

Federal Policies Adopted More Than Thirty Years Ago Have Failed to Reduce Significantly Women's Exclusion From the Construction Trades

Employment in the building trades offers economic security and does not require a college education. Skilled construction work pays wages that are substantially higher than most other occupations that do not require a college education and many apprenticeship programs offer the opportunity to earn while you learn. In 2008, median full time earnings were \$688/week for those in construction occupations, 45% more than the \$475/week median full-time earnings for those in service occupations.¹

While construction employment has declined substantially during the current recession, employment will again grow when economic recovery takes hold. Even with the recent decline in employment, however, there were over 7.5 million persons employed in the construction occupations in June of this year, representing 5.3% of total employment.²

In 1978, the U.S. Department of Labor [DOL] revised its regulations implementing the 1965 Executive Order banning employment discrimination by government contractors (Executive Order 11246), to establish specific affirmative standards for women in federal or federally assisted construction. 43 Fed. Reg. 14888 (April 7, 1978) (regulations); 43 Fed. Reg. 14899 (April 7, 1978) (specific hiring goals). DOL explained that affirmative steps were necessary because of the continued "almost total exclusion of women from [construction] employment." *Id.* The regulations mandated specific actions to be taken regarding recruitment, hiring procedures, and the maintenance of work sites free of sexual discrimination and harassment. DOL also set hiring goals for women for a three-year period beginning at 3.1% in 1978/9, rising to 5.0% in 1979/80 and then to 6.9% in 1980/81, explaining that these goals were not quotas and that contractors who made good faith efforts would not be penalized for failing to meet the goal. In 1980, DOL extended the 6.9% goal until further notice, 45 Fed. Reg. 85750 (Dec. 30, 1980), and 6.9% remains the DOL hiring goal today.

In 1978, DOL also revised its regulations governing registered apprenticeship programs to establish specific affirmative standards for women. 43 Fed. Reg. 20769 (May 12, 1978). DOL explained that affirmative steps were necessary because women represented less than 5% of apprentices overall, and only between 1% and 3% of apprentices in the skilled construction trades. The regulations required apprenticeship programs to set goals for women's participation, and specified that in the first twelve months under the regulations the goal should generally be no less than 50% of women's share of the overall labor force. DOL explained that this goal was not a quota and that programs that made good faith efforts would not be penalized for failing to meet the goal.



Despite the 1978 regulations, women continue to be almost totally excluded from construction employment and construction apprenticeship. In June of this year, women were only 2.7% of the 7.5 million persons employed in the construction occupations.³ Recently, the DOL Women's Bureau reported that "only 3% of all newly registered and active apprentices in construction occupations are women."⁴

The exclusion of women from the construction trades contributes to lowering the income of women as a group, as well as limiting women's access to job security, health benefits, and a career ladder. Today, notwithstanding advances in women's educational achievement, women still earn less than men. In the first quarter of this year, median weekly earnings for women who worked full time were 78.9% of the median for men.⁵ Female high school graduates earn significantly less than male high school graduates. Thus, in 2007, female high school graduates who worked full-time year-round had median annual earnings of \$27,240, only 72% of the \$37,855 median earnings for male high school graduates working full-time year-round.⁶

Meaningful access for women to jobs in the construction trades would enhance progress towards many long-sought goals. It would play a part in national efforts to narrow the continuing wage gap between men and women, eradicate long-standing patterns of occupational segregation, increase women's full and fair participation in jobs created through the American Recovery and Reinvestment Act and in the long run, make a dent in women's poverty.

Under a new President, there is now an opportunity to explore new approaches to this challenge. One starting point may simply be an investigation into the reasons why prior affirmative policies adopted by DOL have so completely and utterly failed to improve women's access to jobs in the construction trades.

(August, 2009. Contact Timothy Casey, tcasey@legalmomentum.org, for further information.)

¹ BLS Table, "Median weekly earnings of full-time wage and salary workers by detailed occupation and sex," available at <ftp://ftp.bls.gov/pub/special.requests/lf/aat39.txt>

² BLS Table, "Employed persons by occupation, sex, and age," available at <http://stats.bls.gov/web/cpseea19.pdf>

³ *Id.*

⁴ U.S. Department of Labor Women's Bureau Fiscal Year 2009 Outlook, available at <http://www.dol.gov/wb/FY09-Outlook.pdf>.

⁵ BLS News, "Usual Weekly Earnings of Wage and Salary Workers: First Quarter 2009, available at <http://stats.bls.gov/news.release/pdf/wkyeng.pdf>.

⁶ Census Bureau Tables, "PINC-03. Educational Attainment--People 25 Years Old and Over, by Total Money Earnings in 2007, Work Experience in 2007, Age, Race, Hispanic Origin, and Sex," available at http://pubdb3.census.gov/macro/032008/perinc/new03_000.htm.