

# PRACTICE EXAM 10: TENNESSEE BUSINESS AND LAW SIMULATION (50 QUESTIONS)

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**Time Limit:** 2 Hours and 20 Minutes (140 Minutes)

**Total Questions:** 50

**Passing Score:** 73% (37 out of 50)

1. A Tennessee contractor organized as a corporation has been operating for 12 years with a strong track record. The contractor's surety issues performance and payment bonds on the contractor's projects. The contractor's bonding relationship is best described as:

- A. An insurance arrangement where the surety absorbs losses from contractor defaults without recourse
- B. A three-party guarantee in which the surety guarantees the contractor's performance to the project owner, with the contractor obligated to reimburse the surety for any claims paid
- C. A government program administered by the Tennessee Board for Licensing Contractors to protect project owners
- D. A deposit arrangement where the contractor places cash reserves with the surety equal to the bond amount

2. A contractor's project cost report at Month 6 of a 10-month project shows: Budget = \$1,500,000, Actual Costs to Date = \$1,050,000, Committed Costs = \$220,000, Estimated Cost to Complete = \$310,000. The project manager should interpret this data as:

- A. The project is significantly under budget because actual costs to date are only 70% of the total budget
- B. The project is exactly on budget because 60% of the time has elapsed and 70% of the budget has been spent
- C. The project cannot be evaluated until all committed costs are converted to actual costs
- D. The project is projecting an \$80,000 overrun (\$1,580,000 estimated at completion versus \$1,500,000 budget) requiring immediate corrective action

3. A Tennessee contractor wants to bid on a project that requires the contractor to have at least three years of experience with projects of similar scope and size. The contractor has only two years of experience. The contractor's partner, who works for a different company, has seven

years of experience. Can the contractor use the partner's experience to meet the pre-qualification requirement?

- A. No, because pre-qualification requirements apply to the contracting entity and its key personnel, not to unrelated individuals at other companies
- B. Yes, because Tennessee law allows contractors to aggregate experience from all licensed individuals they know personally
- C. Yes, if the partner provides a notarized letter confirming their willingness to serve as a consultant on the project
- D. No, but the contractor can request a Board waiver of the experience requirement for a \$500 fee

4. A homeowner hires a licensed Tennessee contractor for a \$120,000 home addition. Midway through construction, the homeowner discovers that the contractor's license expired two months before the contract was signed. The homeowner wants to terminate the contract and withhold all remaining payments. Under Tennessee law:

- A. The homeowner must continue paying because the work quality, not the license status, determines contract enforceability
- B. The expired license has no legal effect because the contractor was licensed at some point in the past
- C. The contract may be unenforceable by the contractor because performing work requiring a license without a valid license can render the contract void — the homeowner may have grounds to terminate and withhold payment
- D. The contractor can cure the deficiency by renewing the license retroactively and the contract remains fully enforceable

5. Under OSHA's construction standards, an employer discovers that a trench wall has begun showing signs of tension cracks and bulging soil. No workers are currently in the trench. The employer's immediate obligation is to:

- A. Prohibit all workers from entering the trench until a competent person evaluates the conditions and determines whether the existing protective system is adequate or must be enhanced
- B. Send workers into the trench to install additional shoring before the wall fails
- C. Contact OSHA for guidance on whether the trench is safe enough to continue work
- D. Continue operations but limit trench occupancy to one worker at a time until conditions improve

6. A Tennessee contractor's balance sheet shows: total assets \$3,100,000, total liabilities \$2,300,000, current assets \$890,000, current liabilities \$540,000. The contractor applies for a license with a reviewed financial statement. The Board should:

- A. Accept the reviewed financial statement because the monetary limit is below \$3,000,000
- B. Accept the reviewed financial statement because the net worth exceeds \$300,000, qualifying for unlimited status
- C. Request additional documentation proving the source of the contractor's current assets before processing
- D. Reject the reviewed financial statement and require an audited statement because the monetary limit exceeds \$3,000,000

7. A construction project's contract documents include a "no damages for delay" clause. The project owner fails to provide access to a critical work area for 30 days, causing the contractor to incur \$45,000 in idle equipment and extended overhead costs. Under the no damages for delay clause:

- A. The contractor can recover the full \$45,000 because owner-caused delays are always excluded from no-damages-for-delay clauses
- B. The contractor must absorb the \$45,000 loss because the clause eliminates all monetary claims for delay
- C. The contractor's remedy is limited to a time extension — the clause bars the contractor from recovering the \$45,000 in monetary damages for the delay, though the contractor receives additional time to complete the work
- D. The no-damages-for-delay clause is automatically void because it was caused by the owner's active interference

8. A Tennessee contractor's employee works the following schedule during a single workweek: Monday 10 hours, Tuesday 9 hours, Wednesday 11 hours, Thursday 8 hours, Friday 10 hours. The employee's regular hourly rate is \$24.00. What is the employee's total gross pay for the workweek including overtime?

- A. \$1,152.00 calculated as 48 hours at the straight-time rate of \$24.00
- B. \$1,248.00 calculated as 40 regular hours at \$24.00 (\$960.00) plus 8 overtime hours at \$36.00 (\$288.00)
- C. \$1,200.00 calculated as 50 hours at \$24.00 with no overtime premium applied
- D. \$1,344.00 calculated as 48 hours at \$24.00 plus a \$192.00 weekly overtime bonus

9. A general contractor on a commercial project requires all subcontractors to submit certificates of insurance before beginning work. Subcontractor D provides a certificate showing

\$1,000,000 in general liability coverage but the subcontract requires \$2,000,000. The general contractor allows Subcontractor D to begin work anyway, planning to address the insurance gap later. Two months into the project, a worker employed by Subcontractor D is injured and a third party files a \$1,800,000 liability claim. The general contractor's primary exposure is:

- A. The \$800,000 gap between Subcontractor D's actual coverage and the subcontract requirement, which the general contractor's own CGL policy may need to cover because the GC failed to enforce the subcontract insurance requirement
- B. Zero, because the subcontractor's insurance covers all claims arising from the subcontractor's work regardless of the coverage amount
- C. \$1,800,000 in full, because the general contractor is automatically liable for the entire claim whenever a subcontractor is underinsured
- D. \$1,000,000, representing the subcontractor's policy limit, with the remaining \$800,000 dismissed by the court

10. Under Tennessee law, the Tennessee Human Rights Act (THRA) prohibits employment discrimination and applies to employers with:

- A. 5 or more employees, which is a lower threshold than the federal Title VII requirement
- B. 15 or more employees, matching the federal Title VII threshold exactly
- C. 8 or more employees, providing broader coverage than the federal 15-employee Title VII threshold
- D. 25 or more employees, limiting coverage to mid-size and larger employers

11. A contractor's estimate for a hotel renovation project includes \$85,000 for demolition, \$340,000 for structural modifications, \$280,000 for MEP rough-in, \$195,000 for finishes, and \$100,000 for FF&E (furniture, fixtures, and equipment). The total direct costs are \$1,000,000. The contractor applies 12% company overhead and 7% profit on total cost. What is the profit amount?

- A. \$78,400, calculated as 7% of the total cost (\$1,000,000 direct costs + \$120,000 overhead = \$1,120,000)
- B. \$70,000, calculated as 7% of the direct costs only (\$1,000,000)
- C. \$84,000, calculated as 7% of direct costs plus a flat \$14,000 overhead surcharge
- D. \$91,000, calculated as 7% of direct costs plus 7% of profit itself

12. A Tennessee contractor completes a residential addition and provides the homeowner with a comprehensive closeout package. Which of the following items should be included in the closeout package?

- A. The contractor's original cost estimate with markup percentages and profit calculations for each line item
- B. The subcontractors' internal financial statements showing their costs and profit margins on the project
- C. Operation and maintenance manuals, warranty documentation, as-built drawings, final lien waivers, and keys
- D. The contractor's workers' compensation EMR history for the past five years

13. A contractor receives three bids for electrical work: Firm X at \$245,000, Firm Y at \$228,000, and Firm Z at \$221,000. The contractor uses Firm Z's bid in their overall estimate and wins the project. After award, the contractor shares Firm Z's price with Firm Y and asks if Firm Y will match or beat it. This practice is:

- A. Standard competitive re-bidding that is expected and encouraged in the construction industry
- B. Bid shopping, which is considered unethical because it undermines the integrity of the competitive bidding process and erodes trust between contractors and subcontractors
- C. A required step under Tennessee's licensing regulations before awarding subcontracts on bonded projects
- D. Permissible only if the general contractor discloses the competing bid amounts to all three electrical firms

14. A contractor discovers during construction that the soil bearing capacity at the foundation location is significantly lower than the geotechnical report indicated. The structural engineer redesigns the foundation, adding \$95,000 in additional costs and 15 days to the schedule. Under a standard differing site conditions clause, the contractor is entitled to:

- A. No additional compensation because soil conditions are always the contractor's risk under any contract type
- B. Additional compensation only if the contractor can prove the geotechnical consultant was negligent
- C. Only a time extension of 15 days with no monetary adjustment for the additional foundation costs
- D. A change order for both the additional \$95,000 cost and the 15-day time extension, because the actual conditions differed materially from those indicated in the contract documents

15. A Tennessee contractor organized as an LLC with two members is considering the tax implications of different tax elections. If the LLC elects S-Corporation taxation, which of the following Tennessee state taxes will the entity still be subject to?

- A. Tennessee income tax on all member distributions at the individual level
- B. Tennessee franchise and excise tax at the entity level, because the S-Corp election does not exempt LLCs from this Tennessee tax
- C. A special Tennessee S-Corporation surcharge of 3% on net earnings above \$100,000
- D. Tennessee payroll tax on all wages paid, which is separate from federal FICA obligations

16. Under OSHA, the term "imminent danger" refers to a condition where:

- A. There is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately or before the danger can be eliminated through normal enforcement
- B. A worker has already been injured and the hazard continues to exist at the time of the inspection
- C. The employer has received three or more citations for the same hazard within the past 12 months
- D. The construction project is more than 30 days behind schedule due to safety-related work stoppages

17. A contractor files a mechanic's lien on a residential property on May 15. The contractor and the homeowner negotiate for several months but cannot reach a settlement. The contractor's attorney advises that a lawsuit to enforce the lien must be filed by:

- A. August 13, which is 90 days from the lien filing date
- B. November 15, which is six months from the lien filing date
- C. May 15 three years later, which is the standard statute of limitations for contract claims in Tennessee
- D. May 15 of the following year, which is one year from the lien filing date

18. A construction company with 8 employees in Memphis wants to determine which federal anti-discrimination laws apply to them. Based on employee count alone, the company is covered by:

- A. The Tennessee Human Rights Act (8+ employees) but not Title VII (15+ employees), the ADA (15+ employees), or the ADEA (20+ employees)
- B. Title VII, the ADA, and the ADEA because all federal anti-discrimination laws apply to employers with 5 or more employees
- C. No anti-discrimination laws because all such laws require a minimum of 15 employees
- D. Only the Equal Pay Act, which has no minimum employee threshold

19. A contractor submits a bid on a public project with a total bid price of \$4,200,000. The bid documents require a 5% bid bond. After bid opening, the contractor realizes they made a \$300,000 mathematical error and their intended bid was \$4,500,000. The contractor notifies the owner and requests permission to withdraw the bid. If the owner denies the withdrawal request and the contractor refuses to enter the contract, the surety's maximum liability is:

- A. \$4,200,000, representing the full bid amount
- B. \$300,000, representing the amount of the contractor's mathematical error
- C. \$210,000, representing the 5% bid bond face amount ( $\$4,200,000 \times 5\%$ )
- D. Zero, because mathematical errors automatically void bid bonds under Tennessee law

20. A Tennessee contractor completes a \$3,200,000 industrial warehouse. The owner requests as-built drawings as part of the closeout documentation. As-built drawings are:

- A. A completely new set of drawings prepared by the contractor's in-house design team showing the building as it would be ideally constructed
- B. The original construction drawings marked up during construction to reflect actual field conditions, deviations from the design, relocated utilities, changed dimensions, and any other modifications from the original plans
- C. The architect's original drawings reprinted on waterproof paper for long-term storage by the owner
- D. A set of photographs taken at each construction milestone that documents the project's visual progress

21. A Tennessee contractor performing work on a federal highway project is required to submit certified payroll reports. The contractor's payroll clerk asks what distinguishes a "certified" payroll from a regular payroll report. The key distinction is:

- A. Certified payroll must be prepared by a CPA rather than internal payroll staff
- B. Certified payroll reports use a special IRS form that is different from standard payroll forms
- C. Certified payroll requires approval from the Tennessee Department of Labor before submission
- D. The contractor certifies under penalty of perjury that the reported wages and classifications are accurate and that prevailing wages required by the Davis-Bacon Act are being paid

22. A Tennessee contractor organized as a general partnership has three partners. Partner A manages daily operations, Partner B handles estimating and bidding, and Partner C is a silent investor who contributed capital but does not participate in management. A subcontractor sues the partnership for \$200,000 in unpaid invoices. If the partnership cannot pay, the subcontractor can pursue:

- A. Only Partner A and Partner B because they are active in the business, while Partner C is protected as a silent investor
- B. Any one or all three partners personally for the full \$200,000 under joint and several liability, because all general partners — including silent investors — are personally liable for partnership debts
- C. Only the partnership's business assets, because partners in a three-person partnership have automatic limited liability protection
- D. Only Partner A because the operational partner bears sole responsibility for subcontractor payment obligations

23. A contractor's project has reached the rough-in inspection stage. The building inspector arrives and fails the plumbing rough-in, citing three code violations. The contractor disagrees with two of the inspector's findings. The contractor's most appropriate response is to:

- A. Proceed with drywall installation over the plumbing work while the disagreement is being resolved
- B. File a complaint against the building inspector with the Tennessee Board for Licensing Contractors
- C. Correct the one undisputed violation, then document the basis for disagreeing with the other two and pursue a formal appeal or request a re-inspection through the proper code appeals process
- D. Hire a different plumbing subcontractor to redo the entire rough-in installation

24. A Tennessee contractor's workers' compensation insurance carrier sends the contractor an annual experience modification rate (EMR) calculation showing the EMR has increased from 0.92 to 1.18 due to two large claims in the previous year. The practical consequences of this increase include:

- A. Higher workers' compensation premiums (a 28% increase in the adjusted premium), reduced competitiveness for projects where owners require EMRs below 1.00, and a strong signal that the contractor's safety program needs improvement
- B. No practical consequences because EMR changes are cosmetic and do not affect premium calculations
- C. Automatic license suspension by the Tennessee Board for Licensing Contractors for any EMR above 1.00
- D. A mandatory OSHA inspection of all active jobsites within 30 days of the EMR increase notification

25. A contractor enters into a construction contract with a clause requiring the contractor to indemnify the owner for "all losses, damages, and claims arising from the contractor's work, regardless of the owner's negligence or fault." This is an example of:

- A. A limited form (comparative) indemnity clause that fairly allocates fault between both parties
- B. An intermediate form indemnity clause that excludes only losses caused solely by the owner
- C. A mutual indemnification clause that protects both parties equally from all claims
- D. A broad form indemnity clause that shifts all liability to the contractor even for losses caused entirely by the owner's own negligence

26. A contractor's estimator is performing a quantity takeoff for a commercial office building. The architectural drawings show 14,500 square feet of interior partition walls. The estimator needs to calculate the number of sheets of 4' × 8' drywall required for both sides of the walls (no waste factor applied yet). The number of sheets needed before waste is:

- A. 453 sheets, calculated by dividing the total wall area by the area of one sheet
- B. 906 sheets, calculated as  $(14,500 \text{ SF} \times 2 \text{ sides}) \div 32 \text{ SF per sheet}$ , rounded up to the nearest whole sheet
- C. 725 sheets, calculated using a 1.25 factor applied to the single-sided quantity
- D. 1,812 sheets, calculated by doubling the two-sided quantity for a standard safety margin

27. Under Tennessee's stormwater regulations administered by TDEC, a contractor performing land-disturbing activities on a 0.8-acre commercial site that is part of a larger 5-acre planned development must:

- A. Obtain an individual stormwater discharge permit from the EPA because the site is under 1 acre
- B. No stormwater permit is required because the individual site is under 1 acre
- C. Obtain an NPDES Construction Stormwater General Permit because the site is part of a larger common plan of development that exceeds 1 acre
- D. Submit a stormwater exemption request to TDEC based on the site's small acreage

28. A contractor's project is governed by a contract that specifies disputes must be resolved through the following sequence: direct negotiation, then mediation, then binding arbitration. A payment dispute arises and the contractor immediately files for arbitration without first attempting negotiation or mediation. The arbitrator will most likely:

- A. Proceed with the arbitration because the contractor has the right to choose the most efficient resolution method

- B. Hear the case but limit the contractor's recovery to 50% as a penalty for bypassing the preliminary steps
- C. Convert the arbitration to a court proceeding since the contractual process was not followed
- D. Dismiss or stay the arbitration and require the contractor to comply with the negotiation and mediation steps first, as the contractual dispute resolution sequence is generally binding

29. A contractor operating in Tennessee purchases a piece of construction equipment for \$180,000. The contractor wants to deduct the full cost in the year of purchase rather than depreciating it over the standard MACRS recovery period. The tax provision that may allow this immediate deduction is:

- A. The Tennessee Business Tax deduction for capital equipment purchases
- B. Section 179 expensing, which allows businesses to deduct the full cost of qualifying equipment in the year it is placed in service, up to the annual limit
- C. The OSHA equipment safety credit, which provides a dollar-for-dollar tax deduction for safety-related equipment
- D. The contractor's general overhead deduction, which automatically includes all equipment purchases in the year of acquisition

30. A Tennessee contractor's Qualifying Agent resigns on July 10. The contractor reports the resignation to the Board on July 18. A replacement QA passes the required exams and the contractor submits the QA Notice of Change form on October 5. Has the contractor complied with the Board's requirements?

- A. Yes — the departure was reported within 10 days (July 18 is 8 days after July 10), and the replacement was designated within 90 days (October 5 is 87 days after July 10)
- B. No — the departure was reported late because the 10-day deadline ran from the date the Board received the notice, not from the resignation date
- C. No — the replacement QA was designated too late because the 90-day deadline is measured from the date the departure was reported to the Board (July 18), not from the resignation date
- D. Yes, but only if the replacement QA has at least 5 years of experience in the same license classification

31. A subcontractor on a commercial project submits a change order request to the general contractor claiming \$42,000 for additional blocking and backing required to support wall-mounted medical equipment. The general contractor reviews the contract documents and determines that the blocking was clearly shown on the architectural drawings but was not included in the subcontractor's scope of work attachment. The general contractor should:

- A. Pay the \$42,000 because any work not specifically listed in the subcontractor's scope attachment constitutes extra work
- B. Deny the change order and direct the subcontractor to perform the blocking at no additional cost if the work was shown on the drawings that were incorporated into the subcontract by reference, and the scope attachment was not intended to be an exhaustive list
- C. Split the cost 50/50 with the subcontractor as a compromise regardless of what the contract documents show
- D. Pay the \$42,000 and back-charge the architect for failing to coordinate the drawings with the subcontractor

32. A Tennessee contractor's annual financial statement shows a current ratio (current assets ÷ current liabilities) of 0.75. This ratio indicates that:

- A. The contractor has \$0.75 in current assets for every \$1.00 of current liabilities, suggesting strong short-term financial health
- B. The contractor's profit margin is 75%, indicating excellent operational efficiency
- C. The contractor has \$0.75 in net worth for every \$1.00 of total assets
- D. The contractor has negative working capital — current liabilities exceed current assets by 25%, indicating potential difficulty meeting short-term obligations and likely reducing the monetary limit calculation

33. A contractor working on a Tennessee commercial project discovers that the project's stormwater BMP inspection log has not been updated in three weeks, despite two significant rainfall events during that period. Under the NPDES stormwater permit, this failure constitutes:

- A. A permit violation because inspections must be conducted at least once every seven calendar days and within 24 hours of qualifying rainfall events (0.5 inches or more)
- B. An acceptable delay because inspection logs can be updated monthly under TDEC's construction permit
- C. A minor administrative oversight that does not require corrective action unless TDEC requests the records
- D. A violation only if visible sediment has actually left the construction site boundary

34. A contractor's project manager receives a Request for Information (RFI) response from the architect that appears to require additional work beyond the original contract scope. The project manager should:

- A. Perform the additional work and include the cost in the next progress payment without separate documentation

- B. Immediately file a mechanic's lien to protect the contractor's right to payment for the additional work
- C. Review the RFI response carefully, and if it does constitute additional scope, submit a change order proposal documenting the cost and time impact before performing the work
- D. Ignore the RFI response because architect interpretations are advisory and non-binding

35. A Tennessee contractor organized as an LLC files its annual report with the Secretary of State on time but fails to pay the Tennessee franchise tax by the due date. The consequence of late franchise tax payment is:

- A. Automatic dissolution of the LLC by the Secretary of State within 30 days
- B. Penalties and interest assessed by the Tennessee Department of Revenue on the unpaid tax amount, which accrues until the balance is paid in full
- C. Immediate revocation of the contractor's license by the Board for Licensing Contractors
- D. A mandatory audit of the LLC's financial records by the Tennessee Comptroller's office

36. Under OSHA's fall protection standard, a safety net system used as fall protection must be installed no more than how many feet below the walking/working surface?

- A. 10 feet below the work surface, with nets extending at least 8 feet beyond the edge
- B. 20 feet below the work surface, with testing required every 6 months
- C. 50 feet below the work surface, which is the maximum height at which safety nets are effective
- D. 30 feet below the work surface, and the net must be tested with a 400-pound sandbag drop before use

37. A contractor has completed 90% of a \$2,400,000 commercial building project. The owner discovers significant water damage to the completed interior finishes caused by a roof leak. Investigation reveals the leak is due to improper installation of the roof membrane by the roofing subcontractor. The general contractor's liability to the owner for this damage is:

- A. Zero because the roofing subcontractor, not the general contractor, installed the defective roof
- B. The general contractor is liable to the owner for the full cost of repairing the water damage because the GC is responsible for all work on the project including subcontracted work — the GC can then pursue the roofing subcontractor for reimbursement
- C. Limited to the retainage amount currently held on the roofing subcontractor's portion of the work
- D. Shared equally between the general contractor and the roofing subcontractor under Tennessee's comparative fault statute

38. A Tennessee contractor wants to perform plumbing work on a commercial project valued at \$35,000. The contractor holds a BC (Building Contractor) license with a monetary limit of \$5,000,000. Can the contractor perform this plumbing work under the BC license?

- A. No — the BC license does not authorize plumbing work exceeding \$25,000, which requires a separate CMC-A (Mechanical Plumbing) license, even though the contractor's monetary limit far exceeds the project value
- B. Yes — the BC license authorizes all construction trades including plumbing at any dollar value
- C. Yes — the \$35,000 project value is below the \$50,000 threshold at which separate mechanical licensing is required
- D. No — plumbing work can only be performed by licensed master plumbers and is never covered under any building contractor classification

39. A contractor is preparing a bid and the specifications include a proprietary specification naming "Brand X Model 500" as the required HVAC unit with the phrase "or approved equal." This specification language means:

- A. The contractor must install Brand X Model 500 with no substitutions permitted under any circumstances
- B. The contractor may propose any HVAC unit regardless of whether it meets the performance characteristics of the Brand X Model 500
- C. The contractor must bid the Brand X Model 500 but may propose an alternative product that meets or exceeds the specified unit's performance characteristics, subject to the architect's approval
- D. The "or approved equal" language is a formality that has no legal effect and the contractor must use the named product

40. A contractor's employee reports a safety concern about inadequate trench protection to the project superintendent. The superintendent dismisses the concern and directs the employee to continue working in the unprotected trench. The employee refuses to enter the trench, believing it poses an imminent danger of cave-in. Under OSHA, the employee's refusal to work:

- A. Is protected by law because the supervisor's direct threat to safety may constitute an imminent danger
- B. Results in automatic termination because employees cannot refuse direct work orders on construction sites
- C. Is only protected if the employee has filed a formal written complaint with OSHA before refusing
- D. Is protected only if the employee has been working in the construction industry for more than five years

41. A Tennessee contractor's estimate includes the following subcontractor quotes: electrical \$185,000, plumbing \$142,000, HVAC \$168,000, fire protection \$76,000, and elevator \$225,000. The contractor's estimate also includes \$15,000 for subcontractor coordination and management. The total subcontractor cost in the estimate is:

- A. \$796,000, representing the five subcontractor quotes only — the \$15,000 coordination cost is classified as project overhead, not as a subcontractor direct cost
- B. \$811,000 because the \$15,000 coordination cost is allocated proportionally across each subcontractor's line item
- C. \$811,000, with subcontractor quotes and coordination combined as a single direct cost category
- D. \$781,000 after deducting a standard 2% volume discount from the total subcontractor quotes

42. Under Tennessee law, a contractor who receives payment for work performed but fails to pay their subcontractors may face which of the following consequences?

- A. The subcontractors may file mechanic's liens against the property, pursue payment bond claims (if bonded), and/or file complaints with the Board — the contractor's failure to pay subcontractors is grounds for Board investigation and disciplinary action
- B. No consequences because subcontractor payment disputes are private matters between the GC and sub
- C. Only a requirement to attend a Board-sponsored mediation session within 30 days of the complaint
- D. An automatic 10% penalty assessed by the Board on the unpaid amount, payable directly to the subcontractors

43. A Tennessee contractor organized as a sole proprietorship generates \$950,000 in gross receipts during the quarter. Of that amount, \$380,000 was paid to licensed subcontractors. For Tennessee business tax purposes, the taxable gross receipts are:

- A. \$950,000 because sole proprietorships are not permitted to deduct subcontractor payments
- B. \$475,000 representing half of gross receipts as the standard business tax deduction
- C. \$760,000 after deducting only subcontractor payments exceeding \$100,000 per subcontract
- D. \$570,000 after deducting the \$380,000 paid to licensed subcontractors from the gross receipts

44. A contractor's superintendent walks the jobsite at the end of each workday and notices that a stack of lumber has been placed within 6 feet of an exposed electrical panel. Under OSHA's electrical safety standards and general housekeeping requirements, the superintendent should:

- A. Leave the lumber in place because 6 feet provides adequate clearance from electrical equipment
- B. Have the lumber moved immediately to maintain required clearances around electrical panels and prevent fire and safety hazards — OSHA requires maintaining clear access to electrical equipment
- C. Cover the electrical panel with a tarp to protect it from contact with the lumber
- D. Label the lumber stack with a "Caution: Near Electrical Equipment" sign and leave it in place

45. A contractor's project reaches substantial completion on June 1. The architect issues a punch list with 45 items. The contract specifies that the punch list must be completed within 30 days. The contractor completes all items by June 28. The architect conducts a re-inspection on July 5 and verifies all items are complete. What is the status of the project?

- A. The project reached final completion on June 1 when substantial completion was achieved
- B. The contractor is in breach of contract because the re-inspection occurred after the 30-day deadline
- C. The project reaches final completion on July 5 after all remaining closeout requirements are met
- D. The project reached final completion on June 28 when the contractor completed the last punch list item, assuming all closeout documents have also been submitted

46. A Tennessee contractor receives a subcontractor's conditional waiver upon final payment for \$65,000 along with a check for \$65,000. The contractor deposits the check, which clears the bank on March 12. On March 20, the contractor discovers that the subcontractor performed \$8,000 in warranty work that should have been deducted from the final payment. The conditional final waiver:

- A. Has already become effective because the \$65,000 payment was received and cleared — the contractor cannot retroactively reduce the amount and must pursue the \$8,000 warranty deduction through a separate claim
- B. Can be voided by the contractor within 30 days of discovering the warranty deduction error
- C. Automatically excludes warranty-related deductions regardless of the language in the waiver
- D. Remains conditional until 90 days after the payment clears, giving the contractor time to identify errors

47. Under Tennessee's construction lien law, a mechanic's lien on a residential property will NOT attach to the landlord's fee interest in the property if:

- A. The improvement was ordered by the landlord with the tenant paying all costs under the lease agreement
- B. The contractor failed to obtain a building permit before beginning the improvement work
- C. The tenant ordered the improvement without the landlord's knowledge, authorization, or consent — the lien attaches only to the tenant's leasehold interest
- D. The property has a mortgage recorded before the improvement commenced

48. A contractor using earned value analysis finds that the Schedule Performance Index (SPI = Earned Value ÷ Planned Value) is 1.15 and the Cost Performance Index (CPI = Earned Value ÷ Actual Cost) is 0.88. This indicates:

- A. The project is behind schedule and under budget — a rare but favorable combination
- B. The project is ahead of schedule (SPI > 1.0 means more work completed than planned) but over budget (CPI < 1.0 means more spent than the value of work completed)
- C. The project is on schedule and on budget because the SPI and CPI average to approximately 1.0
- D. The project data is invalid because SPI and CPI cannot move in opposite directions

49. A Tennessee contractor files their quarterly estimated federal tax payment 15 days late. The consequence of this late payment is:

- A. No consequence as long as the annual tax return is filed on time by the April 15 deadline
- B. A flat \$500 penalty per late payment regardless of the amount owed
- C. Automatic audit of the contractor's federal tax return for the current and preceding two years
- D. An underpayment penalty calculated on the amount of the shortfall for the period the payment was late

50. A construction project owner wants to ensure that all subcontractors and suppliers are paid for their work on the project. The most effective contractual tool for protecting against non-payment to lower-tier parties is:

- A. Requiring the general contractor to provide a payment bond, which guarantees payment to all subcontractors, suppliers, and laborers who furnish work, materials, or services on the project
- B. Including a pay-if-paid clause in the general contract that conditions all downstream payments on the owner's payment to the GC
- C. Requiring the general contractor to maintain a separate escrow account for each subcontractor
- D. Inserting a no-lien clause in the contract that prevents any party from filing a mechanic's lien

## Practice Exam 10: Answer Key and Explanations

1. B — A surety bond is a three-party guarantee involving the principal (contractor), the obligee (owner), and the surety (bonding company). The surety guarantees the contractor's performance, but unlike insurance, the contractor is obligated to reimburse the surety for any claims paid. This right of indemnification is the fundamental distinction between bonds and insurance.

2. D — Estimated cost at completion = actual (\$1,050,000) + committed (\$220,000) + estimated to complete (\$310,000) = \$1,580,000. Budget = \$1,500,000. Variance =  $-\$80,000$  (unfavorable). The project is projecting an \$80,000 overrun that requires immediate investigation and corrective action.

3. A — Pre-qualification requirements evaluate the contracting entity and its key personnel — not unrelated individuals at other companies. The contractor cannot use a friend's or associate's experience to satisfy their own company's pre-qualification. The three years of experience must reside within the bidding entity or its direct employees.

4. C — Performing work requiring a license without a valid license is a violation of Tennessee law. Contracts entered into by unlicensed contractors may be unenforceable — the contractor may be unable to collect payment through the courts. The homeowner may have legitimate grounds to terminate and withhold payment.

5. A — Tension cracks and bulging soil are warning signs of an impending cave-in. The employer must immediately prohibit workers from entering the trench until a competent person evaluates the conditions and determines whether the protective system is adequate. Sending workers in before evaluation would create an imminent danger.

6. D — Net worth =  $\$3,100,000 - \$2,300,000 = \$800,000$ . Working capital =  $\$890,000 - \$540,000 = \$350,000$ . The lesser value is \$350,000. Monetary limit =  $10 \times \$350,000 = \$3,500,000$ . Since \$3,500,000 exceeds \$3,000,000, an audited financial statement is required — the reviewed statement must be rejected.

7. C — A no-damages-for-delay clause limits the contractor's remedy for delays to a time extension only. The contractor cannot recover monetary damages (\$45,000 in idle equipment and overhead) for the delay, even when the delay was caused by the owner. Some jurisdictions carve out exceptions for active interference, but the general rule bars monetary recovery.

8. B — Total hours =  $10 + 9 + 11 + 8 + 10 = 48$ . Regular pay =  $40 \text{ hours} \times \$24.00 = \$960.00$ . Overtime =  $8 \text{ hours} \times \$36.00 (1.5 \times \$24.00) = \$288.00$ . Total gross pay =  $\$960.00 + \$288.00 = \$1,248.00$ . FLSA overtime is calculated on weekly total hours exceeding 40, not on daily hours.

9. A — By failing to enforce the subcontract's \$2,000,000 insurance requirement, the general contractor exposed themselves to the gap between the subcontractor's actual \$1,000,000

coverage and the \$1,800,000 claim. The GC's own CGL policy may need to respond to the \$800,000 gap. Always enforce subcontract insurance requirements before work begins.

10. C — The Tennessee Human Rights Act applies to employers with 8 or more employees, providing broader protection than federal Title VII, which requires 15 employees. This means Tennessee employers with 8-14 employees are covered by state anti-discrimination law even though they fall below the federal threshold.

11. A — Total cost = direct costs (\$1,000,000) + overhead ( $12\% \times \$1,000,000 = \$120,000$ ) = \$1,120,000. Profit =  $7\% \times \$1,120,000 = \$78,400$ . Profit must be calculated on total cost including overhead, not on direct costs alone.

12. C — A standard closeout package includes operation and maintenance manuals, warranty documentation (manufacturer and contractor warranties), as-built drawings reflecting actual field conditions, final lien waivers from all subcontractors and suppliers, certificates and test reports, and keys and spare parts.

13. B — Sharing a subcontractor's bid price with competitors after using that bid to win the project is bid shopping. It undermines fair competition, erodes trust in the bidding process, and ultimately drives up prices as subcontractors build protection against this practice into their future bids.

14. D — Under a standard differing site conditions clause (Type I), when actual subsurface conditions differ materially from those indicated in the contract documents (the geotechnical report), the contractor is entitled to a change order covering both the additional cost and the time extension resulting from the changed conditions.

15. B — Tennessee's franchise and excise tax applies to LLCs regardless of their federal tax election. The S-Corp election eliminates double taxation at the federal level but does not exempt the entity from Tennessee's franchise tax (based on net worth or property) or the 6.5% excise tax (on net earnings).

16. A — OSHA defines imminent danger as a condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately or before the hazard can be eliminated through normal enforcement procedures. Imminent danger situations receive the highest inspection priority.

17. D — Tennessee law requires the enforcement suit for a mechanic's lien to be filed within one year from the date the lien was filed. A lien filed on May 15 must be enforced by May 15 of the following year. If the suit is not filed within this period, the lien expires automatically.

18. A — With 8 employees, the company is covered by the Tennessee Human Rights Act (8+ employees) but falls below the thresholds for Title VII (15+), the ADA (15+), and the ADEA (20+). The THRA provides state-level anti-discrimination protection for employers in the 8-14 employee range.

19. C — The bid bond is 5% of \$4,200,000 = \$210,000. The surety's maximum liability is capped at the face amount of the bond. While the actual liability may be less (the difference between the withdrawn bid and the next lowest bid), the \$210,000 bond face amount is the absolute ceiling.

20. B — As-built drawings (record drawings) are the original construction drawings marked up during construction to reflect actual field conditions — relocated utilities, changed dimensions, substituted materials, and deviations from the original design. They provide an accurate record of what was actually built for future maintenance and renovation.

21. D — A certified payroll report is distinguished from a standard payroll report by the contractor's certification, made under penalty of perjury, that the reported wage rates, classifications, and hours are accurate and that prevailing wages required by the Davis-Bacon Act are being paid. Falsifying certified payroll is a federal offense.

22. B — In a general partnership, all partners — including silent investors — are jointly and severally liable for partnership debts. The subcontractor can pursue any one partner for the full \$200,000, regardless of that partner's level of involvement in operations. This unlimited liability extends to each partner's personal assets.

23. C — The contractor should correct the undisputed violation to demonstrate good faith compliance, then formally dispute the other two findings through the proper code appeals process. Installing drywall over failed rough-in work is not permitted — the inspection must be passed before concealment.

24. A — An EMR increase from 0.92 to 1.18 represents a 28% swing in the premium multiplier. Practical consequences include significantly higher premiums, disqualification from projects where owners require EMRs below 1.00, and a clear signal that the safety program needs improvement to reverse the trend.

25. D — A broad form indemnity clause requires the contractor to indemnify the owner for all losses regardless of fault — even losses caused entirely by the owner's own negligence. This is the most extreme form of indemnification and is restricted or prohibited in many states through anti-indemnity statutes.

26. B — Total wall area for both sides =  $14,500 \text{ SF} \times 2 = 29,000 \text{ SF}$ . Each  $4' \times 8'$  sheet = 32 SF. Sheets needed =  $29,000 \div 32 = 906.25$ , rounded up to 907 sheets (approximately 906). The waste factor would be applied on top of this base quantity in the next calculation step.

27. C — Even though the individual site is only 0.8 acres, it is part of a larger 5-acre planned development. Under the NPDES Construction General Permit, sites that are part of a larger common plan of development or sale that collectively disturbs 1 acre or more require a stormwater permit regardless of individual site size.

28. D — Construction contracts that specify a sequential dispute resolution process (negotiation → mediation → arbitration) create binding procedural requirements. Filing for arbitration

without first completing the prerequisite steps violates the contractual process. The arbitrator will likely dismiss or stay the proceeding until the contractor complies with the required sequence.

29. B — Section 179 of the Internal Revenue Code allows businesses to deduct the full cost of qualifying equipment in the year it is placed in service, up to the annual limit, rather than depreciating the cost over the standard MACRS recovery period. This provides significant immediate tax savings for contractors making major equipment purchases.

30. A — The QA departure on July 10 was reported to the Board on July 18 — 8 days later, within the 10-day deadline. The replacement QA was designated on October 5 — 87 days after the July 10 departure, within the 90-day replacement deadline. Both deadlines were met.

31. B — If the architectural drawings showing the blocking were incorporated into the subcontract by reference, the blocking is part of the subcontractor's scope of work regardless of whether it was separately listed in the scope attachment. The scope attachment supplements but does not replace the contract drawings.

32. D — A current ratio of 0.75 means the contractor has only \$0.75 in current assets for every \$1.00 of current liabilities — negative working capital. This indicates the company may not have sufficient liquid resources to meet its near-term obligations, which directly reduces the monetary limit calculation.

33. A — The NPDES stormwater permit requires inspections at least every 7 calendar days and within 24 hours of qualifying rainfall events (0.5 inches or more). Three weeks without an updated inspection log, including during two significant rainfall events, constitutes a permit violation subject to enforcement action.

34. C — When an RFI response appears to require work beyond the original scope, the project manager should evaluate it carefully. If the response constitutes additional scope, the contractor should submit a change order proposal documenting the cost and time impact before performing the work — not proceed without authorization or ignore the architect's direction.

35. B — Late payment of Tennessee franchise tax results in penalties and interest assessed by the Department of Revenue. While it does not trigger automatic dissolution (which is related to annual report filing) or immediate license revocation, the accruing penalties and interest increase the contractor's tax liability.

36. D — OSHA requires safety nets to be installed as close as practicable below the working surface but not more than 30 feet below. Safety nets must extend beyond the edge of the work surface to catch falling workers and must be tested with a 400-pound sandbag drop before initial use.

37. B — The general contractor is responsible to the owner for all work on the project, including subcontracted work. The GC must repair the water damage at their own cost and can

then pursue the roofing subcontractor for reimbursement under the subcontract. The owner looks to the GC, and the GC looks to the sub.

38. A — The BC license explicitly excludes electrical, HVAC, and plumbing work exceeding \$25,000. A \$35,000 standalone plumbing project exceeds this threshold and requires a CMC-A (Mechanical Plumbing) license. The contractor's BC license does not authorize this work regardless of their monetary limit.

39. C — An "or approved equal" specification means the contractor must bid the named product but may propose an alternative that meets or exceeds the specified product's performance characteristics. The proposed substitute must be submitted to the architect for review and written approval before installation.

40. D — Under OSHA, workers have the right to refuse work they reasonably believe poses an imminent danger of death or serious injury — provided certain conditions are met (the danger is genuine, the employee has sought correction from the employer, and there is no reasonable alternative). The superintendent's directive to enter an unprotected trench creates the conditions for a protected work refusal.

41. A — The five subcontractor quotes total \$796,000 (\$185,000 + \$142,000 + \$168,000 + \$76,000 + \$225,000). The \$15,000 coordination cost is properly classified as project overhead (general conditions), not as a subcontractor direct cost. The subcontractor direct cost line in the estimate is \$796,000.

42. A — Failure to pay subcontractors exposes the contractor to multiple consequences: subcontractors may file mechanic's liens against the property, pursue payment bond claims on bonded projects, and file complaints with the Board. The Board considers failure to pay subcontractors as grounds for investigation and potential disciplinary action.

43. D — Tennessee's business tax allows deduction of amounts paid to licensed subcontractors from gross receipts. Taxable receipts = \$950,000 - \$380,000 = \$570,000. This deduction is available to all business entity types including sole proprietorships.

44. B — OSHA requires maintaining clear access and adequate clearances around electrical panels and equipment. Combustible materials stored near electrical equipment create fire hazards and obstruct emergency access. The superintendent should have the lumber moved immediately to maintain required clearances.

45. D — Final completion occurs when all punch list items are corrected, all closeout documents are submitted and accepted, and all remaining contractual obligations are fulfilled. The punch list was completed June 28 — if all closeout documents (O&M manuals, as-builts, final lien waivers, etc.) have also been submitted, final completion is achieved on that date.

46. A — A conditional waiver upon final payment becomes effective when the payment is received and clears the bank. The \$65,000 check cleared on March 12, making the waiver

effective at that point. The contractor cannot retroactively reduce the payment or void the waiver — the \$8,000 warranty deduction must be pursued as a separate claim.

47. C — If a tenant orders construction work without the landlord's knowledge, authorization, or consent, the mechanic's lien attaches only to the tenant's leasehold interest, not to the landlord's fee interest in the property. The landlord's property is protected from liens for improvements they did not authorize.

48. B — SPI of 1.15 means 15% more work has been completed than planned (ahead of schedule). CPI of 0.88 means the project is spending more than the budgeted value of work completed (over budget — only \$0.88 of value for every \$1.00 spent). The project is ahead of schedule but over budget.

49. D — Late estimated tax payments result in an underpayment penalty calculated on the shortfall amount for the period the payment was late. The penalty is essentially interest charged on the late payment from the due date until the payment is received. There is no flat penalty and no automatic audit trigger.

50. A — A payment bond is the most effective tool for ensuring that all subcontractors, suppliers, and laborers are paid. The bond guarantees payment to all parties who furnish work or materials, and unpaid parties can make claims directly against the bond. This is particularly important on public projects where mechanic's liens are not available.