

BEST PRACTICES

FOR EMPLOYERS IN THE CONSTRUCTION INDUSTRY





Introduction

CONSTRUCTION IS A MAJOR CONTRIBUTOR TO THE U.S. ECONOMY. THE MORE THAN 750,000 EMPLOYERS IN THIS INDUSTRY HIRE 7+ MILLION EMPLOYEES PER YEAR.

As the oldest and one of the largest industries, construction work includes the building and engineering of new structures such as highways and utility systems, as well as structural alterations, maintenance, and repairs of existing establishments, land, and other project sites.

In this high-hazard industry, construction employers face the challenges of safety compliance, workforce diversity, training and development, expectation of wage increases, pay misclassification, and the retention of skilled labor. It is the responsibility of employers to use best business practices to address these challenges so that they can maintain safe work environments and a collaborative workforce that will deliver projects on time and within budget.

Throughout this guide, you will learn about regulations, policies, and procedures to follow that address these issues, as well as learn how FrankCrum can provide services to address your company's needs.

Table of Contents

Safety Compliance	1
Gender Diversity	3
Training	4
Wage Increases and Pay Misclassification	5
Attracting and Retaining Skilled Construction Workers	7



Safety Compliance

Heat-Related Safety

In the summer, many states experience record-breaking heat that puts construction workers at a higher risk for heat-related illnesses and fatalities. At the federal level, the Occupational Safety and Health Administration (OSHA) issued a [heat hazard alert](#), to remind employers that they have a duty to protect workers. According to OSHA, heat is the leading cause of death among all weather-related workplace hazards. Several states including Arizona, California, Colorado, Maryland, Minnesota, Nevada, Oregon, and Washington state have implemented their own heat illness regulations and enforcement for outside workers. Employers in those states should be aware of the requirements necessary for heat illness prevention.

Employers should provide cool water, or other non-caffeinated, electrolyte beverages; implement consistent breaks; and provide cool, shaded rest areas for workers.

New or returning workers should be given at least two weeks to become acclimated to working in the heat while taking on heavy workloads. Employees should also receive training on heat illness prevention and what to do if they see another employee suffering from a heat illness.



Early symptoms of a heat-related illness include:

- Lethargy
- Disorientation
- Stumbling
- Dropping tools
- Slurred speech
- Unresponsiveness

Construction workers should wear light-colored, loose-fitting, breathable clothing made from cotton. Safety glasses with UV protection, sunscreen, and brimmed hard hats should also be included as heat-protective gear.

Non-Heat Related Safety

According to the National Safety Council, in 2021 the construction industry had the largest number of preventable fatal injuries. Employees face workplace hazards on a daily basis. To create a culture of safety between construction workers and employers, company leaders need to understand and communicate the specific hazards of their different worksites. No matter the size of the project, it is crucial that comprehensive safety plans be in place. A Safety Plan Template provided by OSHA can be downloaded [here](#).

Construction sites can have sharp objects, heavy machinery, chemicals, and different types of surfaces that pose a serious danger and can cause permanent bodily harm. Fall hazards are the most common cause of construction fatalities according to OSHA. As a result, the personal protective equipment (PPE) that the agency recommends includes harnesses, lanyards, self-retracting lifelines, hard hats, protective gloves, safety eyewear, face shields, earplugs, and protective clothing covering, depending on the job site environment.

It should be noted that companies should make every effort to ensure that PPE provided to female workers fit properly. This remains a challenge as the National Institute for Occupational Safety & Health (NIOSH) admits that there are few manufacturers and distributors that make clothing and equipment suitable for a woman's body structure.

Employers need to be aware that if workers don't feel that their working conditions are safe, they can file a confidential complaint with OSHA online or call OSHA directly. It is illegal for an employer to retaliate against workers who exercise their legal rights to file an OSHA complaint.



Gender Diversity



The Good News

According to the Bureau of Labor Statistics (BLS), approximately 14% of the entire U.S. construction workforce (approximately 1 million women) are female. In the past decade, the industry has experienced steady growth in the number of women entering construction trades. More than half of female employees work as engineers, project managers, and safety personnel, while a smaller percentage work in skilled trades on construction job sites.

Opportunities for females to work in this industry have been accelerated by the increase of an aging workforce, and the decrease of younger generations entering the trades. Approximately 13% of all construction companies are owned by women, and in October 2022, the U.S. Department of Commerce implemented its [Million Women in Construction Initiative](#) with the goal of bringing another million women into the construction industry over the next 10 years.

Washington D.C. has the most women employed in construction. Other states include:

1. Arizona
2. Florida
3. Washington
4. Oregon

States with the least women employed in construction:

1. Kentucky
2. Wisconsin
3. Arkansas
4. Maine
5. Delaware

The Bad News

Despite the increase of women working in construction, the percentage of female employment in this male-dominated field is less than in other industries. This may be attributed to unconscious gender bias that can influence hiring decisions. A lack of safety is also a major reason why the numbers are still low. At job sites, a woman in construction can feel isolated and is often the only female on the job. Some hostile work environments in the field have subjected female employees to either verbal, emotional, and/or physical harassment, which includes those actions that are sexual in nature.

Solutions

Changing a culture of hiring bias and harassment requires commitment from leadership and unions that represent the construction trades. Both issues play a part in negatively impacting productivity and can be costly due to replacing a female worker who decides to leave and may take legal action for an employer's discriminatory practices. Support from the top can require that a safer workforce is created by implementing consistent training and company policies that focus on the awareness of harmful behaviors and that foster a more inclusive, safe, and supportive construction environment on job sites.

Training

TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 FORBIDS DISCRIMINATION AND HARASSMENT ON SEVERAL GROUNDS INCLUDING GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, AND GENDER EXPRESSION.

Additionally, the Equal Employment Opportunity Commission (EEOC) is paying particular attention to what it believes is severe and pervasive discrimination in the construction sector directed toward women. In the last few years, many states have implemented laws that focus on improving gender equality in the workplace.

Effective training in the construction industry should provide content that focuses on empowering those in leadership roles to take actions that result in better recruiting and hiring, risk assessments, conflict resolution, and creating a positive work environment by putting mechanisms in place that quickly address and correct wrongful behavior.

For employees, training sessions should be designed to help with recognizing and identifying the warning signs of different types of harassment, bullying, and violence in the workplace, provide workers with knowledge of the negative effects that abusive conduct has on the workplace, and encourage employees to prevent and respond to incidents of bias.

FrankCrum TrainingHub is our online learning management system (LMS). It was designed to provide our clients with a solid training program to have better compliance outcomes, safer work practices, greater productivity, and to reduce the risk of lawsuits and fines. TrainingHub offers an extensive catalog with thousands of courses that are industry-specific, focusing on compliance, leadership skills, harassment, health and safety, decision-making, teamwork, etc. It also allows the client to customize training content and have it uploaded by FrankCrum.

For more information about our two training packages and to receive a quote, please contact the FrankCrum TrainingHub Manager at traininghub@frankcrum.com.





Wage Increases and Pay Misclassification

Wage Increases

On August 8, 2023, the Department of Labor (DOL) released a new rule to boost pay rates for construction workers. The purpose of this law is to protect local wage standards by preventing contractors from basing their bids on wages lower than those in a particular geographical area for the same job. The DOL will adopt prevailing wages that are determined by state and local governments, issue wage determinations for labor classifications where insufficient data was received through wage surveys and update outdated wage rates. This final rule contains updates to the Davis-Bacon Act of 1931 and its subsequent amendments, which were implemented as a minimum wage law for the benefit of construction workers.

Pay Misclassification

The DOL has also recently highlighted wage theft in the construction sector. Companies are facing lawsuits and paying significant fines for misclassifying workers. Some workers are getting paid at a piecework rate dependent upon output, rather than being paid an hourly rate. Workers who are paid at a piecework rate are typically independent contractors who help employers' bottom line by not being eligible for benefits, employment protections, etc.

A contractor is a self-employed worker who operates independently on a contract basis. A contractor is not an employee; instead, they run their own entity (such as a sole proprietorship, limited liability company or limited liability partnership) and are contracted by companies to work on particular projects or assignments. Their contract relationships can be short- or long-term. A contractor can work for a company but is not technically on their payroll where they would be subject to deductions for benefits, social security, FICA, and Medicare. They can also perform work for multiple companies on different projects at one time.

Companies need to properly classify workers as independent contractors or employees by asking the following questions:



When, where, and how is the work done?

Is the work performed at the employer's place of business, or does the independent contractor work remotely? Does the employer set the hours, or can the independent contractor work whenever they want? Does the employer provide the tools, or does the independent contractor use their own equipment?

Is the worker required to complete company training?

Independent contractors usually do not have this requirement.

Is the worker doing full-time, ongoing/continual work?

Or are they doing temporary work on projects that have specific endpoints?

Is the worker paid hourly, weekly, or monthly?

Or do they get paid based on output once an entire project is complete?

Does the company pay for travel?

For employees, travel costs are usually covered by the company. Independent contractors, however, pay their own travel costs (and earn enough on the overall project that those costs end up being covered by the fee they're paid).

Asking these questions will help employers avoid legal and financial repercussions.





Attracting and Retaining Skilled Construction Workers

The Associated Builders and Contractors (ABC) reported that in 2023, more than half a million construction workers were needed to meet labor demands. Although the Infrastructure and Investment Job Act of 2021 has massively increased projects within chip manufacturing plants, clean energy facilities, and numerous other infrastructure developments, few qualified workers are applying for these jobs.

Project growth coupled with an aging workforce and a smaller pool of younger, less skilled workers has presented significant recruiting and hiring challenges. Construction companies are competing for Millennials and Gen Zers who are interested in industries offering remote or hybrid work, higher salaries, and shorter, more flexible work hours.

Construction is frequently seen as a low-skill, low-paying career requiring work in harsh weather conditions, with physically demanding labor and little opportunity for advancement.

To change the old perception of hammering nails and hard hats, construction companies can create internship positions and apprenticeships that provide younger workers with the opportunities to learn skills that include project management, equipment use, engineering, carpentry, time management, and teamwork. The construction industry also needs to promote the fact that opportunities for advancement don't always require a college degree, which could increase interest given the current state of student debt. Other benefits to construction work include earning a livable wage (especially with the new regulation for wage increases), job security, being part of a team, and making a difference in people's lives through building and infrastructure.

Legal Notice – The purpose of this information is to assist in the discussion of risk, concerns, and general requirements. It is not tax advice, legal advice, or judgment of a business's compliance or non-compliance. It is recommended that you seek qualified legal counsel familiar with your particular circumstances before taking any action.

Why FrankCrum

Although FrankCrum clients appreciate our long and successful track record, financial stability, technology capabilities, and the wide range of services we offer, what we hear most often is that they appreciate being able to speak with a live person who gives them straight answers to what may sometimes be difficult questions.

That's the way we do business - one person at a time, one client at a time. It's literally part of our DNA as the FrankCrum family of businesses: what we call "A Family of Employer Solutions."

Our company history began in 1981, when Frank W. Crum, Jr. and his father started offering temporary staffing services, with a deep commitment to the success of business owners. Because of that commitment, we have expanded our professional offerings over time as clients partnered with us to help them grow.

Today, that family of businesses - still owned and operated by Frank Crum, Jr. and now his son, Matt and daughter, Haley - offer HR services through FrankCrum PEO, workers' compensation and general liability insurance through Frank Winston Crum Insurance and staffing services through FrankCrum Staffing. You'll find the same operational philosophy in all three companies; Frank refers to it as "doing the right things for the right reasons."

It boils down to this: Running a business can be hard. Managing your human resources program shouldn't be. Let us know how we can help.

**To learn how FrankCrum can help your business,
call 800-277-1620 to schedule a consultation.**



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