secretary
 - c. Solicitor
 - d. Assistant Secretary for Employment and Training
 - e. Assistant Secretary for Policy
 - f. Assistant Secretary for Occupational Safety & Health
 - g. Women's Bureau Director
 - h. Director of OFCCP
 - i. Wage & Hour Administrator
 - j. Administrator of Office of Apprenticeship
 2. At EEOC:
 - a. Chair (immediately elevate Commissioner Charlotte Burrows to Chair)
 - b. Commissioner for the term beginning July 1, 2021 (nominate current Commissioner Jocelyn Samuels to this full term – she was just appointed to serve out the remainder of the term of this seat)
 - c. General Counsel

- d. Office of Legal Counsel
- e. Next year: a Democrat for the Commissioner seat now held by Republican Janet Dhillon, expiring June 30 2022

D. Executive Orders

1. **Amend Executive Order 11246 to improve its enforcement** by, among other things –
 - a. Giving OFCCP authority to order additional sanctions such as damages and civil monetary penalties; to require prime contractors to delay or withhold interim payments to subcontractors that don't comply with EEO laws
 - b. Giving OFCCP direct jurisdiction over hiring halls, employment referral agencies, and apprenticeship programs that act as joint employers with federal contractors, or to which contractors delegate hiring authority
 - c. Giving OFCCP necessary authority to conduct Mega-Construction Projects, including authority to require agencies to designate projects for the Mega-Construction program pre-bid and include the Mega-Construction requirements in all bid information; collect data from all contractors and subcontractors participating in each Mega-Construction project; and conduct pre-award and quarterly compliance reviews of such contractors/subcontractors.
2. Issue a new Executive Order requiring that all federally funded infrastructure projects must contain the 10 elements set out in the **Infrastructure Equity Framework of the National Tradeswomen's Taskforce** (attached), including workforce goals for women and people of color
3. Reinstate and immediately implement the Fair Pay and Safe Workplaces Executive Order (President Obama's E.O. 13673), requiring bidders for federal contracts to show compliance with workplace laws
4. Direct all federal agencies to fully implement the Supreme Court's 2020 *Bostock* decision on sexual orientation and gender identity discrimination as a form of sex discrimination and specifically instructing federal agencies to withdraw all inconsistent all guidance and internal directives
5. Repeals:
 - a. **Repeal Executive Order 13950** (the so-called "Combating Race and Sex Stereotyping" E.O., restricting diversity training) and related regulations, directives, and guidance
 - b. Repeal Executive Order 13798 (the so-called "Promoting Free Speech and Religious Liberty" E.O., privileging claims of religious freedom over nondiscrimination requirements) and related regulations, directives, and guidance

- E. Make women’s access to and retention in skilled trades and nontraditional occupations a priority and a reality through –
 - 1. **Establishing a national Commission** (similar to the Glass Ceiling Commission) – with representation from government, community, labor, and employers to oversee the implementation of better policies and best practice recommendations, including higher female participation goals, equitable jobsites and classrooms, and compliance and enforcement.
 - 2. **Establishing an inter-agency Task Force on Increasing Opportunities for Women and People of Color in Construction and Related Trades** to coordinate implementation of the recommendations of the Commission throughout the federal government.
 - 3. Reinstating gender-equity provisions and resources related to secondary and post-secondary career and technical education
- F. Re-establish the inter-agency Pay Equity Task Force
- G. Ensure sufficient resources to be able to enforce civil and workers’ rights statutes (by all relevant agencies, including OFCCP) and to allow for hiring of a significant number of additional compliance officers, auditors, investigators and managers at every step of the appropriations process.
 - a. Give regulatory actions (including information collection requests) regarding civil and workers’ rights statutes the highest priority
- H. Support legislative agenda (see Section III below).

II. **Department of Labor**

- A. Department-wide
 - 1. Model Exemplary Practices: incorporate meeting DOL’s affirmative-action goals, disaggregated by race, ethnicity, sex, and job level, into the Performance Plan of each agency leader
 - 2. Provide sufficient resources, including staff and monies for travel and other expenses, to achieve agency missions and do compliance reviews
 - 3. Restore equity-related information and resources on DOL site that the Trump Administration took down or buried.
- B. OFCCP
 - 1. **Update 6.9% construction goal for women and goals for minorities** that were based on 1970 Census; instate numeric participation goals for the percentage of total work-hours that are worked by women, by people of color, and by women of color, by trade and position (apprentice, journeyworker, or supervisor); upgrade standard by which contractors’ compliance with this requirement is measured from “good-faith efforts” to “best efforts”
 - 2. **Prioritize nondiscrimination and compliance by the construction industry**

- a. Re-establish robust **OFCCP Mega-Construction Project program** that includes the following elements:
 - 1) Early advance notice of projects by all federal agencies to OFCCP
 - 2) Incorporation of requirements of Mega-Construction program into agencies' bid documents
 - 3) Provision to prime contractor and all subcontractors on the project of technical assistance for meeting their EO 11246 obligations before they hire anyone to work on it;
 - 4) Pre-award reviews of the prime contractor and subcontractors projected to use larger numbers of skilled-trade workers;
 - 5) Monthly data sharing and monitoring of prime contractors' and subcontractors' performance at meeting their goals by the project owner; OFCCP; the Office of Apprenticeship or State Apprenticeship Agency; a community Equity and Inclusion committee that includes unions, CBOs representing women and people of color, and apprenticeship programs; and other agencies with oversight jurisdiction (Wage & Hour, Federal Highway Administration, state and local agencies);
 - 6) Quarterly compliance reviews of the prime contractor and all subcontractors on the project; and
 - 7) Dedicated OFCCP staff and resources for Mega-Construction Project program.

- b. Meet with construction stakeholders very early in the Administration to let them know that construction compliance is now a priority and get their input about how best to operationalize this priority

- c. Institute program of technical assistance to educate construction contractors and unions about their obligations under EO 11246

- d. Immediately establish neutral selection procedures for selecting construction contractors for review and resume construction reviews of federally funded and federally assisted construction contractors

- e. Train compliance officers (COs) on how to do construction reviews¹

¹ Training should include (but not be limited to):

- How to analyze contractor claims that they have to do things a certain way (e.g., use an unvalidated neutral selection procedure that has a disparate impact) because of collective bargaining agreements;
- How to obtain and analyze records from union hiring halls;
- How to review registered apprenticeship programs that contractors operate or are participating employers with those programs;
- How to coordinate with EEOC and OA when investigating discrimination where a union or registered apprenticeship program is involved
- How to analyze the use of core crews to ensure that they meet the regulatory prohibition of using a neutral selection procedure that has a disparate impact on a protected group unless it is validated as job-related and required by business necessity.
- How and when to investigate whether a construction contractor is moving women and people of color around on federal projects to appear to be in compliance.

3. Ensure EEOC reinstates requirement that compensation data be reported on EEO-1 forms (this is an EEOC rulemaking but applies to federal contractors, which have to file EEO-1 forms if they have 50 or more employees)
4. Reinstating OFCCP DIR 2013-03 (known as Directive 307), which was repealed by OFCCP issued DIR 2018-05, to clarify and strengthen OFCCP's approach to compensation evaluations including the use of statistical and other evidence, pay analysis groupings and statistical modeling, and clarify application to construction employment
5. Repeal so-called "National Interest" exemptions
6. Require contractors to file annual Affirmative Action Plan (AAP) Summaries (authorized in 41 CFR 60.2-31) and use these to target selection for reviews
7. Conduct an impactful program of strategically targeted, timely, frequent, and effective compliance reviews of both construction and supply-and-service contractors²
8. Standardize use of credible anonymous complaints (or third-party complaints that do not identify the workers complaining) to trigger routine reviews
9. Establish Memorandum of Understanding or other mechanism with the Office of Apprenticeship (OA) allowing OFCCP to routinely get data in OA's Registered Apprenticeship Partners Information Data System (RAPIDS) about registered apprenticeship programs that contractors operate or are participating employers with for use in OFCCP compliance reviews.
10. Provide transparency (at least annual) reporting on agency performance, including compliance reviews³
11. Annually report, publicly, aggregated data about employment and work hours by women and people of color by federal contractors, by region, occupation, and industry
12. Supplement agency provision of technical assistance to contractors with grants/contracts to organizations with subject-matter expertise and proven track records in promoting equity and inclusion

² Since OFCCP can't possibly review the hundreds of thousands of federal contractors and subcontractors, it must design a compliance program that has the widest possible impact given its limited resources by targeting the worst offenders and largest, highest-profile contractors; speeding up the time each review takes; sharpening the skills of the reviewers; swiftly imposing sanctions for discrimination and other noncompliance; following up on completed reviews to be sure that contractors make the necessary changes effectively; and aggressively publicizing contractors' EEO and affirmative-action obligations and the reviews where it makes findings and orders (or agrees to in settlement) sanctions.

³ Results that should be reported include the percentages of contractors reviewed that were not able to produce an AAP within the required time period; that were found to have discriminatory hiring, pay, or other practices; that did not meet their goals; and that did not implement disability self-identification invitations.

13. Staff training and professional development: refresh the skills of COs who have been with the agency and train COs who have been hired since 2016 (since so little training has occurred during the Trump Administration)

C. Office of Apprenticeship (OA)

1. **Prioritize and fully implement 29 CFR part 30** (the Apprenticeship EEO regulations adopted in 2016 but never fully implemented):
 - a. Create position that reports directly to the OA Administrator to develop, implement, and manage a strategic approach to 29.30 implementation; ensure the person in this position has sufficient staff resources to support their functions
 - b. Announce EEO/affirmative action as a priority and promote compliance effectively to engage sponsors proactively
 - c. Ensure all State Apprenticeship Agency (SAA) states adopt 29 CFR part 30 (many (most?) have not) and implement it
 - d. Train all Office of Apprenticeship (OA) and SAA staff on how to help sponsors do their Affirmative Action Plans (AAPs)
 - e. Adopt manual and procedures for handling and reviewing sponsors' implementation of 29 CFR part 30 (as well as 29 CFR part 29) and complaints filed under part 30 (including anonymous complaints) and other standard operating procedures for part 30 implementation; train all OA staff on this manual and SOPs
 - f. Use RAPIDS data to target programs for selection for review and compliance actions
 - g. Conduct an impactful program of strategically targeted, timely, frequent, and effective reviews of compliance with 29 CFR part 30⁴
 - h. Train all OA staff on how best to discuss part 30 with prospective sponsors
 - i. Incorporate best practices for implementing part 30 into all staffs' Performance Plans (including OA Administrator's)
 - j. Immediately update all OA Circulars, Bulletins, and other guidance to conform to part 30

⁴ Since OA can't possibly review the tens of thousands of registered apprenticeship programs, it must design a compliance program that has the widest possible impact given its limited resources by targeting the worst offenders and largest programs; speeding up the time each review takes; sharpening the skills of the reviewers; swiftly imposing sanctions for discrimination and other noncompliance; following up on completed reviews to be sure that programs make the necessary changes effectively; and aggressively publicizing programs' EEO and affirmative-action obligations and the reviews where it makes findings and orders (or agrees to in settlement) sanctions.

One key indicator of whether OA is sufficiently prioritizing reviews under part 30 is whether it conducts at least as many reviews under part 30 as under part 29.

- k. At least annually, publicly report data on apprentices (enrollment, completion, and participation) disaggregated by race, sex, ethnicity, and by race/sex and ethnicity/sex and by industry and occupation
- l. At least annually, publicly report data on outcomes of compliance reviews⁵
- m. Institute robust education program about part 30 requirements for sponsors and prospective sponsors, including completion of a publicly available sample Affirmative Action Plan and all other technical-assistance products promised in the Notice of Final Rule of December 19, 2016
- n. Undertake research to evaluate the effectiveness of part 30
- o. Supplement agency provision of technical assistance to sponsors with grants/contracts to organizations with subject-matter expertise and proven track records in promoting equity and inclusion

2. Ensure that funding in American Apprenticeship and similar initiatives supports pre-apprenticeship programs and supportive services (including child care)

- 3. Re-establish Advisory Committee on Apprenticeship with strong representation from apprentices, unions, and programs with experience helping underserved populations to become and succeed as apprentices; establish a subcommittee on equity and inclusion
- 4. Repeal Industry-Recognized Apprenticeship Program (IRAP) regulations
- 5. Collaborate with the U.S. Department of Education to strengthen the pipeline between registered apprenticeship and the Career and Technical Education system, which includes specific goals for female participation

D. Employment and Training Administration

Support the delivery of Workforce Investment and Opportunity Act (WIOA) services at the local level by:

- 1. Expanding the definition of “individuals with barriers to employment” to include individuals preparing for nontraditional occupations.
- 2. Requiring all performance data reporting to be fully disaggregated and cross-tabulated by gender, race/ethnicity.
- 3. Removing language that limits the delivery of career counseling for nontraditional occupations as a core local service.

⁵ Results that should be reported include the percentages of sponsors that were found not to have implemented the requirements for anti-harassment training; universal outreach; postings; AAPs; and disability self-identification invitations.

4. Requiring statewide capacity building for staff of American Job centers and local job training programs on best practice policies and strategies to combat occupational segregation and increase women's participation in nontraditional jobs and job training.
5. Building on and scaling up successful technical assistance services that add a gender lens to training programs for high-skill, high-wage jobs in manufacturing, construction, and other nontraditional fields.
6. Providing support for the expansion of services by experienced nontraditional training providers similar to funding for other special populations including youth, the formerly incarcerated, seniors, and veterans.
7. Adopting a performance measure similar to the core indicator in Carl D. Perkins Vocational and Technical Education Act to demonstrate progress on moving students/participants into nontraditional jobs and job training.

E. Women's Bureau

1. Dedicate staff to support women's access to and success in nontraditional occupations, including administration of a greatly expanded WANTO program
2. Reinstate paid-leave research program
3. Amplify Women's Bureau resources to support national and regional staffing and programming

F. OSHA

1. **Implement an Equity Lens**

- a. Ensure that OSHA incorporates an equity lens throughout its standards, enforcement programs, training, and other communications, to ensure that it is sensitive to meeting the needs of women, people of color, people with disabilities, and other marginalized groups.
 - b. Review all standards, training documents, and communication materials to ensure that they are gender neutral and include women and that visual materials (videos, posters, pictures, etc.), especially those depicting construction workers, include images of female workers to promote integrated workplaces.
2. Immediately issue emergency standard on how employers must protect workers from COVID and protect the jobs of workers who are not able to work due to caregiving responsibilities
 3. **Address unlawful workplace harassment as a safety and health issue.**
 - a. Collaborate with OFCCP and OA to identify problems of unlawful harassment in worksites where they have jurisdiction and take appropriate remedial action.
 - b. Require labor unions and employers to include unlawful harassment prevention training in safety and health programs.
 4. **Sanitary Facilities.** Amend 29 CFR Section 1926.51 (toilets at construction jobsites) to specify that gender-separate, external and internal locking sanitary facilities be provided on

construction worksites, that employees be allowed to use such facilities as needed, be provided keys for gender appropriate facilities, that the toilet facilities be maintained in a sanitary condition and in good repair (e.g., that locks work), that clean toilet paper be provided within reach of the toilet, and that hand washing facilities be located within close proximity to toilet facilities.

5. **Personal Protective Equipment (PPE) and Clothing (PPC)**
 - a. Revise OSHA standards on personal protective equipment for construction (29 CFR 1926, Subpart E) to conform with the General Industry Standard for PPE (29 CFR 1910.132), which requires employers to select PPE that properly fits each affected employee, to address concerns that PPE and PPC often does not adequately fit female employees.
 - b. Produce and promote a resource guide on sources for obtaining adequate fitting PPE and PPC for use in the construction industry
6. **Ergonomics.** Address the ergonomic hazards that are specific to gender in all OSHA initiatives on ergonomics and monitor ergonomic research conducted on its behalf to ensure methodology that includes both male and female subjects
7. **Reproductive Hazards.**
 - a. Adopt standards to protect all workers of childbearing capacity and pregnant construction workers.
 - b. Identify additional research needed to develop a more comprehensive body of knowledge regarding reproductive hazards in the construction workplace.
 - c. Require employers to have a Material Safety and Data Sheet (MSDS) for each chemical present on the site and to advise employees to read the MSDSs and share information with their physicians if they are pregnant or planning to become pregnant.
8. **Training.** Include gender-related safety and health issues, i.e., PPE fit, sanitary facilities, workplace culture, and reproductive hazards, whenever OSHA provides or sponsors training to the public and to federal and state OSHA compliance safety and health officers
9. **Injury and Illness Data and Research.** Work with the BLS, NIOSH, and other appropriate agencies to obtain and analyze information on injuries and illnesses among construction workers, disaggregated by race, sex, and race and sex; compare it with data for male and white construction workers and other non-construction workers; and use these analyses to provide guidance to OSHA compliance and policy development activities.
10. **OSHA inspections**
 - a. At each inspection of a construction workplace, require OSHA inspectors to identify any female construction workers and interview a representative sample of them to ensure a broad, non-gender-biased perspective on health and safety concerns of all workers.
 - b. Ask female construction workers about specific health and safety issues that are unique to tradeswomen on a jobsite, including but not limited to:
 - 1) the adequacy of personal protective equipment;

- 2) the sufficiency and sanitary conditions of toilet facilities;
 - 3) the adequacy of safety and health training;
 - 4) problems of sexual harassment and other examples of hostility;
 - 5) how unlawful harassment impacts or affects safety and health; and
 - 6) reproductive hazards.
- c. Ensure that all dialogue with female (and all) workers takes place in a manner that ensures the privacy of respondents.
 - d. To facilitate inspections, develop a checklist for on-site inspectors that outlines the range of gender-related safety and health hazards to be addressed, to be used to assess conditions when questioning both employers and employees.
 - e. Provide information and training for field staff on how to do inspections and the use of the checklist.

III. Administration support for the following legislation in Congress:

- A. Increase the **Women and Apprenticeable and Nontraditional Occupations Act WANTO** appropriations of \$100 million (allocated according to state population and tribal, but with a minimum of \$1 million for each state and territory and for the District of Columbia) and technical assistance for doing equity in apprenticeship
- B. Incorporation of **TWTF Infrastructure Equity Framework** (attached) in all infrastructure bills
- C. **National Apprenticeship Act reauthorization** and full appropriations for it, with the following changes:
 - 1. Include codification of 29.30
 - 2. Make reporting and registration requirements for pre-apprenticeship programs more appropriate
 - 3. Require registered apprenticeship programs funded under the system to use facilitated priority entry for qualified pre-apprenticeship program graduates with a pre-apprenticeship program serving women and people of color or other selection mechanism for achieving diversity
- D. **Other relevant workplace-related legislation**
 - 1. PRO Act (union-organizing rights and classifying gig workers as employees)
 - 2. Raising minimum wage
 - 3. Family and Medical Insurance Leave Act (“FAMILY Act” -- paid leave on federal level) (amended to include more paid-leave time for pregnant workers to maintain a healthy pregnancy)
 - 4. Healthy Families Act (paid sick days)
 - 5. Paycheck Fairness Act (pay equity)
 - 6. Pregnant Workers Fairness Act
 - 7. EMPOWER Act (addressing workplace harassment)
 - 8. Equality Act (prohibiting discrimination based on sexual orientation and gender identity)
 - 9. Protecting Older Workers Against Discrimination Act
 - 10. Child Care for Working Families Act