

EXHIBIT 5

Payroll Falsification Indicators

Certified payroll reports are fairly straightforward records of employees, work classification, hours worked, rate(s) of pay, gross earnings, deductions and net wages paid. The information required for certified payrolls involves no more than the information any responsible employer must maintain concerning its basic business operations.

Davis-Bacon compliance basically involves three factors: 1. The type (classification) of work performed; 2. The number of hours worked; and 3. The prevailing wage rate for that classification. A fourth factor involves the actual payment of wages by check and/or cash. In order to conceal underpayments, a willfully violating employer must falsify the payroll report as it pertains to one or more of these factors. There are four falsification indicators that are easy to detect on certified payrolls in a “spot check”:

- 1. Ratio of laborers to mechanics.** Look for excessive use of laborers over mechanics. Generally there should be no more than one laborer for each mechanic (1:1) except for landscaping, or cement or other paving work.
Indicative of: Misclassification. Workers are performing higher-paying mechanic duties but are misclassified and paid at lower Laborer wage rates.
- 2. Too few or irregular hours.** Look for employees that never work 40 hours per week; for crews that work in a scattered fashion; for hours reported in tenths or hundredths (e.g., 13.6 hours). Most people work a 40-hour workweek. Most crews work together on a job site. Most employers and employees track work hours by whole, half and quarter hours not by tenths or hundredths.
Indicative of: Reduction of Hours. Actual hours worked are reduced to “fit” in a fabricated calculation: (Reduced hours) x (Rate required on wage decision) = Substandard wages actually paid based upon a lower rate of pay.
- 3. Discrepancies in wage computations.** Look for gross wages paid in “round” numbers (e.g., \$700) that don’t agree with the product of reported hours multiplied by the rate of pay. For example, a payroll showing 20 hours times \$33.68 (the rate on the wage decision) and gross wages of \$700. (20 hours times \$33.68 equals \$676.60 *not* \$700.)
Indicative of: Falsification of rate of pay such as piece work or lower (but more even) rate. For example, the wage decision requires \$33.68/hour for the type of work performed but the employer chooses to pay \$17.50 per hour. (40 hours times \$17.50 equals \$700.) The employer can’t make the fabricated calculation “fit” precisely because the Davis-Bacon wage rate is not an even figure.
- 4. Extraordinary deductions.** Look for unidentified or disproportionate deductions, for example, an employee whose savings account deduction is nearly as much or more than the weekly take-home pay.
Indicative of: Kickbacks or basic underpayment. The employer takes his “cut” from the back end of the computation (after gross earnings) rather than the front end (falsifying the classification, hours or wage rate).

If these indicators appear on payrolls you will want to take preliminary steps to test whether the payrolls are accurate or false. For example, you can target on-site interviews or send questionnaires to the affected workers to get their perspective and compare the interview and/or questionnaire statements to the payroll reports. If an investigation is warranted, you will want to learn what information on the payrolls is false and what is true. (Employers rarely falsify *all* of the information on payrolls.) Eventually, you will need to compute the amounts of backwages that are due and knowing what information on the payroll is true can be critical to making these computations.

