

## Sex Discrimination Guidelines

The U.S. Department of Labor's Office of Federal Contract Compliance Programs has promulgated new regulations (41 CFR 60-20) that set forth the obligations federally-assisted construction contractors must meet to ensure nondiscrimination in employment on the basis of sex. These regulations become effective August 15, 2016.

The final rule is organized into eight sections and an appendix. The *first* section covers the rule's purpose. The *second* section sets forth the general prohibition of sex discrimination, including discrimination on the bases of pregnancy, childbirth, related medical conditions, gender identity, transgender status, and sex stereotypes. The second section also describes employment practices that are unlawful if they have a disparate impact on the basis of sex and are not job related and consistent with business necessity. The *third* section covers circumstances in which disparate treatment on the basis of sex may be lawful. The *fourth* section covers sex-based discrimination in compensation and provides illustrative examples of unlawful conduct. The *fifth* section covers discrimination on the basis of pregnancy, childbirth, and related medical conditions and also discusses the application of these principles to the provision of workplace accommodations and leave. The *sixth* section sets out the general principle that sex discrimination in the provision of fringe benefits is unlawful. The *seventh* section covers employment decisions on the basis of sex stereo types and discusses four types of gender norms that may form the basis of a sex discrimination claim: (1) dress, appearance, and/or behavior; (2) gender identity; jobs, sectors, or industries within which it is considered appropriate for women to work; and (4) caregiving roles. The *eighth* section covers harassment and hostile work environments. Finally, the final rule contains an *appendix* that sets forth for consideration a number of "best practices" that contribute to the establishment of and maintenance of workplaces that are free of unlawful sex discrimination.