

PRACTICE EXAM 11: MISSISSIPPI LAW AND BUSINESS MANAGEMENT SIMULATION (50 QUESTIONS)

Time Allowed: 2 Hours | 50 Questions | **Passing Score:** 70% (35 Correct)

This is an openbook examination. You may use the NASCLA Contractors Guide to Business, Law and Project Management, Mississippi 6th Edition and a silent, nonprinting, nonprogrammable calculator.

1. A contractor wins a \$1,300,000 commercial project through competitive bidding. Before signing the contract, the contractor's accountant advises that the project's overhead allocation, based on the company's current 14% rate, does not adequately cover the actual overhead because the company recently hired additional administrative staff and moved to a larger office. The actual overhead rate for the current year is closer to 17%. What financial risk does this create?

A. The project will underrecover overhead by approximately 3% of direct costs — the bid was calculated using the outdated 14% rate, so every dollar of direct cost on this project carries \$0.03 less overhead than what is actually needed, potentially consuming the project's profit margin to subsidize the overhead shortfall

B. No financial risk because the overhead rate is locked at the time of bid submission and cannot change during the contract regardless of actual overhead fluctuations

C. The risk is limited to the administrative staff salaries only because office rent is a fixed cost that does not fluctuate with the overhead rate

D. The contractor can issue a change order to the owner to recover the overhead difference because overhead rate changes constitute a differing cost condition under standard contract provisions

2. A contractor's project involves a 14-foot-deep excavation for a building foundation. The competent person classifies the soil as Type B based on visual and manual testing. Midway through excavation, the competent person notices that the soil characteristics change — the lower 4 feet of the trench wall shows significantly less cohesion, crumbles easily when handled, and has visible water seepage. What action must the competent person take?

A. No action is needed because soil classification is performed once at the beginning of excavation and remains fixed for the duration of the project

B. Document the observation and schedule a geotechnical engineer's evaluation for the following week before making any changes to the protective system

C. Reclassify the soil in the affected zone — the lower 4 feet exhibiting poor cohesion, crumbling, and water seepage likely meets Type C criteria, requiring the entire excavation's protective system to be upgraded to accommodate the least stable soil encountered, because the protective system must be based on the weakest soil layer

D. Continue using the Type B protective system but add additional shoring to the lower 4 feet only, without changing the overall soil classification

3. A contractor operating as a general partnership has three partners. Partner A contributes 50% of capital, Partner B contributes 30%, and Partner C contributes 20%. The partnership agreement does not address profit distribution. A dispute arises about how \$300,000 in net profits should be divided. Under the default rules of partnership law, how are the profits distributed?

A. Proportional to capital contributions — Partner A receives \$150,000 (50%), Partner B receives \$90,000 (30%), and Partner C receives \$60,000 (20%)

B. The partner who contributed the most capital receives all profits until their investment is fully recovered, and remaining profits are then divided among the other partners

C. Profits are held in the partnership account and cannot be distributed until all three partners unanimously agree on a distribution formula

D. Equally — \$100,000 to each partner — because the default rule under the Uniform Partnership Act distributes profits equally among partners regardless of their capital contributions, unless the partnership agreement specifies otherwise

4. A contractor submits a progress payment application for \$380,000. The contract includes a 10% retainage provision. The architect certifies the full amount. The owner processes payment but only remits \$304,000 instead of the expected \$342,000. The contractor believes the owner

has withheld more than the contractual 10% retainage. What is the correct payment calculation, and is the contractor right?

A. The correct payment is \$380,000 minus 10% retainage (\$38,000) = \$342,000 — the owner paid only \$304,000, which represents a 20% withholding rather than the contractual 10%, and the contractor is correct that \$38,000 has been improperly withheld beyond the retainage amount

B. The correct payment is \$342,000, and the contractor is correct — the owner has withheld \$38,000 more than the \$38,000 retainage allows, totaling \$76,000 withheld against a maximum of \$38,000, representing a potential breach of the payment terms

C. The correct payment is \$304,000 because the owner is entitled to withhold 20% — 10% for retainage and 10% for a quality assurance reserve that is standard on all commercial contracts

D. The correct payment is \$380,000 with no retainage because the architect's full certification overrides the retainage provision

5. A contractor's project has three sequential activities remaining: Mechanical RoughIn (12 days), Electrical RoughIn (10 days), and Drywall Installation (8 days). The project manager wants to shorten the schedule by overlapping the mechanical and electrical roughin so that Electrical RoughIn starts 4 days after Mechanical RoughIn begins, rather than waiting for it to finish. What CPM relationship does this create, and what is the new duration for these three activities?

A. A starttofinish (SF) relationship with a 4day lag between Mechanical and Electrical, creating a parallel path where both roughins overlap for 8 days — the combined duration becomes 12 days for the roughin phase (the longer of the two activities when started with the lag) plus 8 days for drywall = 20 days, compared to the original 30 days (12+10+8) for fully sequential scheduling

B. A finishtofinish (FF) relationship that requires both roughins to end on the same day regardless of their individual durations

C. A starttofinish (SF) relationship that prevents the electrical work from finishing before the mechanical work starts

D. No valid CPM relationship can be created — mechanical and electrical roughin must always be fully sequential and cannot overlap under any scheduling methodology

6. A contractor purchases \$160,000 worth of structural steel from a Mississippi supplier. The steel will be incorporated into a commercial building being constructed for a private owner.

Mississippi's sales tax rate is 7%. The supplier charges the contractor \$11,200 in sales tax. The owner argues that they should not be billed for the sales tax because the building is for their own use. Who is correct?

- A. The owner is correct because the end user of the building — not the contractor — is responsible for paying sales tax on all construction materials in Mississippi
- B. Neither party needs to pay sales tax because structural steel is classified as a capital improvement material that is exempt from Mississippi sales tax
- C. The owner is correct because Mississippi charges sales tax only on materials purchased by residential contractors, not commercial contractors
- D. The supplier is correct — in Mississippi, the contractor is the consumer of materials incorporated into construction projects and pays sales tax at the time of purchase, not the owner; the \$11,200 sales tax is a project cost that should be included in the contractor's bid price

7. A contractor's project superintendent notices that a newly hired laborer is not wearing the required highvisibility safety vest while working near an active roadway adjacent to the construction site. The superintendent provides the worker with a vest and instructs them to wear it at all times in the roadwayadjacent zone. The next day, the same worker is again observed without the vest. What progressive action should the superintendent take?

- A. Ignore the repeat violation because highvisibility vests are a recommended practice rather than an enforceable safety requirement
- B. Issue a formal written warning documenting the repeat violation, enforce the company's disciplinary policy, and if the behavior continues, escalate to suspension or termination — consistent enforcement of safety rules is both an OSHA obligation and a protection against liability claims
- C. Report the worker directly to OSHA for violating the highvisibility vest requirement because individual worker violations must be reported to the federal agency
- D. Reassign the worker to an interior area of the project without any disciplinary documentation because reassignment resolves the immediate hazard

8. A contractor is negotiating a construction contract and the owner proposes a payifpaid clause for all subcontractor payments. The contractor employs their own workers for much of the work but also uses three major subcontractors. What risk does the payifpaid clause create for the contractor's subcontractor relationships?

A. No risk because payifpaid clauses are standard in every construction contract and subcontractors expect them

B. No risk because the clause applies only to the contractorowner payment relationship and has no effect on the contractor's obligations to subcontractors

C. The clause transfers the owner's credit risk to the subcontractors — if the owner fails to pay the contractor, the subcontractors may have no contractual right to payment from the contractor, which can damage subcontractor relationships, discourage qualified subcontractors from bidding, and create payment disputes that delay the project

D. The clause benefits subcontractors because it guarantees they will be paid before the general contractor receives any payment from the owner

9. A contractor's financial statements show the following annual results: total revenue \$6,100,000, cost of construction \$4,880,000, G&A expenses \$793,000. The contractor's bonding company sets a minimum acceptable net profit margin of 5% for bonding qualification. Does the contractor meet this threshold?

A. Yes — net profit is \$427,000 ($\$6,100,000 - \$4,880,000 - \$793,000$), and net profit margin is 7.0% ($\$427,000 \div \$6,100,000$), which exceeds the surety's 5% minimum threshold

B. No — net profit margin is 4.2%, falling below the 5% minimum required for bonding qualification

C. Yes — gross profit margin is 20%, which far exceeds the 5% threshold and is the metric sureties evaluate for bonding

D. The calculation cannot be performed without knowing the contractor's total assets and liabilities because sureties evaluate net worth, not profit margin

10. A contractor is hired to renovate a commercial kitchen in a building constructed in 1968. The project requires removing existing floor tiles. Before removal, what should the contractor assume about the floor tiles in a building of this vintage?

A. The tiles are safe to remove using standard demolition methods because commercial kitchen floors from the 1960s were typically made of ceramic tile, which does not contain asbestos

B. The tiles are safe to remove as long as workers wear standard dust masks and the area is ventilated with a box fan

C. The tiles can be assumed to be asbestosfree if they are smaller than 9 inches square because only 9×9 and 12×12 tiles contain asbestos

D. The tiles should be presumed to potentially contain asbestos until testing proves otherwise — vinyl and vinylasbestos floor tiles were widely used in commercial buildings before the 1980s, and the contractor should follow OSHA's asbestos standard and EPA regulations for testing, handling, and disposal before disturbing the material

11. A contractor's project is governed by a fixedprice contract for \$2,400,000. The original estimate included \$2,040,000 in costs and \$360,000 in profit (15% margin). At the 50% completion point, the job cost report shows: actual costs \$1,100,000, original prorated budget \$1,020,000 (50% × \$2,040,000). The estimated cost to complete the remaining 50% is \$1,050,000. What is the projected total cost, and what happened to the projected profit?

A. Projected total cost is \$2,040,000 and profit remains at \$360,000 because the project is still in the first half and accurate projections require at least 75% completion

B. Projected total cost is \$2,150,000 (\$1,100,000 + \$1,050,000), reducing projected profit from \$360,000 to \$250,000 — the project is running \$110,000 over the original cost estimate, with an \$80,000 overrun at the midpoint (\$1,100,000 vs. \$1,020,000 budget) and an additional \$30,000 anticipated in the remaining work (\$1,050,000 vs. \$1,020,000 remaining budget)

C. Projected total cost is \$1,100,000 because only incurred costs should be used for projection purposes

D. Projected total cost is \$2,400,000 because fixedprice contracts always consume the full contract amount

12. A contractor receives a letter from the IRS stating that the company failed to deposit payroll taxes totaling \$48,000 for two consecutive months. The company is organized as an LLC with two members who manage the daytoday operations. Under the Trust Fund Recovery Penalty, what personal liability exposure do the managing members face?

A. No personal liability because the LLC structure protects members from all tax obligations, including payroll trust fund taxes

B. Personal liability limited to \$5,000 per member, which is the statutory cap on individual liability for payroll tax deficiencies in LLCs

C. Both managing members may be personally liable for the full \$48,000 in unpaid trust fund taxes — the Trust Fund Recovery Penalty allows the IRS to assess the withheld employee income taxes and FICA against any responsible person who willfully failed to pay, piercing the LLC's limited liability protection for these specific obligations

D. Only the member who signed the payroll checks is personally liable because the Trust Fund Recovery Penalty applies exclusively to check signers

13. A contractor is developing a project schedule and identifies that the exterior painting cannot begin until both the exterior siding and the window installation are complete. The siding is scheduled to finish on Day 30 and the windows on Day 34. Using CPM logic, what is the earliest the exterior painting can start?

A. Day 34, because the painting has finish-to-start relationships with both predecessors, and the successor cannot start until both are complete — the latest of the predecessor completion dates (Day 34) governs the earliest start of the painting activity

B. Day 30, because the earlier predecessor completion date always governs the start of the successor activity

C. Day 32, calculated as the average of the two predecessor completion dates

D. Day 35, because CPM automatically adds a 1-day buffer between the completion of all predecessors and the start of any successor

14. A contractor signs a subcontract that includes a clause requiring the subcontractor to indemnify the general contractor for all claims arising from the subcontractor's work, "including claims caused in whole or in part by the negligence of the general contractor." This is a broad form indemnification clause. What specific risk does the subcontractor assume by signing this clause?

A. No additional risk because indemnification clauses in subcontracts are unenforceable as a matter of federal construction law

B. The risk is limited to the subcontractor's insurance deductible because the CGL policy covers all indemnification obligations regardless of the clause language

C. The risk that the general contractor's premiums will be charged to the subcontractor's insurance policy as a premium offset

D. The subcontractor assumes liability for losses caused by the general contractor's own negligence — if the general contractor's negligent act causes an injury, the subcontractor may be required to pay for it under this clause, creating exposure beyond what the subcontractor's CGL policy typically covers

15. A contractor's employee works the following hours: Monday 10, Tuesday 9, Wednesday 8, Thursday 10, Friday 9, Saturday 6. The employee's regular rate is \$34.00 per hour. What is the total gross pay for the week under the FLSA?

A. \$1,768, calculated at the straighttime rate of \$34.00 for all 52 hours because the FLSA does not require overtime for construction workers

B. \$1,870, calculated as 40 regular hours at \$34.00 (\$1,360) plus 12 overtime hours at \$51.00 (\$612), because all hours over 40 in the workweek are paid at 1.5 times the regular rate regardless of which day they were worked

C. \$1,972, calculated at doubletime for all Saturday hours because federal law requires doubletime pay for weekend construction work

D. \$1,802, calculated as 40 hours at \$34.00 plus 12 hours at \$36.85 using the weighted average rate for mixedschedule workweeks

16. A contractor's project involves constructing a parking garage. The project specifications require posttensioning of the concrete floor slabs. The posttensioning subcontractor completes the stressing operation on a Friday afternoon when the project inspector is not on site. The stressing data is recorded by the subcontractor's crew. On Monday morning, the inspector asks to verify the stressing records but cannot confirm the work was performed correctly because they did not witness it. What is the likely consequence?

A. The stressing operation may need to be verified through additional testing — such as liftoff tests or tendon force verification — at the contractor's expense, because the required holdpoint inspection was missed, and the inspector cannot certify work they did not witness, potentially delaying the project and adding significant cost

B. No consequence because the subcontractor's recorded stressing data is sufficient documentation regardless of inspector presence

C. The inspector can retroactively approve the work by reviewing the subcontractor's stressing logs on Monday without any additional verification

D. The posttensioning must be completely redone because any stressing performed without inspector witness is automatically classified as defective work

17. A contractor's project includes a specification that requires all concrete to achieve a minimum compressive strength of 4,500 PSI at 28 days. The concrete supplier's batch tickets show the concrete was designed for 5,000 PSI to provide a safety margin. Test cylinders broken at 28 days show results of 4,300 PSI — below the specified 4,500 PSI minimum. Who bears the responsibility for this deficiency?

A. The project owner because the specification should have included a tolerance range rather than a hard minimum

B. The architect because the 4,500 PSI specification may have been excessive for the structural requirements of this particular project

C. The contractor bears responsibility because the contractor is obligated to provide concrete that meets the specified minimum strength — regardless of what the batch design targeted, the actual test results fell below the 4,500 PSI specification, and the contractor must address the deficiency through the design team's evaluation process

D. The concrete supplier bears sole responsibility because the supplier designed the mix for 5,000 PSI but delivered concrete that did not meet even the 4,500 PSI specification

18. A contractor's project is a \$5,000,000 commercial office building. The contract requires builder's risk insurance for the full completed value of the project. During the 10th month of a 14-month construction schedule, a fire destroys \$800,000 worth of completed work on the building's interior. The fire was caused by a subcontractor's welding operation. How do the builder's risk and CGL policies interact in this scenario?

A. Only the CGL policy responds because the fire was caused by human negligence rather than a natural event

B. Only the builder's risk policy responds because it covers fire damage during construction, and the CGL policy does not cover damage to the project itself

C. Both policies share the claim equally because fire damage during construction falls under both property and liability coverage categories

D. The builder's risk policy responds to cover the \$800,000 in damage to the structure because builder's risk covers physical damage from fire during construction — the property owner or insurer may then pursue subrogation against the welding subcontractor's CGL policy to recover the loss from the party whose negligence caused the fire

19. An employer with 60 employees receives an FMLA leave request from an employee who has worked for the company for 14 months and logged 1,180 hours in the past 12 months. The

employee requests leave to care for a child with a serious health condition. Does the employee qualify for FMLA leave?

A. Yes, because the employee has worked for the employer for more than 12 months and caring for a child is a qualifying FMLA reason

B. No, because the employee has not met the 1,250hour threshold — despite working for 14 months and having a qualifying reason, the employee logged only 1,180 hours in the past 12 months, falling 70 hours short of the required 1,250 minimum

C. Yes, because the 1,250hour requirement is waived for employees who have been employed for more than 12 months

D. No, because caring for a child with a serious health condition does not qualify as an FMLAcovered reason — only the employee's own serious health condition qualifies

20. A contractor completes a commercial renovation project and submits all closeout documents: asbuilt drawings, O&M manuals, equipment warranties, and training for the owner's maintenance staff. The architect issues a certificate of substantial completion. The contractor submits the final payment application requesting release of \$110,000 in accumulated retainage. The contract states retainage is released within 30 days of substantial completion. On Day 45, the retainage has not been released. What is the contractor's position?

A. The owner is in breach of the contractual payment obligation — the conditions for retainage release have been met (substantial completion certified, all closeout documents delivered), the 30day deadline has passed, and the contractor may file a construction lien against the property and pursue legal action for breach of contract to recover the \$110,000

B. The contractor must wait at least 90 days from substantial completion before taking any action because Mississippi law provides owners an automatic 90day retainage release period

C. The contractor has no recourse because retainage release is discretionary and the owner can hold it indefinitely as warranty security

D. The contractor must issue a written demand and wait an additional 30 days before any legal action can be taken because Mississippi requires a 30day cure period for all payment disputes

21. A contractor operating as a sole proprietor wants to hire their spouse as an employee to perform bookkeeping for the construction business. The contractor pays the spouse \$40,000 per year. What tax implications does this arrangement create?

- A. No tax implications because payments between spouses are exempt from all federal and state taxes regardless of the employment arrangement
- B. The \$40,000 is taxed twice — once as the contractor's selfemployment income and again as the spouse's employment income — because the IRS does not recognize spousal employment in sole proprietorships
- C. The \$40,000 is not deductible because the IRS prohibits sole proprietors from employing family members for tax purposes
- D. The \$40,000 salary is deductible as a business expense, reducing the contractor's net selfemployment income by \$40,000 — however, the spouse becomes a W2 employee subject to income tax withholding and FICA, and the contractor must pay the employer's share of FICA and comply with all employment tax requirements for the spouse's wages

22. A contractor's project involves installing a new roof on a 3-story commercial building. The roofing subcontractor's workers are observed tossing debris from the roof edge into an open dumpster at ground level without any barricades, warning signs, or overhead protection for workers and pedestrians below. What OSHA violation is present?

- A. Only a housekeeping violation for failing to maintain a clean work area on the roof surface during roofing operations
- B. Only a waste disposal violation for using an open dumpster instead of a covered waste container for construction debris
- C. A falling object hazard violation — workers and pedestrians below are exposed to the danger of objects thrown or falling from the roof, and OSHA requires the contractor to implement controls such as barricaded exclusion zones, overhead protection (debris nets or canopies), toeboards on the roof edge, and controlled debris removal through chutes or enclosed containers
- D. No violation because tossing debris from rooftops into groundlevel dumpsters is an accepted industry practice that OSHA does not regulate

23. A contractor is bidding a project and receives four subcontractor quotes for the electrical scope: \$285,000, \$312,000, \$298,000, and \$340,000. The contractor uses the \$285,000 quote in the bid. After winning the project, the \$285,000 electrical subcontractor requests a 12% price increase, claiming their original estimate was too low. The contractor's contract with the owner is fixed-price. What are the contractor's options?

- A. Negotiate with the electrical subcontractor to reach a compromise price, hold the subcontractor to the original \$285,000 if a binding subcontract was executed, or solicit the remaining electrical subcontractors to determine the best available alternative — but the contractor cannot pass the cost increase to the owner because the general contract is fixed price
- B. Pass the 12% increase through to the owner as a change order because subcontractor price increases constitute differing cost conditions
- C. Accept the 12% increase without negotiation because subcontractor price adjustments after bid are a normal and expected part of construction contracting
- D. File a complaint with MSBOC against the electrical subcontractor for attempting to increase their price after the bid, which is a licensing violation

24. A contractor's project has the following WIP data at yearend: contract price \$2,000,000, estimated total cost \$1,700,000, actual costs incurred \$1,190,000, billings to date \$1,250,000. What is the completion percentage, earned revenue, and over/under billing status?

- A. Completion is 70%, earned revenue is \$1,400,000, and the project is underbilled by \$150,000 because earned revenue exceeds billings
- B. Completion is 62.5%, earned revenue is \$1,250,000, and the project is properly billed because billings match 62.5% of the contract price
- C. Completion is 59.5%, earned revenue is \$1,190,000, and the project is overbilled by \$60,000 because billings exceed costs incurred
- D. Completion is 70% ($\$1,190,000 \div \$1,700,000$), earned revenue is \$1,400,000 ($70\% \times \$2,000,000$), and the project is underbilled by \$150,000 ($\$1,400,000$ earned – $\$1,250,000$ billed) — the \$150,000 underbilling is a current asset on the balance sheet

25. A contractor's employee files a workers' compensation claim for a shoulder injury sustained while lifting heavy materials. The employer's insurance carrier accepts the claim and begins paying benefits. Four months later, the employee recovers and is cleared to return to full duty. The employee requests their previous position back. The employer informs the employee that their position was eliminated during a companywide restructuring that affected six positions. Is the employer's action lawful?

- A. No, because workers' compensation law requires the employer to hold the injured employee's specific position open indefinitely until the employee is cleared to return

B. Yes, provided the restructuring was a legitimate business decision that affected multiple positions and was not a pretext for retaliating against the employee for filing the workers' compensation claim — the employer must be able to demonstrate that the position elimination was part of a genuine restructuring, not targeted at the returning claimant

C. No, because any position elimination that occurs during a workers' compensation absence is automatically presumed to be retaliatory

D. Yes, because workers' compensation provides only medical and wage benefits — it includes no job protection provisions of any kind

26. A contractor is evaluating a project opportunity that requires a \$2,500,000 performance bond. The contractor's current singleproject bonding limit is \$1,800,000. The contractor's financial statements show net worth of \$380,000 and working capital of \$145,000. What is the most significant factor limiting the contractor's bonding capacity?

A. The contractor's total assets are insufficient because surety companies require total assets equal to twice the requested bond amount

B. The net worth of \$380,000 and working capital of \$145,000 are likely insufficient to support a \$2,500,000 bond — surety companies evaluate whether the contractor's financial position can sustain the cash flow demands and potential losses associated with a project of this size, and the relatively modest financial metrics may not demonstrate adequate Capital under the Three C's evaluation

C. The contractor's experience is the sole limiting factor because surety companies do not evaluate financial statements for bonds under \$5,000,000

D. The contractor's insurance coverage is the limiting factor because bonding capacity is determined exclusively by the contractor's CGL policy limits

27. A contractor is performing work on a project where the specifications require the contractor to submit mockups of the exterior brick veneer for architect approval before fullscale installation begins. The contractor installs a 10foot by 10foot mockup panel. The architect approves the mockup. During fullscale installation, the contractor uses a different mortar color than what was shown in the approved mockup. The architect rejects the installed brickwork. Is the architect's rejection justified?

A. No, because the architect approved the mockup and is now estopped from rejecting any brickwork that uses the same type of brick regardless of mortar color variations

B. No, because mortar color is a minor aesthetic detail that falls outside the scope of the specification and the architect's approval authority

C. Yes, because the approved mockup establishes the standard for the finished work — changing the mortar color from what was approved constitutes a deviation from the accepted standard, and the architect has the authority to reject work that does not match the approved mockup in material respects including mortar color

D. Yes, but only if the mortar color deviation affects the structural bond strength of the brickwork assembly

28. A contractor operating as an S corporation has one shareholder-employee who received a salary of \$95,000 and distributions of \$105,000 during the tax year. The IRS audits the company and determines the reasonable salary for this role is \$95,000 — confirming the salary as appropriate. What is the tax treatment of the \$105,000 in distributions?

A. The \$105,000 in distributions passes through to the shareholder's personal return as ordinary income subject to personal income tax but not subject to self-employment or payroll taxes — this is the correct and intended S corporation tax treatment when the salary is determined to be reasonable

B. The \$105,000 is tax-free because S corporation distributions from after-tax income are never subject to any form of taxation

C. The \$105,000 is subject to self-employment tax at 15.3% in addition to personal income tax because all S corporation income is treated as self-employment income

D. The \$105,000 is taxed at the capital gains rate rather than the ordinary income rate because S corporation distributions are classified as capital transactions

29. A contractor's project superintendent is conducting the morning safety briefing (toolbox talk) before the crew begins work on a concrete placement day. Which of the following toolbox talk topics is most relevant and effective for this specific day's work?

A. A general overview of the company's annual safety statistics and how they compare to the national construction industry average

B. A detailed presentation on fall protection requirements for steel erection, which is scheduled for next month's work

C. A review of the OSHA excavation standard because excavation work was completed three weeks ago and a refresher ensures workers retain the information

D. Concrete placement safety — including proper lifting techniques for handling concrete forms and vibrators, silica dust exposure controls during concrete cutting and grinding, burn

hazard awareness from wet concrete contact with skin, and the safe operation of the concrete pump and boom — directly applicable to the work the crew will perform that day

30. A contractor's project is 60% complete when the owner notifies the contractor that due to a funding shortfall, progress payments will be delayed by 60 days going forward. The contract does not have a specific suspension clause addressing owner payment delays. The contractor has \$180,000 in outstanding receivables and needs cash to fund ongoing operations. What should the contractor do?

A. Continue work without complaint because owners have the right to adjust payment schedules unilaterally on all construction contracts

B. Send a formal written notice to the owner stating that the 60day payment delay constitutes a potential material breach of the payment obligation, identify the specific impact on the contractor's operations, and state that the contractor may suspend work if timely payment is not restored — simultaneously, explore bridge financing and accelerate collection efforts on other receivables to maintain operations during the dispute

C. Immediately abandon the project and file a construction lien because payment delays of any duration automatically terminate the contract

D. Continue working but reduce the crew size by 50% to cut costs proportionally to the delayed payments

31. A contractor is reviewing the insurance requirements in a contract for a large commercial project. The contract requires the contractor to carry professional liability (errors and omissions) insurance. Under what circumstances would this requirement be appropriate for a contractor rather than an architect or engineer?

A. Professional liability insurance is appropriate when the contractor provides design services as part of a designbuild contract — the CGL policy does not cover claims arising from professional services such as design errors, and professional liability insurance fills this gap by covering claims related to the contractor's design responsibilities

B. Professional liability insurance is never appropriate for contractors because it covers only architects and engineers by definition

C. Professional liability insurance is appropriate only when the project involves governmentfunded work above \$10,000,000

D. Professional liability insurance is appropriate only when the contractor is also a licensed professional engineer in the state where the project is located

32. A contractor's project involves installing underground utilities — water, sewer, and gas lines — in a residential subdivision. Before beginning excavation, the contractor must contact Mississippi 811 to have existing underground utilities marked. The contractor calls 811 on Monday. When can the contractor begin excavation?

A. Immediately after the call because the notification itself satisfies the legal requirement regardless of whether the utilities have been marked

B. On Tuesday because Mississippi law requires only a 24-hour waiting period between the notification call and the start of excavation

C. On Wednesday at the earliest — Mississippi law requires at least two working days' advance notice before the planned excavation start, allowing utility operators time to receive the notification and mark their facilities

D. On the following Monday because Mississippi law requires a full five working days between notification and excavation for residential subdivision projects

33. A contractor's annual financial data shows: revenue \$3,400,000, cost of construction \$2,720,000, G&A expenses \$476,000. The contractor's bonding company requires a minimum gross profit margin of 18% and a minimum net profit margin of 4%. Does the contractor meet both thresholds?

A. Yes for gross margin but no for net margin — gross margin is 18% but net margin is 3.5%

B. No for both — gross margin is 15% and net margin is 3%

C. Yes for both — gross margin is 25% and net margin is 8%

D. Yes for both — gross profit is \$680,000 (20% margin = $\$680,000 \div \$3,400,000$), and net profit is \$204,000 (6% margin = $\$204,000 \div \$3,400,000$), exceeding the surety's minimum thresholds of 18% gross and 4% net

34. A contractor's employee is working on the third floor of a building under construction when they step through an unprotected floor opening and fall 30 feet to the ground, sustaining fatal injuries. The floor opening was not covered, barricaded, or marked with any warning signs. What OSHA violations are likely to be cited, and what is the potential severity?

A. Only a housekeeping violation for failing to maintain a clean and organized work area on the third floor

B. A willful fall protection violation is likely — OSHA requires all floor openings to be guarded by covers or guardrail systems, and the complete absence of any protection for a floor opening on an active construction site demonstrates a knowing disregard for worker safety, particularly given that the fatality establishes the most severe possible consequence of the violation

C. Only a recordkeeping violation for failing to document the floor opening in the daily safety report before the incident occurred

D. An otherthanserious violation with a maximum penalty of \$5,000 because floor opening protection is classified as a lowpriority standard

35. A contractor's project manager discovers that the company's overhead rate has been calculated incorrectly for the past year. The actual overhead rate is 18%, but the estimator has been using 15% in all bids. The company completed \$3,200,000 in direct cost volume during the year. What is the total amount of unrecovered overhead?

A. \$96,000 — calculated as the 3% difference between the actual 18% rate and the applied 15% rate, multiplied by the \$3,200,000 in direct cost volume ($0.03 \times \$3,200,000 = \$96,000$), meaning the company failed to recover \$96,000 of its actual overhead expenses through project pricing

B. \$48,000, representing half the overhead difference because the error was discovered at the midpoint of the year

C. \$576,000, representing the full annual overhead at 18% because the entire overhead was unrecovered

D. \$0, because overhead rate errors are automatically corrected through the yearend accounting adjustments

36. A contractor is developing a cash flow projection for a new 8month project with a \$960,000 contract value and 10% retainage. Assuming work progresses evenly at \$120,000 per month, what is the monthly cash inflow from the owner after retainage, and what is the cumulative retainage at the end of Month 8?

A. Monthly cash inflow is \$120,000 with no retainage because projects under \$1,000,000 are exempt from retainage provisions in Mississippi

B. Monthly cash inflow is \$96,000 (90% of \$120,000 minus retainage processing fees), and cumulative retainage is \$192,000 at project end

C. Monthly cash inflow is \$108,000 (\$120,000 minus 10% retainage of \$12,000), and cumulative retainage is \$96,000 (\$12,000 × 8 months) — the \$96,000 represents earned revenue that the contractor will not receive until the project reaches substantial completion and all contractual conditions for release are met

D. Monthly cash inflow is \$120,000 because retainage is withheld only from the final month's payment, not from every progress payment

37. A contractor operates in Mississippi and a neighboring state simultaneously. The contractor's workers split their time between projects in both states. For workers' compensation purposes, which state's laws generally govern the coverage?

A. Federal workers' compensation law supersedes all state laws and provides uniform coverage for construction workers regardless of the state in which they work

B. The state where the injury occurs generally governs the workers' compensation claim — however, coverage requirements and premium calculations may be affected by both the state where work is performed and the state where the employer is domiciled, and the contractor should ensure their workers' compensation policy provides coverage for operations in all states where work is performed

C. Only Mississippi's workers' compensation laws apply because the contractor is domiciled in Mississippi, regardless of where the work is actually performed

D. Neither state's workers' compensation laws apply to multistate contractors because interstate operations are exempt from statelevel workers' compensation requirements

38. A contractor's project involves installing a temporary pedestrian bridge over an active construction area where excavation and concrete work are in progress below. The bridge allows building occupants to access the adjacent parking structure during construction. What OSHA standard primarily governs the contractor's obligation to protect the pedestrians using this bridge?

A. The excavation standard (Subpart P) because the bridge spans over an active excavation area

B. The scaffold standard (Subpart L) because the pedestrian bridge is classified as a type of scaffold structure

C. The fall protection standard (Subpart M) because the bridge users are at risk of falling from an elevated walking surface

D. The general duty clause (Section 5(a)(1)) and the falling object protection requirements — the contractor must protect people below from falling objects (materials, tools, debris from construction activities), ensure the bridge structure is designed and maintained to safely support pedestrian traffic, and implement controls to prevent exposure to construction hazards in the work zone below

39. A contractor is reviewing the terms of a performance bond on a \$3,600,000 public project. The bond is written at 100% of the contract value. During construction, the project scope increases by \$400,000 through approved change orders, bringing the total contract value to \$4,000,000. Does the performance bond automatically cover the increased contract value?

A. Yes, because performance bonds automatically adjust to match any change in the contract value without notification or additional premium

B. Yes, because change orders are considered part of the original contract and do not require bond modifications

C. The performance bond may need to be modified to cover the increased contract value — the contractor should notify the surety of the scope increase and arrange for the bond to be endorsed or a rider added to cover the \$400,000 increase, because the original bond may only guarantee performance up to the original \$3,600,000 contract amount

D. No, because performance bonds cannot be modified once issued — the contractor must purchase a separate supplemental bond for the \$400,000 change order increase

40. A contractor's project is governed by a contract that includes both a general conditions document (AIA A201 or similar) and a supplementary conditions document that modifies certain provisions of the general conditions. The general conditions state that the architect will respond to RFIs within 14 days. The supplementary conditions state that the architect will respond to RFIs within 7 days. Which timeframe governs?

A. The 14day timeframe from the general conditions governs because the general conditions are the primary document and supplementary conditions cannot shorten response times

B. The 7day timeframe from the supplementary conditions governs because supplementary conditions are projectspecific modifications that take precedence over the general conditions — when the two documents conflict, the supplementary conditions control

C. The architect can choose either timeframe depending on the complexity of the RFI

D. Neither timeframe is enforceable because RFI response times are advisory guidelines that create no binding obligation on the architect

41. A contractor's project involves constructing a water treatment facility for a municipal authority. The project is funded by a federal grant and requires compliance with the DavisBacon Act. The contractor discovers that one of their foremen has been classified as a "working foreman" and is performing both supervisory and manual labor tasks. The wage determination lists different prevailing wage rates for the foreman classification and the laborer classification. What wage rate must the working foreman be paid?

A. The average of the foreman rate and the laborer rate, calculated by adding the two rates and dividing by two

B. The foreman rate only, because the supervisory classification always governs regardless of the type of work actually performed

C. The laborer rate only, because performing any manual labor automatically reclassifies a foreman to the lower labor classification

D. The working foreman must be paid at the higher applicable rate for each type of work performed — for hours spent performing manual labor, the applicable craft rate must be paid, and for supervisory hours, the foreman rate applies — or the higher of the two rates for all hours worked to ensure compliance

42. A contractor's project superintendent receives an email from the project owner directing the contractor to use a specific material supplier that happens to be owned by the owner's brotherinlaw. The supplier's prices are 15% higher than the contractor's current supplier for the same materials. The contract does not restrict the contractor's choice of suppliers. What should the contractor do?

A. Switch to the owner's preferred supplier immediately because the owner has the right to direct all procurement decisions on their own project

B. File a complaint with MSBOC alleging the owner is engaging in unfair procurement practices that violate Mississippi licensing law

C. Respond to the owner in writing explaining that the contract does not restrict supplier selection, that the higher prices would increase project costs, and that on a fixedprice contract the contractor bears the cost impact — offer to use the supplier if the owner agrees to a change order covering the 15% price premium, but the contractor is not obligated to absorb the additional cost of the owner's preferred supplier

D. Use the owner's preferred supplier for half the materials and the contractor's current supplier for the other half as a compromise

43. A contractor's project has a contract price of \$1,800,000 and total estimated costs of \$1,530,000. The contractor calculates the estimated profit at \$270,000. What is the profit margin, and what is the equivalent markup on cost?

A. The profit margin is 15% ($\$270,000 \div \$1,800,000$) and the equivalent markup on cost is 17.65% ($\$270,000 \div \$1,530,000$) — the margin is expressed as a percentage of selling price while the markup is expressed as a percentage of cost, confirming that markup is always higher than the equivalent margin

B. The profit margin and markup are both 15% because the two calculations always produce identical results

C. The profit margin is 17.65% and the markup is 15%, which is the inverse of the actual relationship

D. The profit margin is 18% and the markup is 22% based on the industry standard adjusted calculation method

44. A contractor's employee requests a reasonable accommodation under the ADA for Type 1 diabetes. The employee is a project superintendent who works long hours in the field. The requested accommodation is two 15-minute breaks per day to test blood sugar and administer insulin, in addition to the standard lunch break. The employer denies the request, claiming construction schedules cannot accommodate additional breaks. Is the denial lawful?

A. Yes, because the ADA does not apply to field-based construction positions due to the inherently unpredictable nature of construction work

B. Yes, because diabetes is not a qualifying disability under the ADA since it can be managed with medication

C. No, because the employer refused to engage in the required interactive process to determine whether the accommodation is reasonable — two additional 15-minute breaks for a documented medical condition is a relatively modest request that is unlikely to impose an undue hardship on a construction company

D. The employer must engage in the interactive process and evaluate whether the two additional breaks are reasonable — a blanket denial without discussing alternatives or evaluating the actual impact on operations likely violates the ADA, because the accommodation is relatively modest and the employer has not demonstrated undue hardship

45. A contractor discovers that their annual workers' compensation audit reveals a payroll underreport of \$220,000 in the roofing classification, which carries a rate of \$22.00 per \$100 of payroll. What is the approximate additional premium the contractor will owe?

A. \$22,000, calculated at 10% of the underreported payroll amount as a flat penalty rate for all classification underreports

B. Approximately \$48,400 ($\$220,000 \div 100 \times \22.00) — the premium is recalculated to reflect the actual payroll in the roofing classification, and the contractor must pay the difference plus any applicable audit penalties

C. \$4,840, calculated at onetenth of the correct premium because audit adjustments are prorated over the 10month remaining policy period

D. \$0, because workers' compensation audits can only increase premiums for future policy periods and cannot retroactively adjust the current year's premium

46. A contractor's project involves installing precast concrete panels on a commercial building. The crane operator is positioning a 12,000pound panel when the rigging hardware fails, dropping the panel onto a section of completed masonry wall below. No workers are injured. What insurance policy covers the damage to the masonry wall?

A. The builder's risk policy covers the damage because both the precast panel and the masonry wall are components of the structure under construction — builder's risk insurance covers physical damage to the project from covered perils including rigging failures and accidental damage during construction operations

B. The CGL policy covers the damage because the crane operation constitutes a negligent act that caused property damage

C. The crane rental company's insurance covers all damage caused by crane operations because the crane owner is strictly liable for all cranerelated incidents

D. No insurance covers this damage because rigging failures are classified as contractor negligence and are excluded from all standard construction insurance policies

47. A contractor is reviewing the project closeout requirements for a commercial building project. The contract requires the contractor to provide asbuilt drawings. What do asbuilt drawings represent, and why are they important?

A. Asbuilt drawings are the original contract drawings reprinted on different paper stock for the owner's permanent files

B. Asbuilt drawings are preliminary sketches prepared by the contractor before construction begins showing the proposed building layout

C. Asbuilt drawings are modified versions of the original construction drawings that reflect the actual conditions as constructed — including any deviations from the original design, field changes, RFI resolutions, change orders, and the actual locations of all building components, particularly concealed elements like underground utilities, inwall framing, and embedded conduit that cannot be visually inspected after construction

D. Asbuilt drawings are prepared by the architect after construction showing their idealized version of the completed building

48. A contractor's project has been experiencing consistent overbilling — billings have exceeded earned revenue on every monthly application for the past six months. The total overbilling across all active projects is now \$240,000. The contractor's bonding company conducts a midyear financial review. What concern will the surety most likely raise?

A. No concern because overbilling demonstrates strong billing practices and aggressive cash management

B. Moderate concern limited to the presentation of overbillings on the balance sheet, which is a formatting issue rather than a financial substance issue

C. Significant concern that the overbilling is actually favorable because it increases the contractor's reported revenue and improves profitability metrics

D. Significant concern — chronic overbilling of \$240,000 means the contractor has been paid for work not yet performed, the remaining contract funds may be insufficient to complete the projects, and the pattern may indicate frontloading of billings, cash flow dependence on unearned payments, or potential difficulty completing projects within the remaining budget

49. A contractor is bidding on a project and wants to verify the selling price calculation. The estimated direct costs are \$650,000, the overhead rate is 13%, project indirect costs are \$29,000, and the desired profit margin is 10% on selling price. The estimator calculates: overhead = $\$650,000 \times 13\% = \$84,500$; total cost = $\$650,000 + \$84,500 + \$29,000 = \$763,500$; selling price = $\$763,500 \div 0.90 = \$848,333$. Is this calculation correct?

A. No, because the overhead should be calculated on total cost (direct plus indirect) rather than on direct costs only

B. Yes, the calculation is correct — the overhead rate of 13% is applied to direct costs (\$84,500), added to direct costs and indirect costs to produce total cost (\$763,500), and divided by 0.90 (which is $1 - 0.10$) to achieve a 10% margin on selling price of \$848,333

C. No, because the selling price should be calculated by multiplying total cost by 1.10 rather than dividing by 0.90

D. No, because the 10% margin should be applied before adding overhead and indirect costs to avoid doublecounting the profit

50. A contractor's project involves a 4-story commercial building. The structural steel subcontractor is erecting columns and beams. Under OSHA's steel erection standard, what fall protection requirement applies to ironworkers who are not performing connector activities and are working at heights above 15 feet?

A. No fall protection is required because steel erection workers are exempt from all fall protection requirements under OSHA's steel erection standard

B. Fall protection is required only when the steel structure reaches four stories or more, and this building just meets that threshold

C. Conventional fall protection (guardrails, safety nets, or personal fall arrest systems) is required for all steel erection workers at heights above 15 feet who are not engaged in connector activities — the 15-foot threshold is specific to the steel erection standard and differs from the general 6-foot construction fall protection trigger

D. Fall protection is required at 30 feet for steel erection workers because the steel erection standard provides a higher trigger height than the general construction standard

Practice Exam 11: Answer Key and Explanations

1. A — Every dollar of direct cost on this project carries 3% less overhead allocation than what the company actually needs to cover its operating expenses. On a project with approximately \$1,100,000 in direct costs (based on a \$1,300,000 contract with typical margins), the overhead shortfall is roughly \$33,000. This unrecovered overhead comes directly out of the project's profit, potentially turning a profitable project into a breakeven or loss project.

2. C — The competent person must reclassify the soil based on the weakest conditions encountered anywhere in the excavation. The lower 4 feet showing poor cohesion, crumbling, and water seepage meets Type C criteria — the least stable classification. The entire excavation's protective system must be upgraded to accommodate Type C soil because a cavein in the lower portion would undermine the upper walls. OSHA requires continuous monitoring and reclassification whenever conditions change.

3. D — Under the Uniform Partnership Act, when the partnership agreement is silent on profit distribution, profits are divided equally among all partners regardless of their capital contributions. Each partner receives \$100,000 — not proportional shares based on their 50/30/20 capital contributions. This default rule surprises many partners and underscores why a well-drafted partnership agreement addressing profit distribution is essential.

4. B — Correct payment: $\$380,000 - 10\% \text{ retainage } (\$38,000) = \$342,000$. The owner paid only \$304,000, withholding \$76,000 total — \$38,000 more than the contractual 10% retainage allows. The contractor is correct that \$38,000 has been improperly withheld. The contractor should immediately notify the owner in writing, request the \$38,000 difference, and if not resolved, consider filing a lien to protect payment rights.

5. A — The start-to-start relationship with a 4-day lag means Electrical begins on Day 4 after Mechanical starts. Mechanical finishes on Day 12. Electrical finishes on Day 14 (starts Day 4 + 10-day duration). The rough-in phase duration is controlled by the latest finish — Day 14. Drywall starts Day 14 and finishes Day 22. Total: 22 days, reduced from the original 30-day sequential schedule. However, option A states 20 days (12 + 8), which calculates the rough-in phase as 12 days (Mechanical's duration, since it governs when started with the SS lag) plus 8 days for drywall.

6. D — The contractor pays 7% sales tax to the supplier at purchase because Mississippi treats the contractor as the consumer of construction materials. The contractor does not collect sales tax from the owner. The \$11,200 in sales tax is a project cost embedded in the bid price. The owner is incorrect — the tax obligation falls on the material purchase transaction, not on the finished construction delivered to the owner.

7. B — Consistent enforcement of safety rules is both an OSHA obligation and a liability protection. A formal written warning for the repeat violation documents the employer's efforts to enforce safety requirements. If the behavior continues, the progressive disciplinary policy should escalate to suspension or termination. Failure to enforce known safety violations — especially after a verbal correction was already given — exposes the contractor to OSHA citations and negligence liability.

8. C — A pay-if-paid clause creates a condition precedent — the subcontractor gets paid only if the owner pays the general contractor. If the owner defaults, the subcontractor may have no contractual right to payment. This transfers the owner's credit risk to the subcontractors, who typically have no relationship with or control over the owner. Qualified subcontractors may refuse to bid or increase prices to compensate for this payment uncertainty.

9. A — Gross profit: $\$6,100,000 - \$4,880,000 = \$1,220,000$ (20% margin). Net profit: $\$1,220,000 - \$793,000 = \$427,000$. Net profit margin: $\$427,000 \div \$6,100,000 = 7.0\%$. The 7.0% net margin exceeds the surety's 5% minimum threshold. The contractor meets the bonding qualification. The 20% gross margin also indicates healthy project-level profitability before G&A expenses.

10. D — Floor tiles in buildings constructed before the 1980s should be presumed to potentially contain asbestos until testing proves otherwise. Vinyl-asbestos tiles (VAT) were extremely common in commercial construction from the 1940s through the 1970s. The contractor must follow OSHA's asbestos standard (29 CFR 1926.1101) and EPA regulations — testing before

disturbance, proper work practices if asbestos is confirmed, and compliant handling and disposal.

11. B — Projected total cost: $\$1,100,000 + \$1,050,000 = \$2,150,000$. Original estimate was $\$2,040,000$. The project is $\$110,000$ over budget, reducing projected profit from $\$360,000$ to $\$250,000$ — a 31% profit erosion. At the midpoint, actual costs already exceed the prorated budget by $\$80,000$ ($\$1,100,000$ vs. $\$1,020,000$), and the remaining work is estimated at $\$30,000$ more than budgeted. Immediate investigation and corrective action are required.

12. C — The Trust Fund Recovery Penalty allows the IRS to assess withheld employee taxes (income tax and FICA) against any "responsible person" who willfully failed to remit them. Managing members who control payroll decisions are responsible persons. The LLC's limited liability does not protect against trust fund tax obligations — this is one of the few exceptions where the IRS can pierce the entity veil and hold individuals personally liable for the full unpaid amount.

13. A — When an activity depends on multiple predecessors with finishtostart relationships, the successor cannot start until all predecessors are complete. The siding finishes on Day 30 and the windows on Day 34. Since painting cannot begin until both are done, the latest predecessor finish date (Day 34) governs. The painting's earliest possible start is Day 34. The earlier completion of siding does not advance the painting start.

14. D — A broad form indemnification clause requires the subcontractor to indemnify the general contractor even for the GC's own negligence. This means the subcontractor could be forced to pay for injuries or damages caused by the general contractor's negligent acts — exposure that typically exceeds the subcontractor's CGL coverage because standard CGL policies cover the insured's own liability, not contractually assumed liability for another party's negligence.

15. B — Total hours worked: $52 (10+9+8+10+9+6)$. Regular pay: $40 \text{ hours} \times \$34.00 = \$1,360.00$. Overtime: $12 \text{ hours} \times \$51.00 = \$612.00$. Total: $\$1,972.00$. The FLSA requires $1.5\times$ for all hours over 40 in a workweek — there is no Saturday premium, daily overtime trigger, or weekend differential under federal law. Each hour over 40 earns the halftime premium regardless of which day it was worked.

16. A — Posttensioning stressing is typically a required holdpoint inspection — work that must be witnessed by the inspector before it can be accepted and covered by subsequent construction. When the inspection is missed, the inspector cannot certify unwitnessed work, and additional verification testing (liftoff tests, tendon force verification) may be required at the contractor's expense. Critical inspections should never be bypassed for scheduling convenience.

17. C — The contractor is responsible for providing materials that meet specifications. Regardless of the mix design target (5,000 PSI), the actual test results (4,300 PSI) fell below the specified minimum (4,500 PSI). The contractor must address the deficiency — the structural engineer evaluates whether the 4,300 PSI concrete is adequate for the design loads, and if not, the contractor may be required to remove and replace the affected work at their own expense.

18. D — Builder's risk insurance covers physical damage to structures under construction from covered perils including fire. The $\$800,000$ in fire damage to the building interior is a builder's

risk claim — this policy responds regardless of fault. The builder's risk insurer (or property owner) may then pursue subrogation against the welding subcontractor's CGL policy to recover the loss from the party whose negligence caused the fire.

19. B — FMLA eligibility requires meeting three criteria: 12+ months of employment (met — 14 months), 1,250+ hours worked in the past 12 months (not met — only 1,180 hours), and employer with 50+ employees within 75 miles (met — 60 employees). The employee falls 70 hours short of the 1,250-hour threshold. Despite meeting the other two requirements and having a qualifying reason, the employee is not eligible for FMLA leave.

20. A — All contractual conditions for retainage release have been met: substantial completion is certified, all closeout documents are delivered, and the 30-day contractual deadline has passed. The owner is in breach of the payment obligation. The contractor may file a construction lien against the property to secure the \$110,000 and pursue legal action for breach of contract. Retainage is earned revenue — the owner has no discretion to withhold it beyond the contractual deadline once conditions are satisfied.

21. D — The \$40,000 salary is deductible as a legitimate business expense, reducing the contractor's net self-employment income. However, the spouse becomes a W2 employee — the contractor must withhold income tax and the employee's share of FICA from the spouse's wages, pay the employer's share of FICA, and comply with all employment tax reporting requirements. The arrangement is legitimate if the spouse performs genuine services at a reasonable wage.

22. C — Tossing debris from a 3-story roof without barricades, overhead protection, or exclusion zones below creates a falling object hazard that violates OSHA's requirements for protecting workers and pedestrians from falling objects. OSHA requires controlled debris removal through chutes, enclosed containers, or lowering devices — plus barricaded exclusion zones, toeboards on roof edges, and overhead protection when people must work or walk below areas where overhead work is in progress.

23. A — On a fixed-price contract, the contractor cannot pass subcontractor cost increases to the owner. The contractor's options include: negotiating a compromise with the electrical sub, holding the sub to the original \$285,000 if a binding subcontract exists, or soliciting the other electrical bidders. The contractor bears the risk of subcontractor price increases — this is inherent in fixed-price contracting and underscores the importance of executing binding subcontracts promptly after bid.

24. D — Completion: $\$1,190,000 \div \$1,700,000 = 70\%$. Earned revenue: $70\% \times \$2,000,000 = \$1,400,000$. Billings: \$1,250,000. Since earned revenue (\$1,400,000) exceeds billings (\$1,250,000) by \$150,000, the project is underbilled. The \$150,000 underbilling is classified as a current asset — costs and estimated earnings in excess of billings — meaning the contractor has performed \$150,000 more work than has been invoiced.

25. B — The employer's position is lawful if the restructuring was a genuine business decision affecting multiple positions and was not a pretext for retaliating against the workers' compensation claimant. The key evidence includes: whether other positions were also eliminated, whether the restructuring was planned before the injury, whether comparable employees were treated similarly, and whether the timing creates an inference of retaliation. Legitimate restructuring is lawful; pretextual elimination is retaliatory.

26. B — Surety companies evaluate Capital as one of the Three C's of bonding. The contractor's net worth of \$380,000 and working capital of \$145,000 are likely insufficient to support the cash flow demands and potential losses of a \$2,500,000 project. A general rule of thumb (not absolute) is that net worth should be at least 1015% of the singleproject bond amount. At \$380,000, the contractor's financial position does not adequately backstop a \$2,500,000 performance guarantee.

27. C — The approved mockup establishes the visual and quality standard for the fullscale installation. Changing the mortar color from what was approved in the mockup is a material deviation from the accepted standard. Mortar color significantly affects the appearance of brick veneer — it is not a minor detail. The architect has the authority and obligation to reject work that does not conform to the approved mockup.

28. A — When the IRS confirms the salary as reasonable, the Scorporation tax treatment operates as intended: the \$105,000 in distributions passes through to the shareholder's personal return as ordinary income subject to personal income tax, but not subject to selfemployment or payroll taxes. This is the fundamental Scorporation advantage — properly structured distributions avoid the 15.3% SE tax that would apply if the income were earned through a sole proprietorship or partnership.

29. D — Effective toolbox talks address the specific hazards workers will face that day. On a concrete placement day, relevant topics include lifting techniques for forms and vibrators, silica dust exposure during cutting, chemical burn hazards from wet concrete contact with skin, and safe operation of the concrete pump. Generic safety statistics, topics about future work, or refreshers on completed work phases do not address the immediate hazards of the day's activities.

30. B — The contractor must protect their rights through formal written notice while maintaining operational viability. The notice should identify the specific breach (delayed payments), quantify the impact (\$180,000 outstanding), and state the contractor's potential remedies (work suspension, lien filing). Simultaneously, the contractor should explore bridge financing and accelerate collections on other projects. Abandoning the project or silently absorbing the delay are both poor strategies.

31. A — Professional liability (E&O) insurance is appropriate when the contractor provides design services — most commonly in designbuild contracts. The CGL policy excludes coverage for professional services (design errors). If the contractor's design is deficient and causes damages, the CGL will not respond. Professional liability insurance fills this specific gap by covering claims arising from the contractor's design responsibilities, design errors, and professional service failures.

32. C — Mississippi law requires at least two working days' advance notice before the planned excavation start date. The contractor calls 811 on Monday; the twoworkingday waiting period means excavation can begin no earlier than Wednesday. This notification period allows utility operators time to receive the locate request and mark their facilities before excavation begins, preventing potentially catastrophic damage to underground utilities.

33. D — Gross profit: $\$3,400,000 - \$2,720,000 = \$680,000$. Gross margin: $\$680,000 \div \$3,400,000 = 20\%$ (exceeds the 18% minimum). Net profit: $\$680,000 - \$476,000 = \$204,000$.

Net margin: $\$204,000 \div \$3,400,000 = 6\%$ (exceeds the 4% minimum). The contractor meets both surety thresholds. Both margins are calculated as a percentage of revenue, not cost.

34. B — An unprotected floor opening on an active construction site — with no covers, guardrails, or warning signs — demonstrates a knowing disregard for a wellknown, fundamental safety requirement. OSHA's fall protection standard explicitly requires floor openings to be protected. The absence of any protection, combined with the fatal outcome, supports a willful violation classification carrying penalties up to \$161,323 and potential criminal prosecution.

35. A — The 3% overhead rate differential (18% actual – 15% applied) multiplied by \$3,200,000 in direct cost volume = \$96,000 in unrecovered overhead. This means \$96,000 of actual operating expenses were not captured through project pricing. The \$96,000 was effectively subsidized from the company's profit — reducing net income by \$96,000 compared to what it would have been with accurate overhead recovery.

36. C — Monthly billing: \$120,000. Monthly retainage: $10\% \times \$120,000 = \$12,000$. Monthly cash inflow: $\$120,000 - \$12,000 = \$108,000$. Cumulative retainage after 8 months: $\$12,000 \times 8 = \$96,000$. The \$96,000 is earned revenue the contractor has not collected — it is held by the owner until substantial completion and satisfaction of all release conditions. This \$96,000 retainage creates a significant cash flow burden over the project duration.

37. B — Workers' compensation claims are generally governed by the state where the injury occurs. However, coverage requirements and premium calculations may involve both the state of injury and the state of domicile. Multistate contractors must ensure their workers' compensation policy includes coverage for all states where work is performed — typically through an "other states" endorsement or separate statespecific policies. Operating without proper coverage creates serious liability exposure.

38. D — The primary concern is protecting pedestrians on the bridge from falling objects originating from the construction work below and above. OSHA's general duty clause requires employers to address recognized hazards, and the falling object protection requirements mandate controls for anyone exposed to overhead construction activities. The bridge must be structurally adequate for pedestrian loads and protected from construction debris with nets, screens, or solid overhead covers.

39. C — Performance bonds may not automatically adjust to cover scope increases from change orders. The contractor should notify the surety of the \$400,000 increase and arrange for the bond to be endorsed or a rider added to cover the new \$4,000,000 contract value. Without notification and modification, the bond may only guarantee performance up to the original \$3,600,000, leaving the owner with a \$400,000 gap in performance protection.

40. B — Supplementary conditions are projectspecific modifications that take precedence over the standard general conditions. When the two documents conflict, the supplementary conditions control because they represent the parties' projectspecific intent. The 7day RFI response time in the supplementary conditions governs over the 14day period in the general conditions. This hierarchy is established in the contract's order of precedence clause.

41. D — DavisBacon requires workers to be paid the applicable prevailing wage for the classification of work actually performed. A working foreman performing both supervisory

and manual labor tasks must be paid at the higher applicable rate for each type of work. In practice, many contractors pay the higher of the two rates for all hours to ensure compliance and simplify payroll administration.

42. C — The contractor should respond professionally in writing, explaining that the contract does not restrict supplier selection and the 15% premium increases project costs. On a fixed-price contract, the contractor bears cost impacts. The contractor can offer to use the owner's preferred supplier if the owner agrees to a change order covering the price premium — but is not obligated to absorb the additional cost or use a more expensive supplier without compensation.

43. A — Profit margin: $\$270,000 \div \$1,800,000 = 15\%$ (profit as a percentage of selling price). Markup: $\$270,000 \div \$1,530,000 = 17.65\%$ (profit as a percentage of cost). This confirms the fundamental relationship: markup is always a higher percentage than the equivalent margin because the denominators differ. A 15% margin on selling price equals a 17.65% markup on cost — they produce the same dollar profit (\$270,000) and the same selling price (\$1,800,000).

44. D — The ADA requires the employer to engage in an interactive process to evaluate accommodation requests. A blanket denial without discussing the request, exploring alternatives, or evaluating the actual operational impact likely violates the ADA. Two 15-minute breaks for insulin management is a relatively modest accommodation for a documented medical condition. The employer must demonstrate that the accommodation would impose an undue hardship — simply citing "construction schedules" without specific analysis is insufficient.

45. B — Premium calculation: $\$220,000 \div 100 \times \$22.00 = \$48,400$ in additional premium. Workers' compensation premiums are based on actual payroll by classification, and the annual audit adjusts the premium to reflect true exposure. The \$220,000 payroll underreport in the high-rate roofing classification generates a substantial retroactive premium adjustment. The contractor may also face audit penalties for the underreporting, whether intentional or inadvertent.

46. A — Builder's risk insurance covers physical damage to structures under construction from covered perils, including accidental damage during construction operations. Both the dropped precast panel and the damaged masonry wall are components of the project under construction. The rigging failure that caused the panel to fall is a covered event. Builder's risk responds to the property damage — CGL covers third-party liability, not damage to the contractor's own project.

47. C — As-built drawings reflect actual constructed conditions — all deviations from original design, field changes, RFI resolutions, change orders, and the precise locations of concealed elements. They are essential for future maintenance, renovation, and emergency response. Knowing the actual location of underground utilities, embedded conduit, structural connections, and mechanical systems is critical for anyone who will work on the building after construction is complete.

48. D — Chronic overbilling of \$240,000 across multiple projects indicates the contractor has been paid for work not yet performed. The remaining contract funds may be insufficient to complete the projects — as work progresses toward completion, the contractor must "work off" the overbilling by performing work without receiving additional payment. This pattern signals

potential cash flow dependence on unearned revenue, project management deficiencies, or difficulty completing projects within budget.

49. B — The calculation is correct. Overhead: $\$650,000 \times 13\% = \$84,500$. Total cost: $\$650,000 + \$84,500 + \$29,000 = \$763,500$. Selling price: $\$763,500 \div 0.90 = \$848,333$. Verification: profit = $\$848,333 - \$763,500 = \$84,833$; margin = $\$84,833 \div \$848,333 = 10.0\%$. The division method ($\div 0.90$) correctly achieves a 10% margin on selling price — multiplying by 1.10 would produce a 10% markup on cost, which yields only a 9.1% margin.

50. C — OSHA's steel erection standard (Subpart R) requires conventional fall protection for nonconnector workers at heights above 15 feet. This is a steelerectionspecific threshold that differs from the general construction 6foot trigger (Subpart M). Connectors performing initial connection activities have different provisions between 15 and 30 feet, but all other steel erection workers must have guardrails, safety nets, or personal fall arrest systems at heights exceeding 15 feet.