

E X E R C I S E
WH-347

The following exercise relates to the review of certified payroll records. As you know, certified payroll records are required to be submitted by contractors on a weekly basis on all contracts subject to the Davis-Bacon labor standards provisions. Below is a portion of a wage determination applicable to this example.

Take a few moments and identify areas on the attached certified payroll record that you believe may indicate potential compliance problems. After you have finished, be prepared to discuss what actions you would take to further investigate the potential problems that you have identified.

	Rates	Fringes
Bricklayers	\$12.00	\$5.46
Carpenters	\$13.35	\$4.63
Laborers (Unskilled)	\$10.65	\$3.65
Sheet Metal Workers	\$15.24	\$3.778

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses in 29 CFR 5.5 (a)(1)(ii).

PAYROLL



(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rev. Dec. 2008

NAME OF CONTRACTOR OR SUBCONTRACTOR
Hale N. Hardee Construction Co., Inc.

ADDRESS

1 Easy Street, New York, NY

OMB No.: 1215-0149
Expires: 12/31/2011

PAYROLL NO. **20** FOR WEEK ENDING **October 17, 2009** PROJECT AND LOCATION **1st at A Avenue** PROJECT OR CONTRACT NO. **6 - Story Office**

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF HOURS EXEMPTED	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				S	M	T	W	T	F	S				FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
				6	7	8	9	10	11	12									
Anderson, Joseph		Carpenter	O	1	1	1	1	1		5	35.96	899.00	67.43	179.80	17.98		265.21	633.79	
			S	8	8	8	8	8		40	17.98	899.00							
Bedwell, Thomas		Carpenter	O	1	1	1	1	1		5	20.03	819.35	61.45	163.87	16.39		341.71	477.64	
			S	8	8	8	8	8		40	17.98	819.35							
Larson, Todd		Carpenter	O	1	1	1	1	1		5	20.03	634.15	47.56	126.83	12.69		187.08	447.07	
			S	8	8	8	8	8		40	13.35	634.15							
O'Brian, Tom		Apprentice Carpenter	O									505.60	37.92	101.12	10.11		149.15	356.45	
			S	8	8	8	8	8		40	12.64	505.60							
Roberts, Gordon		Apprentice Carpenter	O									505.60	37.92	101.12	10.11		149.15	356.45	
			S	8	8	8	8	8		40	12.64	505.60							
Snyder, Hammond		Trainee Carpenter	O									505.60	37.92	101.12	10.11		149.15	356.45	
			S	8	8	8	8	8		40	12.64	505.60							
Clements, Paul E.		Bricklayer	O									541.50	40.61	108.30	10.83	Repay Loan to Bank \$100	259.24	282.29	
			S	6	6	6	6	7		31	17.46	541.50							
Cunningham, Christopher		Bricklayer	O									568.10	42.60	113.60	11.36		210.16	357.54	
			S	6	6 1/2	7	7	6		32 1/2	17.46	568.10							

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

(over)

Date **October 17, 2009**

I, **Hale N. Hardee** **President**
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

Hale N. Hardee Construction Co., Inc.

(Contractor or Subcontractor) on the

6 - Story Office Building

(Building or Work); that during the payroll period commencing on the

11 day of **October 2009**, and ending the **17** day of **October 2009**,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

Hale N. Hardee Construction Co., Inc.

(Contractor or Subcontractor) from the full

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 867; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
Larson, Todd	\$4.63/HR paid to a fringe benefit plan

REMARKS:

NAME AND TITLE Hale N. Hardee, President	SIGNATURE <i>Hale N. Hardee</i>
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.	

E X E R C I S E

Answer Sheet

The Certified Payroll records should be checked for the following:

- 1) The rate of pay for each classification should be checked against the Basic Hourly Rate and Fringe Benefits for the corresponding classes on the WD.

Example: Mascola's rate is less than that on the WD.

- 2) The contractor should provide evidence of an approved apprenticeship and trainee program. Individual registration should be verified. The ratios and levels of progression should be confirmed.
 - a. If, for example, the ratio of journeymen to apprentices is 2:1, then the contractor must pay one apprentice the full journeyman rate. (The first apprentice on the job is the bona fide apprentice.)
 - b. Bootstrapping is not allowed. For example, if the trainee is not allowed and must be elevated to the full journeyman rate, it does not mean that the firm can have two apprentices.
 - c. The apprenticeship program should be reviewed for the fringe benefit requirements. In this case, the apprentices have been paid 60% of the journeyman rate plus the full amount of the fringe benefits.

- 3) There is a "helper" listed on the certified payroll, but there are no helpers listed on the WD. Either the classification must be conformed or the employee must be paid the rate for the classification of work he is performing (journeyman sheet metal worker or laborer).

- 4) Arnold Peterson's exact classification should be confirmed by interviews. The firm's method of paying the employee $\frac{1}{2}$ his hours as a laborer and $\frac{1}{2}$ as a plumber may be a method used to pay Peterson less than the full plumber's rate.

- 5) The bricklayers should be carefully interviewed to determine whether the certified payroll records have been falsified to show compliance. The daily hours recorded for bricklayers are less than the hours worked by the other employees; it is possible that Clements and Cunningham were paid on a piece rate basis. Also note that the gross earnings for these employees are rounded off (hours times the hourly rate shows an amount different than that on the payroll).

- 6) Unskilled laborers are listed as working only $\frac{1}{2}$ the hours of the other employees. This could be an indication that the laborers are being paid only $\frac{1}{2}$ the applicable WD rate.

- 7) Thomas Bedwell is due an additional \$100 as a result of a payroll error in adding the individual payroll deductions. Numerous errors of this nature could be an indication of payroll falsification.

- 8) The repayment of a bank loan for Clements should be verified to make certain it was authorized by Clements or ordered by a court.

9) The overtime rates should be carefully checked.

- a. In the case of Anderson, the firm is showing that it pays double time wages for the overtime hours (5 hours x \$35.96). It may mean that the contractor is merely reducing the overtime hours by $\frac{1}{2}$ in order to simulate CWHSSA compliance. The employee should be interviewed to determine compliance.
- b. For Bedwell and Larson, the contractor is showing an overtime rate of \$20.05 ($1\frac{1}{2}$ x \$13.35). If the contractor is not making contributions to a fringe benefit plan for all hours worked, then the overtime is not correctly computed.

For example: The contractor pays Sedwell the fringe benefit amount in cash. The correct overtime rate is \$24.66 ($1\frac{1}{2}$ x \$13.35 + \$4.63 in fringe benefits).

However, for Larson, the firm makes contributions to a fringe benefit plan for ALL hours worked in the amount of \$4.63. The overtime rate shown on the CPR in this case is correct.

- 10) The contractor should be asked to provide evidence that fringe benefit contributions are being made on behalf of Larson at the rate for which credit is claimed. The plan should be checked to determine if it is a bona fide third party FB plan.