



Labor Relations Bulletin

FROM THE NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

March 20, 2024

Reminder: NEBF Participation Agreements

Recently, the National Electrical Benefit Fund (NEBF) and National Electrical Benefit Board (NEBB) Trustees met and discussed numerous industry matters related to the national funds. An item that the NEBF administrators have highlighted as an issue for numerous employers remains Participation Agreements.

During audits, the NEBF has found signatory employers will have employees that were formerly performing covered work now employed in non-bargaining, non-covered work positions but still being reported and paid on as a covered employee.

The NEBF is unable to receive funds on these individual(s) without the signatory contractor having a signed All participation agreement or Alumni participation agreement. An overview of this requirement is attached to this bulletin.

NECA Chapters and signatory employers can find the latest [NEBF policies here](#).

NECA Chapters and signatory employers can sign up for the latest NEBF and NEAP Liaison Alerts via email to LiaisonServices@nebf.com.

All recent NEBF Liaison Alerts can be found [here](#). National Electrical Annuity Plan (NEAP) Liaison Alerts can be found [here](#).

This material is for informational purposes only. The material is general and is not intended to be legal advice. It should not be relied upon or used without consulting a lawyer to consider your specific circumstances, possible changes to applicable laws, applicable CBAs, prime contracts, subcontracts, rules and regulations and other legal issues. Receipt of this material does not establish an attorney-client relationship.



LIAISON ALERT

FEBRUARY 2020

RULES FOR CONTRIBUTING ON WORKING OWNERS

The Restated Employees Benefit Agreement for the National Electrical Benefit Fund (NEBF) requires covered employers to contribute on every employee working under the Collective Bargaining Agreement. Contributions on behalf of employees outside of the bargaining unit are only permitted if the employer has a Participation Agreement with the NEBF.

In April 2007, the NEBF clarified its rules around coverage of working owners. The NEBF only accepts contributions on behalf of owners or businesses if there is an *explicit provision* in the Collective Bargaining Agreement permitting the owner to perform bargaining unit work or if there is a Participation Agreement between the employer and the NEBF. The Collective Bargaining Agreement provision recognizing the right of an owner to perform bargaining unit work must be contained in the body of the agreement or in an attached amendment to the agreement. A copy of the Collective Bargaining Agreement and employer's letter of assent (if applicable), must be provided to the NEBF before contributions will be accepted. The NEBF will also recognize organizing agreement provisions that specify the right of the owner to perform collective bargaining work. If that right, however, is limited in time, the NEBF will only accept contributions for the length of time specified in the agreement.

If an owner performs bargaining unit work under an explicit working owner provision in a Collective Bargaining Agreement, contributions on behalf of that working owner are owed to the NEBF based upon the greater of (a) 3% of the owner's gross pay or (b) 3% of the prevailing journeyman wage rate multiplied by the normal straight time hours provided for in the Collective Bargaining Agreement. See below for the difference in how contributions are made under a Collective Bargaining Agreement and under a Participation Agreement. More information about Participation Agreements can be found on the reverse of this liaison alert.

Contributions on Behalf of Working Owners

Under a collective bargaining agreement

Based on the **greater of** ...

- 3% of the owner's gross pay, or
- 3% of the prevailing journeymen wage rate multiplied by the normal straight time hours.

Under a participation agreement

Based on the **lesser of** ...

- 3% of the owner's gross pay, or
- 3% of the owner's "capped" wages.

When a working owner in a Participation Agreement earns more than a full-time journeyman in any reporting period, the gross earnings on which the NEBF contribution is made for that reporting period will be "capped". The monthly Reportable Earnings Cap is calculated by using the journeyman's wage rate (JWR), as outlined in the appropriate collective bargaining agreement (CBA), multiplied by the hours specified in the CBA. Please note that each time the JWR changes, the Reportable Earnings Cap will also change. To determine the "Cap" Wage for your area, you can use the Wage Cap Calculator available on the NEBF website or manually calculate using the following formula:

$$\text{JWR x Hours in the CBA x 52 weeks} \div 12 \text{ months}$$

PARTICIPATION AGREEMENTS

A working owner can also be covered under a Participation Agreement. A NEBF Participation Agreement allows a contributing employer the ability to make NEBF contributions on behalf of its non-bargaining unit employees. A non-bargaining unit employee is not part of the bargaining unit or is not performing work that is covered by the Collective Bargaining Agreement which contains the NEBF Standard Contract Language.

There are two types of Participation Agreements:

All

An “All” Agreement covers each and every employee not covered by the collective bargaining agreement — this includes all full-time and part-time employees.

Alumni

An “Alumni” Agreement covers each and every employee who has earned at least one service credit under an IBEW collective bargaining agreement.

To start contributing to the NEBF on behalf of non-bargaining unit employees, an employer should download a Participation Agreement and Reporting Procedures from the NEBF website or call Employer Services at 301-556-4300. NEBF will require that the employer sign two copies of the Participation Agreement and provide a list of the employees who will be covered under the agreement (Non-Bargaining Unit List). Once received, the Fund Office will sign one of the copies and return it to the employer for their records. Employers should ensure that the signed Participation Agreement has been received from the NEBF Fund Office before any non-bargaining employees are reported or contributed on.

REPORTING PROCEDURES FOR NON-BARGAINING UNIT EMPLOYEES

1. In order to contribute on behalf of non-bargaining unit employees, Covered Employers must enter into an NEBF Participation Agreement. NEBF must approve and co-sign the agreement.
2. All applicable employees, including each and every temporary and part-time employee, must be reported in accordance with the option selected on the NEBF Participation Agreement.
3. The employer must use the applicable classification codes in accordance with the type of Agreement signed when reporting non-bargaining unit employees. The class codes are as follows:

Code	Classification
26	All Non-Bargaining Unit Employees
27	Alumni Employees

4. **Actual hours** for the reporting period must be reported for each non-bargaining unit employee, including holiday, sick, and vacation hours.
5. **Actual or capped gross earnings** for the reporting period must be reported for each non-bargaining unit employee, including holiday, sick, and vacation pay.

When an individual earns more than a full-time journeyman in any reporting period, the gross earnings on which the NEBF contribution is made for that reporting period will be “capped”. The monthly Reportable Earnings Cap is calculated by using the journeyman’s wage rate (JWR), as outlined in the appropriate collective bargaining agreement (CBA), multiplied by the hours specified in the CBA. Please note that each time the JWR changes, the Reportable Earnings Cap will also change. To determine the “Cap” Wage for your area, you can use the Wage Cap Calculator available on our website or manually calculate using the following formula:

$$\text{JWR} \times \text{Hours in the CBA} \times 52 \text{ weeks} \div 12 \text{ months}$$

NEBF Participation Agreement forms, Reporting Procedures, and standard contract language are available on the NEBF website. If you have any questions or if you need more information, please contact the NEBF Fund Office via email, by using the Contact Us form on our website, or by calling Employer Services at 301-556-4300.

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