



# Mitigating Risk of an Equal Employment Opportunity Commission Complaint or Investigation

Congressional spending bills that have cleared the design, qualification, and various government approvals stages are now manifesting in construction spending data.

Federal funds come with conditions, like those set by the Equal Employment Opportunity Commission (EEOC). The EEOC, highlighting the construction industry's lack of diversity, has held hearings and introduced its Strategic Enforcement Plan (SEP). Comment submissions ended in February 2023.

The construction industry is under scrutiny in the EEOC's proposed SEP, with a series of lawsuits and settlements with construction firms since May 2022, including a nearly \$2.7 million default judgment.

An assertive EEOC increases the likelihood of investigations following complaints. Be ready for unannounced project site visits post-complaint, along with more EEOC inquiries and time commitments.

## AREAS YOU CAN MITIGATE THE RISK OF AN EEOC COMPLAINT OR INVESTIGATION:

1. Conduct proper discrimination and harassment training.
2. Establish a clear complaint procedure, including multiple channels for filing complaints.
3. Investigate every complaint, no matter how serious or frivolous it may appear.
4. Prevent retaliatory behavior.
5. Document the training, procedure, investigation, and outcomes.

For contractors, we strongly advise securing Employment Practices Liability insurance. These policies offer valuable benefits, such as help in managing EEOC complaints and access to pre-approved defense firms. It is important to note, if you receive an EEOC notice, make sure to promptly notify your employment practices liability insurer to prevent potential coverage nullification due to late reporting provisions.



**FOR ANY QUESTIONS, PLEASE REACH OUT TO:**



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