

CONSTRUCTION BLOG

New Sex Discrimination Rules Effective August 15, 2016 For Federal Contractors and Subcontractors

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 USDOL Seal circa 2015

New sex discrimination regulations recently announced by the U.S.

Department of Labor's Office of Federal Contract Compliance programs (OFCCP) go into effect August 15, 2016.

According to the OFCCP, the new rules revise guidelines that were adopted in 1970 to address various forms of "sex discrimination" and fairness in today's workplace, which includes discrimination based on an employee's "gender identity."

The new regulations apply to any business or organization that:

- (1) holds a single federal contract, subcontract, or federally assisted construction contract or subcontract in excess of \$10,000;
- (2) holds federal contracts or subcontracts that have a combined total in excess of \$10,000 in any 12-month period; or
- (3) holds government bills of lading, serves as a depository of federal funds, or is an issuing and paying agency for U.S. savings bonds and notes in any amount.

The new regulations apply to all male and female employees working for a covered employer and all applicants of a covered employer. The employee or applicant does not have to be working on a federal contract to be covered. If the employer holds a qualified federal contract or subcontract, then generally the employer's entire workforce is protected by the new rules.

Before panicking, the OFCCP states most contractors were already in compliance with the new regulations, so many contractors may not need to do anything differently. But if you are a covered employer, a few tips from the OFCCP's list of "best practices" include:

- (1) avoiding the use of gender specific titles such as "foreman" where gender-neutral titles are available;
- (2) designating single-use showers and restrooms as sex-neutral;
- (3) providing flexible work policies, light duty, and time off for family care for women and men.

A copy of the new regulation can be read at the OFCCP's website:

<https://www.dol.gov/ofccp/sexdiscrimination.html>.

For more information, please contact Ross A. Boden at rboden@sandbergphoenix.com, (816) 627-5536 or another member of Sandberg Phoenix & von Gontard, P.C.'s Construction Industry Team.

1. "Sex discrimination" includes discrimination on the basis of sex (male or female); pregnancy, childbirth, or related medical conditions; gender identity; transgender status; sex stereotyping; and policies having a disparate impact on any persons in these categories.
2. "Gender identity" refers to one's internal sense of one's own gender. It may or may not correspond to the sex assigned to a person at birth, and may or may not be made visible to others.