



Workforce Diversity in Public Construction: An Initiative of the Policy Group on Tradeswomen's Issues

After a decade of debate and activism, the question of whether or not women have the legal right to access public construction jobs in Massachusetts is settled. State laws require a construction workforce participation goal of 6.9% for women on all state contracts. The Attorney General's Office has affirmed and clarified this requirement in its "[Public Construction Bidding FAQs](#)."

- **What construction contracts require women and minority workforce participation goals?**
All contracts by a state agency or state-assisted contracts for design, construction, reconstruction, installation, demolition, maintenance or repair must contain workforce participation goals for minorities and women. See [M.G.L. c. 149, § 44A\(g\)](#).
- **What are the women and minority workforce participation goals for these contracts?**
6.9% for women and 15.3% for minorities. See [Administration & Finance Administrative Order 2009-14](#).
- **What must these contracts include in addition to the goals?**
The contract must include the processes and procedures to ensure compliance with the workforce participation goals, including reporting and enforcement provisions. See [M.G.L. c. 149, § 44A\(G\)](#).
- **Is a contractor's record of compliance with workforce participation goals considered by DCAMM in its certification decisions?**
*Yes. See [M.G.L. c. 149, § 44D\(3\)](#).**

What qualifies as a "state-assisted" contract?

"A construction project undertaken by a political subdivision of the commonwealth or 2 or more subdivisions thereof for the planning, acquisition, design, construction, demolition, installation, repair or maintenance of a capital facility and whose costs are paid for, reimbursed, grant funded, or otherwise supported, in whole or in part, by the commonwealth." See [M.G.L. c. 7C, § 6\(b\)](#).

What are the consequences for state contracts that do not conform to the requirements for construction workforce participation goals for women and minorities?

State-funded or state-assisted contracts that do not include these requirements are subject to a [bid protest](#) which could lead to a re-bid of the contract or other punitive outcomes.

* "The division of capital asset management and maintenance shall evaluate every applicant on the basis of the application and on relevant past performance ... including evidence of the applicant's ability to advance the commonwealth's goals under section 44A3/4 and section 6 of chapter 7C. Such criteria shall include the following:— ... workforce inclusion goals..."

Are there consequences for not complying with contractual language for “the processes and procedures to ensure compliance with those workforce participation goals, including reporting and enforcement provisions.”?

Yes. Contractors who accept but do not adhere to the requirements of the contract may be subject to a Massachusetts false claim violation under the Massachusetts False Claims Act. See [M.G.L. c. 12, § 5B](#).

Despite these laws that have required opening up good jobs in the construction trades to women, most state agencies and other public builders have been unaware of the requirements and out of compliance. In 2019, workforce participation by tradeswomen was only 3% at the Commonwealth’s largest public builder ([DCAMM FY 2019 Annual Report](#)). This is compelling evidence of the failure to implement these laws.

The experience and practices needed to ensure women’s workforce participation is available to all state entities and public builders. Over the past 13 years, Massachusetts has become a national leader in increasing access to good jobs in the construction trades for women. The UMass Building Authority (UMBA) and the Mass Gaming Commission (MGC) have partnered with the Policy Group on Tradeswomen’s Issues (PGTI), the Building Trades Unions and other labor and community organizations to develop and implement monitoring and reporting, and pipeline and pre-apprenticeship programs to increase workforce diversity on public projects. The results of these partnerships have included:

- **Proven Best Practices** for gender and racial workforce diversity have been tested and collected in [Finishing the Job](#), a manual available to all industry stakeholders.
- **Project liaison committees** (or Access and Opportunity Committees) have been fully implemented as called for in state statutes and executive orders on workforce diversity.
- Since 2011, UMBA and MGC have **reached or exceeded the legally mandated target of 6.9%** women’s participation in each of the agencies’ construction projects.
- As a direct outcome of these employment opportunities, **over 10% of union construction apprentices in Massachusetts are women.**

Workforce reporting on public construction is intended to support diversity goals and ensure fair wages in the construction workforce. Currently there are few standardized practices across state agencies and authorities. Three key steps could be immediately implemented to increase women’s hours on public construction and begin the process of full compliance with the state’s public construction diversity laws.

- Follow the lead of the Attorney General’s Office, the Inspector Generals’ Office and the Massachusetts School Building Authority and begin an outreach and education program to make all stakeholders aware to the legal requirements for workforce participation diversity.
- Create template language that will ensure that state-funded and state-assisted contracts are in compliance with state laws on construction workforce diversity.
- **Create a single unitary system for monitoring and reporting gender and racial diversity and prevailing wages on all state-funded and state-assisted construction projects.**

Technical assistance in **crushing the barriers to women’s access to good jobs in the construction trades** is available to all stakeholders from the PGTI: Policy Group on Tradeswomen’s Issues and our partner organizations. Contact us at tradeswomenissues@gmail.com.