

PRACTICE EXAM 39: ARKANSAS BUSINESS AND LAW SIMULATION (50 QUESTIONS)

Total Questions: 50 | **Time Limit:** 2 Hours | **Passing Score:** 70% (35/50)

This practice exam mirrors the official Arkansas Contractor Business and Law Examination in format, domain weighting, and difficulty. Answer all questions by selecting the single best answer.

DOMAIN: BUSINESS ORGANIZATION (1 Question)

1. A contractor operates as a partnership with two equal partners who both work fulltime. The partnership earns \$480,000. Each partner's distributive share is \$240,000. Neither partner has any W2 income from outside employment. The Social Security wage base is \$168,600. After the 92.35% adjustment, each partner's adjusted SE income is approximately \$221,640. Compared to an SCorporation where each partner could set a reasonable salary of \$140,000 and take \$100,000 as a distribution, what is the approximate combined annual FICA savings for both partners under the SCorporation structure?

- A. \$0, because partnerships and SCorporations pay identical selfemployment taxes on all business income
- B. \$15,300, representing the FICA savings on only one partner's distribution
- C. \$48,000, calculated at 20% on the combined \$240,000 in total distributions
- D. Approximately \$24,660 — each partner saves approximately \$12,330 by avoiding the 15.3% SE tax on the \$100,000 distribution portion (subject to the wage base interaction), because the SCorporation structure subjects only the \$140,000 salary to FICA while the distribution avoids employment taxes entirely

DOMAIN: LICENSING (4 Questions)

2. A contractor holds an unrestricted commercial license with Building Construction (BU) classification. A property owner asks the contractor to demolish an existing 3-story commercial building and construct a new building on the same site. The demolition scope includes asbestos abatement, structural demolition, and debris removal valued at \$380,000. The new construction is valued at \$2,200,000. Can the contractor perform the demolition under their BU classification?

A. Yes, because the BU classification automatically includes all demolition work associated with a building construction project

B. The contractor should verify with the ACLB whether the demolition scope — particularly the asbestos abatement — requires additional licensing or certifications beyond the BU classification, because asbestos abatement is a specialized environmental remediation activity regulated by both the EPA and OSHA that may require separate certification regardless of the contractor's building classification

C. No, because demolition always requires a separate Demolition (DM) classification that is distinct from Building Construction

D. Yes, because any project combining demolition and new construction is classified entirely as new construction under the BU umbrella

3. A licensed contractor's surety bond lapses because the bonding company goes out of business. The contractor does not obtain a replacement bond for 6 months while continuing to perform active construction work. A subcontractor files a complaint with the ACLB after not being paid on a project during the unbonded period. What is the contractor's licensing exposure?

A. No exposure because the bond lapse was caused by the surety company's failure, not the contractor's negligence

B. Exposure limited to replacing the bond within 30 days of the ACLB's written notification

C. Significant exposure — maintaining a valid surety bond is a continuing condition of licensure, and operating for 6 months without a bond constitutes a licensing violation regardless of the reason for the lapse, because the contractor had an affirmative duty to obtain a replacement bond promptly when the original surety went out of business

D. Exposure only if the ACLB can prove the contractor knew the surety company had gone out of business

4. The ACLB receives a complaint that a licensed contractor has been systematically overcharging homeowners by inflating material costs on invoices. Investigation reveals the contractor purchased materials at wholesale prices but billed homeowners at 250% of the actual cost — far exceeding normal markups in the industry. Three homeowners have filed similar complaints over 18 months. Can the ACLB take action on pricing complaints?

A. Yes, because the ACLB can investigate complaints regarding a contractor's business practices that reflect on their fitness for licensure — while individual pricing disputes are typically civil matters, a documented pattern of systematic overcharging across multiple clients over 18 months may constitute deceptive business practices that the Board can consider in disciplinary proceedings

B. No, because pricing is a private matter between the contractor and the homeowner governed exclusively by contract law

C. Yes, but only if the markup exceeds 300% of actual cost, which is the ACLB's regulatory threshold for price gouging

D. No, because the ACLB has jurisdiction only over construction quality, not financial practices

5. A contractor applies for a restricted commercial license. The application includes a compiled financial statement showing net worth of \$48,000. The minimum net worth requirement for a restricted commercial license is \$50,000. The applicant argues they are "close enough" and asks the ACLB to exercise discretion in approving the application. Will the ACLB approve the application?

A. Yes, because the ACLB has discretion to approve applications within 5% of the minimum financial thresholds

B. Yes, because compiled financial statements have a margin of error that could account for the \$2,000 shortfall

C. No, but the ACLB will hold the application in pending status for 90 days to allow the applicant to increase their net worth

D. No, because the \$50,000 minimum is a firm regulatory threshold — \$48,000 does not meet the requirement regardless of how close it is, and the ACLB does not have authority to waive or reduce the minimum financial qualifications established by regulation

DOMAIN: ESTIMATING AND BIDDING (4 Questions)

6. A contractor's estimator calculates the following: direct costs \$1,150,000; annual overhead \$345,000 on annual direct cost volume of \$2,300,000; target net profit margin of 6% on selling price. What is the correct selling price?

- A. \$1,150,000 with no overhead or profit applied
- B. \$1,407,447, calculated by allocating overhead at 15% (\$172,500), adding to direct costs (\$1,322,500), and dividing by 0.94 to achieve exactly 6% margin on selling price ($\$1,322,500 \div 0.94$)
- C. \$1,322,500, calculated with overhead but without the profit adjustment
- D. \$1,495,000, calculated by applying a flat 30% combined markup

7. A public project requires sealed bids. The bid documents specify that all bids must be received at the owner's office by 2:00 PM on the bid date. A contractor's courier arrives at 2:03 PM — three minutes late — due to unexpected traffic. The courier has a timestamped GPS log showing they were in the building lobby at 1:57 PM but did not reach the designated bid room until 2:03 PM. Can the bid be accepted?

- A. Yes, because the GPS log proves the courier was in the building before the deadline and the 3minute delay was caused by navigating within the building
- B. Yes, because a 3minute delay constitutes a de minimis deviation that does not affect the competitive process
- C. No, because the bid documents specify receipt at the owner's office by 2:00 PM — "receipt" means delivery to the designated location, not arrival in the building, and strict enforcement of bid deadlines is essential to maintain the integrity and fairness of the sealed bid process
- D. No, but the owner can extend the deadline by 15 minutes to accommodate late arrivals without affecting the competition

8. A contractor needs to estimate the labor cost for installing 22,000 square feet of commercial carpet tile. The installation crew consists of 4 workers at a loaded rate of \$40.00 per hour each. The crew's combined daily productivity is 550 square feet per 8hour day. What is the estimated total labor cost?

- A. \$51,200, calculated as: total days = $22,000 \div 550 = 40$ days; total labor hours = $40 \times 8 \times 4 = 1,280$ hours; total cost = $1,280 \times \$40.00 = \$51,200$

- B. \$25,600, calculated using only 2 workers instead of the specified 4 worker crew
- C. \$40,000, calculated using an inflated productivity rate of 880 SF per day
- D. \$64,000, calculated by adding a 25% complexity factor for commercial grade installation

9. A contractor receives subcontractor quotes for the plumbing work on a commercial project: \$310,000, \$325,000, \$298,000, and \$280,000. The \$280,000 low quote excludes the fire suppression (sprinkler) tie-in connections, the medical gas piping, and the final testing and certification. The other three quotes include all three items. The estimator contacts the low bidder, who adds \$45,000 for the excluded scope. What should the estimator do?

- A. Use the original \$280,000 quote and add the excluded items as separate allowances in the bid
- B. Average all four quotes including the adjusted low bid and use the average as the plumbing budget
- C. Reject the low bidder because their initial exclusions demonstrate unreliable estimating practices
- D. Compare the adjusted low bid (\$325,000) against the three complete quotes (\$310,000, \$325,000, \$298,000) — the \$298,000 complete quote is now the lowest bid with full scope and should be used unless the estimator has specific qualifications or reliability reasons to prefer a different subcontractor

DOMAIN: CONTRACT MANAGEMENT (8 Questions)

10. A contractor on a fixed-price commercial project discovers extensive termite damage to existing floor joists during a renovation. The pre-renovation structural assessment provided with the bid documents stated: "Existing wood framing is in sound condition with no visible deterioration." The termite damage was concealed behind plaster ceilings and was not visible during the pre-bid walkthrough. The repair cost is \$58,000. Under the differing site conditions clause, who bears this cost?

- A. The contractor, because experienced renovation contractors should anticipate termite damage in older wood-framed buildings
- B. The owner, because the structural assessment represented the wood framing as "sound with no visible deterioration" — the actual condition (extensive termite damage) differs materially from what was represented, the contractor relied on the assessment when pricing, and the concealed damage constitutes a Type I differing site condition

- C. The cost should be shared equally because concealed conditions are a mutual renovation risk
- D. The pest control company that performed the original termite treatment bears liability

11. A general contractor receives a change order adding \$190,000 of additional elevator work. The contractor will subcontract \$160,000 of elevator installation and selfperform \$30,000 of elevator pit construction. The contract allows 15% markup on selfperformed work and 8% on subcontracted work. What is the total billable amount?

- A. \$207,300, calculated as selfperformed ($\$30,000 \times 1.15 = \$34,500$) plus subcontracted ($\$160,000 \times 1.08 = \$172,800$)
- B. \$218,500, at 15% on the full \$190,000
- C. \$190,000 with no markup
- D. \$199,500, at a blended 5% rate

12. A project owner terminates a contractor for cause, alleging the contractor abandoned the project. The contractor has documentation showing: (1) the owner failed to make three consecutive monthly progress payments totaling \$420,000; (2) the contractor sent three written notices warning that continued nonpayment would force them to suspend work; (3) the contractor formally suspended work under the contract's suspensionfor nonpayment clause after the third missed payment. If the contractor challenges the termination, what is the likely outcome?

- A. The termination stands because the contractor stopped work, which constitutes project abandonment
- B. The termination stands because only the owner has the contractual right to suspend work
- C. The termination will likely be found wrongful and converted to a termination for convenience — the contractor exercised their legitimate contractual right to suspend work after three missed payments totaling \$420,000, followed proper notice procedures, and the owner cannot terminate for cause when the contractor's work stoppage was a lawful response to the owner's material breach of payment obligations
- D. The contractor can recover only demobilization costs because wrongful termination claims are capped at direct expenses

13. A subcontractor on a commercial project provides a oneyear warranty on their concrete flatwork. Eight months after substantial completion, the building owner reports extensive map cracking across the warehouse floor. The subcontractor inspects and argues the cracking was

caused by the owner's failure to maintain proper humidity levels in the warehouse — the owner left the HVAC system off for 3 months during the curing period, exposing the concrete to rapid moisture loss. The specification requires the owner to maintain minimum humidity for 90 days after placement. Under the warranty, is the subcontractor's defense valid?

A. No, because all concrete cracking during the warranty period is automatically the subcontractor's responsibility

B. No, because the subcontractor should have controlled the curing environment regardless of the owner's HVAC operation

C. Yes, but only for half the repair cost because both parties contributed to the cracking condition

D. Yes, because the specification placed the humidity maintenance obligation on the owner — if the owner failed to maintain the required environment during the critical 90day curing period, the resulting map cracking is caused by the owner's breach of their specification obligation, not by a defect in the subcontractor's materials or workmanship

14. A contractor completes a commercial project. The oneyear warranty begins on the substantial completion date of July 1. On June 14 of the following year — seventeen days before expiration — the building owner discovers that the parking lot asphalt is rutting extensively in the drive lanes. The rutting appears to be caused by an asphalt mix with insufficient stability for the traffic loads. The owner notifies the contractor on June 17. The contractor responds that their paving specialist cannot investigate until August. Is the warranty claim preserved?

A. No, because the contractor must investigate all warranty claims before the warranty expiration date

B. Yes, because the owner discovered the rutting on June 14 and notified the contractor on June 17 — both within the warranty period — preserving the claim regardless of when the contractor's investigation occurs, and the contractor cannot defeat the warranty by scheduling the investigation after the July 1 expiration

C. Yes, but only if the owner commissions an independent asphalt core test before July 1

D. No, because asphalt rutting is classified as normal wear and tear from traffic loading

15. A contractor on a hospital expansion receives a written directive from the owner to install a complete nurse call system not shown in the original contract documents. The estimated cost is \$125,000. The owner states: "This was always intended to be part of the project — it was just inadvertently omitted from the drawings." Under standard change order provisions, does the omission affect who bears the cost?

- A. No, the owner bears the cost regardless of whether the omission was intentional or inadvertent — the contractor priced the project based on the contract documents as issued, and an item not shown in the documents was not included in the bid price, making it additional scope that requires a change order even if the owner intended to include it from the beginning
- B. Yes, because items the owner "intended" to include are implied in the contract and the contractor should have anticipated them
- C. Yes, because the architect bears the cost of omitted items through their professional liability insurance
- D. No, but the contractor must absorb 50% of the cost as a shared responsibility for scope verification

16. A contractor on a timeandmaterials contract discovers that their field foreman has been billing the owner for an apprentice helper who has not actually been on the jobsite for 3 weeks. The foreman created fictitious daily time sheets showing the helper working 8 hours per day. The total fraudulent billing is approximately \$4,800. When the contractor discovers the fraud, what are their obligations?

- A. Fire the foreman but continue billing the owner at the same rate by adding a different helper to replace the phantom hours
- B. Immediately credit the \$4,800 to the owner and hope the overcharge is not discovered during the audit
- C. Immediately notify the owner of the fraudulent billing, credit the full \$4,800 (plus any markup), terminate the foreman, implement enhanced time sheet verification procedures, and document all corrective actions — prompt disclosure and correction demonstrate good faith and may mitigate potential fraud claims, contract termination, and licensing consequences
- D. Absorb the \$4,800 internally by reducing the foreman's next paycheck and make no disclosure to the owner

17. A project architect issues a directive requiring the contractor to upgrade the building's electrical service from 400 amps to 800 amps because the mechanical engineer underestimated the HVAC equipment's electrical load during design. The upgrade costs \$48,000 including new switchgear, larger conduit, and upgraded utility connection. Under the Spearin Doctrine, who bears this cost?

- A. The architect bears the cost personally because the underestimation was a design error
- B. The contractor bears the cost because electrical service sizing should have been independently verified during the bid phase

C. The cost should be split between the architect and the mechanical engineer based on their respective design responsibilities

D. The owner bears the cost through a change order — the Spearin Doctrine establishes that the owner impliedly warrants the adequacy of the plans and specifications, the mechanical engineer's load underestimation is a design deficiency, and the contractor relied on the 400amp specification when pricing the electrical work

18. A general contractor's subcontract includes a paywhenpaid clause requiring payment within 10 days of the GC receiving corresponding owner payment. The owner pays the GC on August 20. The GC does not pay the concrete subcontractor until October 18 — 59 days later. The subcontractor sends a demand for the overdue payment plus interest. Is the interest claim valid?

A. No, because paywhenpaid clauses create only a sequencing mechanism with no enforceable payment deadline

B. Yes, because the 10day deadline was August 30 and the October 18 payment is 49 days late — the subcontractor is entitled to interest from August 30 through October 18 for the GC's breach of the contractual payment timeline

C. No, because the subcontractor must wait 90 days before interest accrues on any construction contract payment

D. Yes, but only at the IRS underpayment rate regardless of any higher rate specified in the subcontract

19. A project owner issues a deductive change order removing the entire interior landscaping package (\$55,000) from a commercial project. The contractor's bid included \$44,000 in direct costs and \$11,000 in overhead and profit. The contract states: "Deductive change orders shall be calculated at direct cost savings." What is the correct deduction?

A. \$44,000, representing the direct cost savings only — the contractor retains the \$11,000 in overhead and profit because the contract calculates deductive change orders at "direct cost savings," protecting the contractor's margin on deleted scope

B. \$55,000, representing the full bid amount including overhead and profit

C. \$27,500, representing 50% of the bid amount as a standard deductive discount

D. \$49,500, representing 90% of the bid amount

20. A contractor on a commercial project receives a field order from the architect requiring the contractor to change the building's exterior masonry from face brick to natural stone veneer — a significantly more expensive material. The architect states the owner requested the change

during a design review meeting. The cost difference is \$185,000. The contractor has not received a written change order from the owner. What should the contractor do before proceeding?

- A. Begin the stone installation immediately based on the architect's field order because architects have full authority to direct material changes
- B. Refuse to acknowledge the field order because only written change orders from the owner are valid
- C. Respond in writing to the architect requesting formal confirmation that the owner has authorized the material change and the associated \$185,000 cost increase — because a field order from the architect for a major material upgrade does not substitute for a written change order from the owner, and the contractor must verify the owner's authorization before committing to the upgraded material
- D. Install the stone veneer and bill the architect directly for the \$185,000 cost difference

DOMAIN: PROJECT MANAGEMENT (6 Questions)

21. A project manager on a \$8,500,000 commercial project calculates earned value at the 55% completion mark: BAC = \$8,500,000; PV = \$4,675,000; EV = \$4,250,000; AC = \$4,500,000. What are the SPI, CPI, and EAC?

- A. SPI = 1.10 and CPI = 1.06, indicating the project is ahead of schedule and under budget
- B. SPI = 0.944 and CPI = 0.909, with the indices reversed from their correct formulas
- C. Both metrics are within 10% of 1.0 and require no corrective action
- D. SPI = 0.909 ($\$4,250,000 \div \$4,675,000$) and CPI = 0.944 ($\$4,250,000 \div \$4,500,000$) — both below 1.0, indicating the project is behind schedule and over budget, with an EAC of approximately \$9,004,000 ($\$8,500,000 \div 0.944$) if the current cost trend continues

22. A contractor's superintendent discovers that the roofing subcontractor installed standard asphalt shingles on a low-slope roof section (2:12 pitch) where the specification requires a modified bitumen membrane system. Standard shingles require a minimum 4:12 pitch for proper water shedding — at 2:12, water can back up under the shingles and infiltrate the roof deck. Approximately 3,000 square feet is affected. What should the superintendent do?

A. Stop the roofing subcontractor immediately, notify the architect, and require removal of the shingles and installation of the specified modified bitumen membrane at the subcontractor's expense — shingles on a 2:12 slope will experience chronic water infiltration because they rely on gravity drainage that a low slope cannot provide, and the specification requires a fully adhered membrane system specifically because of the low slope condition

B. Accept the shingles and apply additional sealant at all overlaps to prevent water backup at the low pitch

C. Allow the shingles to remain and add an ice and water shield underlayment beneath them as supplemental protection

D. Accept the shingles because the 2:12 pitch is within the manufacturer's extended coverage warranty for low slope applications

23. A project schedule shows the following critical path: Mobilization (5 days) → Site Work (12 days) → Foundation (18 days) → Steel (22 days) → Roofing (8 days) → MEP (16 days) → Drywall (10 days) → Finishes (15 days) → Closeout (4 days). Total: 110 days. The owner directs a 12-day stopwork during Foundation for a design modification. The contractor's concrete subcontractor causes a separate 4-day delay during Foundation by delivering the wrong reinforcing steel. What is the revised project duration and how are the delays allocated?

A. 110 days unchanged because both delays occurred during the same activity and are absorbed within the Foundation duration

B. 126 days — the owner's 12-day stopwork is excusable (entitling the contractor to a time extension and potentially compensation), and the contractor's 4-day rebar delay is nonexcusable (the contractor's responsibility) — both delays are on the critical path and extend the completion date by 16 days total, but the contractor may be assessed liquidated damages only for the 4 contractor-caused days

C. 122 days, with only the 12-day owner delay added because the 4-day contractor delay occurred concurrently

D. 114 days, with only the 4-day contractor delay added because owner-directed stopwork is the contractor's scheduling risk

24. A contractor managing a renovation in an occupied corporate headquarters needs to install new data cables through an existing ceiling plenum that serves as the building's HVAC return air path. The specification requires all cables in the plenum to be plenum-rated (CMP designation). The cabling subcontractor proposes using nonplenum-rated (CM designation) cables enclosed in metallic conduit through the plenum space, arguing conduit provides equivalent fire protection. Is this acceptable?

A. Yes, because metallic conduit provides superior fire protection compared to plenum-rated cable jackets

B. Yes, because the conduit enclosure is recognized as an equivalent method by all building codes

C. No, because the conduit creates additional obstruction in the plenum air path that reduces HVAC efficiency

D. The answer depends on the applicable building code — some codes recognize metallic conduit as an acceptable alternative to plenum-rated cable in return air plenums, but the contractor must verify this with the architect and the authority having jurisdiction before proceeding, because not all codes accept this substitution and the specification explicitly calls for CMR-rated cable

25. A contractor's three-week lookahead schedule identifies that the mechanical subcontractor is scheduled to begin piping installation next week, but the structural steel in the mechanical room — which supports the overhead pipe hangers — has not been inspected. The pipe hangers cannot be installed on uninspected steel. The building inspector requires 48 hours' notice. It is currently Tuesday morning. Can the piping installation begin on schedule next Monday?

A. Yes, if the contractor contacts the building inspector today to schedule a Friday inspection

B. No, because the steel inspection cannot be scheduled with fewer than 5 business days' advance notice

C. The contractor should contact the building inspector immediately to schedule the steel inspection for Thursday or Friday (satisfying the 48-hour notice from Tuesday), coordinate with the mechanical subcontractor to confirm Monday's start date contingent on inspection approval, and develop a contingency plan to delay piping if the inspection reveals deficiencies requiring correction

D. Yes, because the pipe hangers can be installed first and the steel inspected afterward

26. A project's earned value analysis at the 70% completion mark shows the CPI has been steadily improving: Month 3 = 0.88; Month 6 = 0.93; Month 9 = 0.97; Month 12 = 1.02. The SPI has remained stable at approximately 1.01. What does this pattern indicate?

A. The project's cost performance has recovered from an early overrun to an on-budget status — the CPI improving from 0.88 to 1.02 demonstrates effective cost corrective action, and the stable SPI of 1.01 confirms the schedule remained on track throughout, though the cumulative impact of the early overrun may still result in a modest total budget variance depending on how much was spent during the low-CPI months

B. The improving CPI indicates the project is falling behind schedule because money is being spent more conservatively

C. Both metrics at 1.0 or above indicate the project needs no management attention for the remaining 30%

D. The stable SPI of 1.01 is concerning because it suggests the project is overstaffed

DOMAIN: INSURANCE AND BONDING (3 Questions)

27. A contractor carries a CGL policy with a \$2,000,000 peroccurrence limit and a \$4,000,000 general aggregate. The contractor also carries a \$5,000,000 umbrella policy. During the policy year, a catastrophic building collapse on an active construction site produces a \$12,000,000 judgment. How is the judgment covered?

A. CGL pays \$4,000,000 (aggregate) and umbrella pays \$5,000,000, totaling \$9,000,000 with \$3,000,000 personal exposure

B. CGL pays \$2,000,000 and umbrella pays \$10,000,000, fully covering the judgment

C. CGL pays \$2,000,000 (peroccurrence limit for this single collapse) and umbrella pays \$5,000,000 — total coverage \$7,000,000, leaving \$5,000,000 as the contractor's personal responsibility

D. CGL and umbrella combined pay only \$4,000,000, leaving \$8,000,000 in personal exposure

28. A surety evaluates a contractor for a \$1,800,000 performance bond. The contractor's financial statements show: working capital \$145,000; net worth \$520,000; existing bonded backlog \$1,900,000. The surety uses a 15× working capital multiplier. What is the assessment?

A. Automatic approval because net worth exceeds the bond amount

B. Approval because the total capacity exceeds the single bond request

C. The surety will approve with conditions requiring personal indemnity from all principals

D. Bonding capacity is \$2,175,000 ($15 \times \$145,000$), with \$1,900,000 committed leaving only \$275,000 available — the \$1,800,000 request exceeds available capacity by \$1,525,000, and the surety will deny unless the contractor substantially increases working capital or completes existing projects

29. A contractor's workers' compensation premium audit reveals that 3 workers classified as "interior finish carpentry" (\$7.50 per \$100 of payroll) have been performing "roofing — steep slope" (\$22.00 per \$100 of payroll) for the past year. The misclassified payroll totals \$225,000. The contractor's EMR is 1.10. What is the approximate additional premium owed?

- A. \$16,875, at the carpentry rate without classification adjustment
- B. Approximately \$35,888, calculated as the premium difference: $(\$225,000 \div \$100) \times (\$22.00 - \$7.50) \times 1.10 = 2,250 \times \$14.50 \times 1.10 = \$35,888$ — reflecting the dramatically higher risk of steep-slope roofing compared to interior finish carpentry
- C. \$49,500, at the roofing rate without crediting the carpentry premium
- D. \$0, because disputes between carpentry and roofing classifications are automatically resolved in the contractor's favor

DOMAIN: OSHA RECORDKEEPING (3 Questions)

30. A construction worker is operating a skid steer loader when the machine tips forward while grading a slope. The worker is wearing the seatbelt and is not ejected. The worker reports neck stiffness after the incident. The site medic applies an ice pack and the worker rests for 20 minutes. The worker visits a physician who examines the neck, orders cervical spine X-rays (negative for fracture), prescribes OTC ibuprofen, and recommends a nonrigid cervical collar. The worker returns to full duty the next day with no restrictions. Is this case OSHA recordable?

- A. No, because all treatments received — ice pack, diagnostic X-rays, OTC medication, and a nonrigid cervical collar — are classified as first aid under OSHA definitions, the worker returned to full duty with no restrictions, and no recordable outcome occurred
- B. Yes, because any equipment rollover incident is automatically recordable regardless of the treatment received
- C. Yes, because the cervical X-rays constitute medical treatment beyond first aid
- D. No, but only if the skid steer manufacturer certifies the rollover protection system functioned properly

31. An employer with 155 employees in the construction industry (NAICS 238) reviews their electronic reporting obligations. What are they required to submit?

- A. Complete 300 Logs and 301 forms within 48 hours of each incident
- B. No electronic submission because NAICS 238 employers with fewer than 250 employees are exempt
- C. The information from their OSHA 300A Annual Summary electronically through OSHA's Injury Tracking Application by March 2 of the following year — establishments with 20249 employees in high-hazard industries including NAICS 238 must submit 300A data annually

D. All logs and forms quarterly to both OSHA and the state workers' compensation carrier

32. A construction worker develops chronic low back pain after 6 months of performing repetitive heavy lifting on a concrete project. A physician diagnoses workrelated lumbar strain, prescribes a prescription muscle relaxant, and places the worker on restricted duty (no lifting over 25 pounds) for 6 weeks. The worker is reassigned to quality control inspection work. How should this case be classified on the OSHA 300 Log?

A. Not recordable because the worker continued working and never missed a complete workday

B. "Other recordable" because the prescription muscle relaxant is the primary recordability trigger

C. "Days away from work" because back injuries are automatically classified at the highest severity

D. "Restricted work or job transfer" because the worker was restricted from heavy lifting and reassigned — the restriction from routine job functions is the most significant outcome, taking precedence over "other recordable" even though the prescription medication independently triggers recordability

DOMAIN: PERSONNEL REGULATIONS (8 Questions)

33. A contractor with 55 employees has a project superintendent who earns \$1,900 per week. The superintendent manages all field operations on two concurrent projects, directs 35 workers across both sites, has authority to hire day laborers and effectively recommend termination of underperforming workers, and spends approximately 20% of each week performing hands-on construction tasks alongside the crews. Under the FLSA, is the superintendent exempt from overtime?

A. No, because performing 20% hands-on construction work disqualifies the executive exemption for any construction employee

B. Yes, because the superintendent meets all executive exemption elements — salary of \$1,900/week exceeds the \$684 threshold, primary duty is management across two projects, regularly directs more than 2 employees, has hiring authority and makes effective termination recommendations, and performing 20% physical work does not disqualify a construction superintendent whose primary duty is management

C. No, because managing two concurrent projects creates a "divided attention" exception that invalidates the executive exemption

D. Yes, but only if the superintendent holds a professional engineering license in addition to their management credentials

34. A nonexempt operating engineer earns \$46.00 per hour and works 50 hours during a workweek. The employer provides a \$300 nondiscretionary weekly equipment certification premium for maintaining current NCCCO crane operator certification. Under the FLSA, what is the correct total gross pay?

A. \$2,860.00, calculated as straighttime plus premium (\$2,600.00) plus overtime premium (\$52.00 regular rate \times 0.5 \times 10 hours = \$260.00), where the \$300 certification premium is included in the regular rate ($\$2,600 \div 50 = \52.00)

B. \$2,600.00 with no overtime premium

C. \$2,740.00, at the base overtime rate without the certification premium

D. \$2,990.00, at doubletime for all overtime hours

35. An employer with 40 employees has a worker who files a workers' compensation claim for a hand injury sustained while operating a table saw. The claim is accepted. The worker returns to modified duty. Three weeks after filing, the employer issues the worker's firstever written performance counseling for "failure to meet productivity standards" — despite the worker maintaining the same output level they had for the previous 4 years with no counseling. Under workers' compensation antiretaliation law, what factors support a retaliation claim?

A. The productivity counseling is valid because employers can hold all workers to consistent performance standards

B. The employer has no exposure because performance counseling is a constructive management tool, not an adverse action

C. Only the temporal proximity supports the claim because 3 weeks is within the "suspicious timing" window

D. Two factors create a strong retaliation inference: the temporal proximity (firstever counseling issued 3 weeks after filing) and the inconsistent application (4 years of identical productivity without any counseling before the comp claim) — the combination of suspicious timing and the unexplained change in management response shifts the burden to the employer to provide legitimate nonretaliatory explanations

36. A contractor operating on a DavisBacon covered project has pipefitters who work 48 hours during a workweek. The prevailing wage specifies pipefitter wages of \$44.00/hour plus \$20.00/hour in fringe benefits. One pipefitter receives a \$225 nondiscretionary weekly welding certification premium. How must the overtime be calculated?

- A. Overtime at 1.5 times the combined wage and fringe ($\$64.00 \times 1.5$) for 8 hours
- B. Overtime at 1.5 times only the base wage ($\$44.00 \times 1.5$) without the welding premium
- C. The overtime premium applies to the cash wage plus the prorated welding premium, while the fringe continues at straighttime — regular rate = $(\$44.00 \times 48 + \$225) \div 48 = \$48.69$; overtime premium = $\$48.69 \times 0.5 = \$24.34 \times 8 = \$194.75$; fringe at $\$20.00$ for all 48 hours
- D. No overtime because pipefitters with welding certifications are classified as exempt skilled professionals

37. An employer terminates a worker for three documented incidents of failing to wear required hearing protection in designated highnoise zones over a 6week period. The employer has: the hearing conservation program signed by the worker, audiometric testing records showing the worker's baseline hearing levels, three incident reports with dates and supervisor observations, a verbal warning after the first incident, and a written warning after the second stating a third violation would result in termination. The worker files for unemployment benefits. What is the likely outcome?

- A. The worker will likely be denied benefits because repeatedly failing to wear required hearing protection in highnoise zones despite progressive warnings constitutes willful misconduct — the deliberate pattern of noncompliance with a documented safety program after training and warnings establishes disqualifying conduct
- B. The worker will receive benefits because hearing protection violations are classified as minor safety infractions
- C. The worker will receive benefits because no immediate injury resulted from the three incidents
- D. The unemployment agency will defer until audiometric testing confirms whether any hearing loss actually occurred

38. An employer with 60 employees has a worker who requests FMLA leave to undergo inpatient treatment for severe anxiety disorder at a residential psychiatric facility. The treatment program is 5 weeks. The worker has been employed for 6 years. Under the FMLA, is this leave covered?

- A. No, because the FMLA covers only physical health conditions and excludes anxiety disorders
- B. Yes, because inpatient treatment for a mental health condition at a healthcare facility qualifies as a serious health condition — severe anxiety disorder requiring residential psychiatric treatment involves continuing care in an inpatient setting, the employer has 60

employees (above threshold), the worker's 6year tenure exceeds eligibility, and the FMLA covers mental health conditions equally with physical conditions

C. No, because anxiety is a behavioral condition rather than a diagnosable medical condition

D. Yes, but only for the first 2 weeks because FMLA leave for anxiety treatment is capped at 14 days

39. An employer's I9 compliance audit reveals that 18 employees have I9 forms where the employer examined photocopies of documents rather than original documents. The HR assistant accepted photocopied driver's licenses and Social Security cards brought in by employees who forgot their originals on the first day. Under IRCA, what is the problem?

A. No problem because photocopied documents contain the same identifying information as originals

B. No problem because the documents were eventually verified against originals during annual reverification

C. The only issue is that the photocopies should be stamped "copy" and filed with the I9 form

D. Each I9 is deficient because the employer must examine original documents — photocopies do not satisfy the verification requirement because they cannot confirm the document's physical security features (watermarks, holograms, tamperevident printing), and the employer must correct each deficient I9 by reexamining original documents

40. An employer with 50 employees has a worker who has exhausted 12 weeks of FMLA leave following ankle reconstruction surgery. The worker's physician releases them with a permanent restriction: no prolonged standing on concrete surfaces exceeding 2 consecutive hours. The worker's regular job as a tile setter requires standing on concrete subfloors for 810 hours daily. Under the ADA, what must the employer do?

A. Terminate the worker because prolonged standing on concrete is an essential tilesetting function

B. Hold the tile setter position open for 6 additional months to allow further recovery

C. Engage in the ADA interactive process to evaluate whether the standing restriction can be accommodated — potential accommodations include antifatigue matting at the workstation, scheduled seated breaks every 2 hours, reassignment to available positions not requiring prolonged concrete standing (tile layout and cutting, material coordination, estimating), or job restructuring

D. Create a permanent seated tilesetting position exclusively for this worker

41. A contractor operating on a DavisBacon covered project has carpenters who work 46 hours during a workweek. The prevailing wage specifies carpenter wages of \$40.00/hour plus \$18.00/hour in fringe benefits. How must the 6 overtime hours be compensated?

A. 40 hours at \$40.00 wage plus \$18.00 fringe, and 6 overtime hours at \$60.00 wage ($1.5 \times \40.00) plus \$18.00 fringe at the straighttime rate — the overtime premium applies only to the cash wage, while the fringe continues at straighttime for all 46 hours

B. All 46 hours at the combined overtime rate ($\$58.00 \times 1.5 = \87.00)

C. 40 hours at \$40.00 plus \$18.00, and 6 hours at \$40.00 plus \$27.00 ($1.5 \times \$18.00$)

D. No overtime because carpenters with prevailing wages above \$38.00/hour are exempt

42. An employer discovers that their HR department has been classifying 6 nonexempt field supervisors as exempt salaried employees, paying them \$1,400 per week regardless of hours worked. The supervisors routinely work 55 hours per week. Their actual duties — operating equipment, performing manual work, and directing 34 workers — may or may not meet the executive exemption depending on a detailed analysis. What is the employer's most prudent course of action?

A. Continue the current classification because the \$1,400 weekly salary exceeds the exempt threshold

B. Immediately reclassify the supervisors as nonexempt, begin paying overtime, and conduct a detailed job duties analysis — the risk of continuing potential misclassification (cumulative backpay liability growing weekly with potential liquidated damages) outweighs the cost of paying overtime while the analysis is completed

C. Wait for an employee complaint or DOL audit before making any changes to avoid unnecessarily increasing labor costs

D. Reduce the supervisors' hours to 40 per week to eliminate the overtime question entirely

43. An employer has a worker who reports disabilitybased harassment by a coworker — specifically, the coworker has been mocking the worker's use of a hearing aid, imitating the worker's speech patterns in front of other employees, and hiding the worker's hearing aid when the worker removes it during break periods. The worker reports to HR. HR investigates and confirms the conduct through witness statements. What constitutes an appropriate response?

A. A verbal reminder to the harassing coworker about workplace professionalism

B. Immediate corrective action proportional to the severity — formal written warning or suspension, mandatory disability sensitivity training, possible reassignment to prevent further

contact, and documented followup monitoring to verify the harassment has stopped, because hiding a worker's hearing aid constitutes interference with a disability accommodation and repeated mocking creates a hostile work environment

C. Transfer of the affected worker to a different jobsite to remove them from the hostile environment

D. No action required because teasing between coworkers about personal devices is protected social interaction

44. An employer with 55 employees has a worker who requests FMLA leave to care for their adult child (age 26) who was severely injured in a workplace accident and is in a medically induced coma in the ICU. The worker has been employed for 8 years. Under the FMLA, is this leave covered?

A. No, because the FMLA covers leave for children only up to age 18

B. No, because workplace accidents are covered by the injured person's workers' compensation, which precludes FMLA coverage for family members

C. Yes, because while the FMLA's standard definition of "son or daughter" refers to minor children, it extends to adult children who are incapable of selfcare due to a physical or mental disability — a 26yearold in a medically induced coma following severe injuries is clearly incapable of selfcare, qualifying under this provision

D. Yes, because all children regardless of age are automatically covered under the FMLA without limitation

45. An employer's workers' compensation carrier reports the EMR will increase from 0.88 to 1.24 at the next renewal. The annual base premium at EMR 1.0 is \$340,000. What is the total financial impact?

A. Premium increases from \$299,200 (at 0.88) to \$421,600 (at 1.24) — a \$122,400 annual increase — and the 1.24 EMR exceeds the 1.0 prequalification threshold commonly required by safetyconscious owners, disqualifying the contractor from certain projects and compounding the financial impact through lost bidding opportunities

B. Premium increases by \$3,400 with no operational consequences

C. Premium decreases because higher EMRs qualify for volume discounts

D. The EMR increase triggers mandatory OSHA safety program participation

46. A contractor organized as a sole proprietorship earns \$210,000 in net SE income with \$55,000 in W2 income from a parttime consulting position. The Social Security wage base is

\$168,600. After the 92.35% adjustment, adjusted SE income is approximately \$193,935. What is the approximate selfemployment tax?

- A. \$32,130, at flat 15.3% without adjustments
- B. Approximately \$19,710 — Social Security 12.4% on \$113,600 ($\$168,600 - \$55,000$ W2) = \$14,086; Medicare 2.9% on full \$193,935 = \$5,624; no additional surtax because \$193,935 is below \$200,000; total \approx \$19,710
- C. \$14,086, using only the Social Security portion
- D. \$29,672, at 15.3% on adjusted income without W2 offset

47. A contractor organized as a partnership earns \$600,000. Partner A (55%) has a \$330,000 distributive share with \$45,000 in W2 income. The Social Security wage base is \$168,600. After the 92.35% adjustment, adjusted SE income is approximately \$304,755. What is Partner A's approximate selfemployment tax?

- A. \$50,490, at flat 15.3% without adjustments
- B. \$15,326, only the Social Security portion
- C. \$25,000, simplified estimate
- D. Approximately \$25,107 — Social Security 12.4% on \$123,600 ($\$168,600 - \$45,000$ W2) = \$15,326; Medicare 2.9% on full \$304,755 = \$8,838; additional Medicare surtax 0.9% on \$104,755 (adjusted income exceeding \$200,000) = \$943; total \approx \$25,107

48. A contractor organized as a CCorporation earns \$600,000 in taxable income and pays 21% corporate tax (\$126,000). The corporation distributes \$300,000 as dividends to the sole shareholder at the 15% qualified dividend rate. What is the total combined tax on the \$300,000 distributed and the effective combined rate?

- A. Total tax = \$63,000 (corporate only); effective rate = 21%
- B. Total tax = \$45,000 (dividend only); effective rate = 15%
- C. Total tax = \$108,000 (\$63,000 corporate tax on distributed amount + \$45,000 dividend tax); effective rate = 36% — the corporation paid \$63,000 on the \$300,000 (21%), the shareholder pays \$45,000 (15%), and the combined \$108,000 represents 36% of the distributed amount
- D. Total tax = \$126,000 (full corporate tax); effective rate = 42%

49. A selfemployed contractor earns \$170,000 in net SE income with no W2 income. The Social Security wage base is \$168,600. After the 92.35% adjustment, adjusted SE income is approximately \$156,995. What is the approximate selfemployment tax?

A. Approximately \$24,020 — Social Security 12.4% on \$156,995 (below wage base) = \$19,467; Medicare 2.9% on \$156,995 = \$4,553; no surtax because adjusted income is below \$200,000; total \approx \$24,020

B. \$26,010, at flat 15.3% on \$170,000 without adjustments

C. \$19,467, only the Social Security portion

D. \$20,906, using the wage base cap instead of actual adjusted income

50. A contractor organized as an SCorporation has one shareholder working fulltime. The company earns \$400,000. The shareholder takes a salary of \$100,000 and a distribution of \$300,000. The IRS determines a reasonable salary is \$155,000. What is the approximate additional FICA tax exposure on the reclassified amount?

A. \$0, because SCorporation distributions cannot be reclassified

B. Approximately \$8,415 — the IRS reclassifies \$55,000 (\$155,000 reasonable minus \$100,000 paid) from distributions to salary at the 15.3% FICA rate ($\$55,000 \times 0.153$), plus penalties and interest on the underreported payroll taxes

C. \$45,900, at 15.3% on the full \$300,000 distribution

D. \$4,208, at 15.3% on only half the reclassified amount

Practice Exam 39: Answer Key and Explanations

1. D — Each partner saves approximately \$12,330 by avoiding SE tax on the \$100,000 distribution portion under the SCorporation structure. As a partnership, the full \$240,000 distributive share is subject to SE tax, while the SCorp subjects only the \$140,000 salary to FICA. The combined savings of approximately \$24,660 represents the FICA avoided on \$200,000 in total distributions.

2. B — While standard electrical and HVAC work falls within EL and ME classifications, asbestos abatement is a specialized environmental remediation activity regulated by both the EPA and OSHA. The contractor should verify whether asbestos abatement requires separate certification. Performing regulated environmental work without proper credentials creates serious legal and safety liability.

3. C — Maintaining a valid surety bond is a continuing condition of licensure. Operating for 6 months without a bond is a licensing violation regardless of the reason for the lapse. The

contractor had an affirmative duty to obtain a replacement bond promptly when the original surety went out of business — the cause of the lapse does not excuse the duration.

4. A — While individual pricing disputes are typically civil matters, a documented pattern of systematic overcharging across multiple clients over 18 months may constitute deceptive business practices. The ACLB can investigate complaints that reflect on a contractor's fitness for licensure. Three similar complaints establish a pattern the Board can consider in disciplinary proceedings.

5. D — The \$50,000 net worth minimum is a firm regulatory threshold. At \$48,000, the applicant does not meet the requirement regardless of how close the figure is. The ACLB does not have authority to waive or reduce minimum financial qualifications. The applicant must increase net worth to \$50,000 and resubmit.

6. B — Overhead rate: $\$345,000 \div \$2,300,000 = 15\%$. Allocation: $\$1,150,000 \times 15\% = \$172,500$. Total cost: $\$1,322,500$. Selling price: $\$1,322,500 \div 0.94 = \$1,407,447$. Dividing by $(1 - \text{margin})$ ensures profit equals exactly 6% of the selling price.

7. C — The bid documents specify receipt at the owner's office by 2:00 PM. "Receipt" means delivery to the designated location, not arrival in the building. The courier reached the bid room at 2:03 PM — after the deadline. Strict enforcement of bid deadlines is essential to maintain fairness and integrity in sealed bidding.

8. A — Total days: $22,000 \div 550 = 40$ days. Total hours: $40 \times 8 \times 4 = 1,280$ hours. Cost: $1,280 \times \$40.00 = \$51,200$. The productivity rate represents the combined crew output, so total labor includes all workers' hours over the full duration.

9. D — After adding excluded scope (\$45,000), the adjusted low bid becomes \$325,000. Comparing normalized quotes: \$298,000, \$310,000, \$325,000, \$325,000. The \$298,000 complete quote is the lowest with full scope coverage. Using incomplete quotes without normalization guarantees cost overruns.

10. B — The structural assessment represented the wood framing as "sound with no visible deterioration." The actual condition (extensive termite damage) differs materially. The contractor relied on the assessment when pricing. The concealed damage constitutes a Type I differing site condition, and the \$58,000 repair is the owner's responsibility.

11. A — Selfperformed: $\$30,000 \times 1.15 = \$34,500$. Subcontracted: $\$160,000 \times 1.08 = \$172,800$. Total: $\$34,500 + \$172,800 = \$207,300$. The different markup rates apply to each category based on who performs the work.

12. C — The contractor exercised their legitimate contractual right to suspend work after three missed payments totaling \$420,000, following proper notice procedures. The work stoppage was a lawful response to the owner's material breach. The owner cannot terminate for cause when the contractor's suspension was contractually justified.

13. D — The specification placed the humidity maintenance obligation on the owner for 90 days after concrete placement. If the owner left the HVAC off for 3 months, causing rapid moisture loss and map cracking, the damage results from the owner's breach of their specification obligation. The subcontractor's materials and workmanship are not the cause.

14. B — The owner discovered the rutting on June 14 and notified the contractor on June 17 — both within the warranty period ending July 1. Timely notification preserves the claim. The contractor cannot defeat the warranty by scheduling the investigation after the expiration date.

15. A — The owner bears the cost regardless of whether the omission was intentional or inadvertent. The contractor priced the project based on the documents as issued. An item not shown was not included in the bid price. The nurse call system is additional scope requiring a change order even if the owner "always intended" to include it.

16. C — The contractor must immediately notify the owner, credit the \$4,800, terminate the foreman, and implement enhanced verification. Prompt disclosure and correction demonstrate good faith and may mitigate fraud claims, contract termination, and licensing consequences. Concealing the fraud compounds the violation.

17. D — The Spearin Doctrine establishes that the owner impliedly warrants the adequacy of plans and specifications. The mechanical engineer's load underestimation is a design deficiency. The contractor relied on the 400amp specification when pricing. The \$48,000 upgrade is the owner's responsibility through a change order.

18. B — The 10day deadline was August 30 (August 20 + 10 days). Payment on October 18 is 49 days late. The subcontractor is entitled to interest from August 30 through October 18 for the GC's breach of the contractual payment timeline.

19. A — The contract specifies deductive change orders at "direct cost savings." The deduction is \$44,000 in direct costs. The contractor retains the \$11,000 in overhead and profit. The provision protects the contractor's margin on deleted scope.

20. C — A field order from the architect for a \$185,000 material upgrade does not substitute for a written change order from the owner. The contractor must verify the owner's authorization before committing to the stone veneer. Proceeding without confirmed owner approval risks the contractor bearing the cost if the owner disputes the change.

21. D — $SPI = \$4,250,000 \div \$4,675,000 = 0.909$ (behind schedule). $CPI = \$4,250,000 \div \$4,500,000 = 0.944$ (over budget). $EAC = \$8,500,000 \div 0.944 = \$9,004,000$. Both indices below 1.0 confirm the project is behind schedule and over budget, projecting a \$504,000 overrun.

22. A — Standard shingles require a minimum 4:12 pitch. At 2:12, water backs up under shingles causing chronic infiltration. The specification requires modified bitumen specifically because the low slope needs a fully adhered membrane system. All 3,000 SF must be replaced at the subcontractor's expense.

23. B — Both delays are on the critical path. Owner stopwork: +12 days (excusable — time extension and potentially compensation). Contractor rebar delay: +4 days (nonexcusable — contractor's responsibility). Revised: $110 + 12 + 4 = 126$ days. Liquidated damages apply only to the 4 contractorcaused days.

24. D — Some building codes recognize metallic conduit as an acceptable alternative to plenumrated cable, but not all codes accept this substitution. The specification explicitly calls

for CMPrated cable. The contractor must verify with the architect and the authority having jurisdiction before proceeding with the conduit alternative.

25. C — Tuesday to Thursday provides 48 hours' notice. The contractor should contact the inspector immediately to schedule Thursday or Friday. If the inspection passes, Monday piping begins on schedule. A contingency plan addresses potential deficiencies that could delay the mechanical subcontractor's start.

26. A — The CPI improving from 0.88 to 1.02 demonstrates effective cost recovery from an early overrun. The project has reached onbudget status. The stable SPI of 1.01 confirms the schedule remained healthy throughout. However, the cumulative impact of early overspending may still show in the total budget variance.

27. C — CGL pays \$2,000,000 (peroccurrence limit for this single collapse). Umbrella pays \$5,000,000 (its full limit). Total coverage: \$7,000,000. Remaining: \$12,000,000 – \$7,000,000 = \$5,000,000 personal exposure. This illustrates the catastrophic gap when combined limits are insufficient for a severe incident.

28. D — Bonding capacity: $15 \times \$145,000 = \$2,175,000$. Existing: \$1,900,000. Available: \$275,000. The \$1,800,000 request exceeds available capacity by \$1,525,000. The surety will deny unless the contractor substantially increases working capital or completes existing projects.

29. B — Premium difference: $(\$225,000 \div \$100) \times (\$22.00 - \$7.50) \times 1.10 = 2,250 \times \$14.50 \times 1.10 = \$35,888$. Steepslope roofing carries dramatically higher risk than interior finish carpentry, and the premium difference reflects this classification disparity.

30. A — All treatments — ice pack, diagnostic Xrays, OTC ibuprofen, and a nonrigid cervical collar — are classified as first aid under OSHA definitions. The worker returned to full duty with no restrictions. No recordable outcome occurred. Equipment incidents alone do not trigger recordability without a recordable treatment or outcome.

31. C — Establishments with 20249 employees in designated highhazard industries including NAICS 238 must submit 300A data electronically through OSHA's ITA by March 2. With 155 employees in specialty trade construction, this employer meets the threshold.

32. D — The worker was restricted from heavy lifting and reassigned to quality control inspection. "Restricted work or job transfer" is the most significant recordable outcome. The prescription muscle relaxant independently triggers recordability, but restricted work takes precedence as the more significant classification.

33. B — The superintendent meets all executive exemption elements: \$1,900/week salary (above \$684), primary duty is management across two projects, directs 35+ workers, has hiring authority and makes effective termination recommendations. Performing 20% handson work does not disqualify — the exemption evaluates primary duty, not exclusive duty.

34. A — Straighttime + premium: $(\$46.00 \times 50) + \$300 = \$2,600$. Regular rate: $\$2,600 \div 50 = \52.00 . Overtime premium: $\$52.00 \times 0.5 \times 10 = \260.00 . Total gross: $\$2,600 + \$260 = \$2,860.00$. The certification premium increases the regular rate and overtime premium.

35. D — Two factors create a strong retaliation inference: temporal proximity (firstever counseling 3 weeks after filing) and inconsistent application (4 years of identical productivity without counseling). The combination shifts the burden to the employer to provide legitimate nonretaliatory explanations for the sudden change in management response.

36. C — Under DavisBacon, the overtime premium applies to cash wage plus prorated nondiscretionary bonuses. Regular rate: $(\$44.00 \times 48 + \$225) \div 48 = \$48.69$. Overtime premium: $\$48.69 \times 0.5 \times 8 = \194.75 . Fringe at \$20.00 straighttime for all 48 hours. The welding premium increases effective overtime cost.

37. A — Three documented incidents of refusing hearing protection in highnoise zones despite progressive warnings constitute willful misconduct. The signed hearing conservation program, incident reports, and progressive discipline establish disqualifying conduct. Hearing protection violations involve cumulative permanent damage that worsens with each unprotected exposure.

38. B — Inpatient treatment for severe anxiety disorder at a residential psychiatric facility qualifies as a serious health condition. The FMLA covers mental health conditions equally with physical conditions. The employer has 60 employees (above threshold) and the worker has 6 years of tenure (exceeding eligibility).

39. D — The employer must examine original documents — photocopies cannot confirm physical security features like watermarks, holograms, and tamperevident printing. Each of the 18 I9s completed with photocopied documents is deficient. The employer must correct each by reexamining original documents with the employee present.

40. C — After FMLA exhaustion, the ADA interactive process applies. The employer must evaluate whether the standing restriction can be accommodated through antifatigue matting, scheduled breaks, reassignment to available positions, or job restructuring. The employer cannot terminate without completing the interactive process.

41. A — Under DavisBacon, the overtime premium applies only to the cash wage. Straight time: 40 hours \times $(\$40.00 + \$18.00)$. Overtime: 6 hours \times $(\$60.00 \text{ wage } [1.5 \times \$40.00] + \$18.00 \text{ fringe at straighttime})$. The fringe continues at straighttime for all 46 hours.

42. B — The risk of continuing potential misclassification — with backpay liability growing weekly and potential doubled liquidated damages — outweighs the cost of paying overtime during the analysis. Immediately reclassifying and paying overtime while conducting a thorough duties analysis protects the employer from compounding liability.

43. B — Hiding a worker's hearing aid constitutes interference with a disability accommodation, and repeated mocking creates a hostile work environment. Appropriate responses include formal warning or suspension, mandatory sensitivity training, possible reassignment, and documented monitoring. The severity of interfering with assistive equipment demands strong corrective action.

44. C — The FMLA extends to adult children who are incapable of selfcare due to a physical or mental disability. A 26yearold in a medically induced coma following severe injuries is clearly incapable of selfcare, qualifying under this provision. The employer has 55 employees and the worker has 8 years of tenure.

45. A — Premium at 0.88: \$299,200. Premium at 1.24: \$421,600. Increase: \$122,400 annually. The 1.24 EMR exceeds the 1.0 prequalification threshold, disqualifying the contractor from safetyconscious projects and compounding the impact through lost bidding opportunities beyond the direct premium cost.

46. B — W2 wages of \$55,000 reduce the SS wage base: $\$168,600 - \$55,000 = \$113,600$. Social Security (12.4%) on \$113,600 = \$14,086. Medicare (2.9%) on \$193,935 = \$5,624. No surtax because \$193,935 is below \$200,000. Total: approximately \$19,710.

47. D — W2 wages of \$45,000 reduce the SS wage base: $\$168,600 - \$45,000 = \$123,600$. Social Security (12.4%) on \$123,600 = \$15,326. Medicare (2.9%) on \$304,755 = \$8,838. Additional surtax (0.9%) on \$104,755 ($\$304,755 - \$200,000$) = \$943. Total: approximately \$25,107.

48. C — Corporate tax on \$300,000 distributed: $21\% \times \$300,000 = \$63,000$. Dividend tax: $15\% \times \$300,000 = \$45,000$. Total: \$108,000. Effective rate: 36%. This double taxation illustrates the CCorporation disadvantage — the same earnings taxed at both the entity and shareholder levels.

49. A — Adjusted SE income of \$156,995 is below the \$168,600 wage base. Social Security (12.4%) on full \$156,995 = \$19,467. Medicare (2.9%) on \$156,995 = \$4,553. No surtax because \$156,995 is below \$200,000. Total: approximately \$24,020.

50. B — The IRS reclassifies \$55,000 ($\$155,000 - \$100,000$) from distributions to salary. FICA at 15.3%: $\$55,000 \times 0.153 = \$8,415$, plus penalties and interest. The IRS targets SCorps with disproportionate salarytodistribution ratios, particularly singleshareholder companies where the owner performs significant services.