



Highlights of [GAO-07-859T](#), a testimony before the Subcommittee on Income Security and Family Support and Subcommittee on Select Revenue Measures, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

Some workers do not receive worker protections to which they are entitled because employers misclassify them as independent contractors when they should be classified as employees. Key worker protections include minimum hourly wage and overtime pay and access to unemployment insurance. The Department of Labor (DOL) enforces several labor laws to protect workers, including the Fair Labor Standards Act (FLSA). Misclassification can also have a negative impact on tax collection for Social Security, unemployment insurance, and other programs. This testimony draws upon a previous GAO report and focuses specifically on (1) the number and characteristics of independent contractors, (2) the workforce protections and benefits provided to employees that typically are not available to independent contractors, and (3) the actions that DOL takes to detect and address employee misclassification.

What GAO Recommends

GAO is not making new recommendations at this time. The Department of Labor generally agreed with the recommendations in the GAO report, which focused on improvements to a worksite poster reaching out to workers and DOL's efforts to forward misclassification cases to other agencies.

www.gao.gov/cgi-bin/getrpt?GAO-07-859T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Sigurd Nilsen at (202) 512-7215 or nilsens@gao.gov.

EMPLOYEE MISCLASSIFICATION

Improved Outreach Could Help Ensure Proper Worker Classification

What GAO Found

The number of independent contractors in the total employed workforce grew from 6.7 percent in 1995 to 7.4 percent in 2005. In 2005, there were 10.3 million independent contractors. Independent contractors, in 2005, had an average age of 46 years, were almost twice as likely to be male than female, and almost two-thirds had some college or higher education. Independent contractors were employed in a wide range of industries (such as professional services and construction) and occupations (including sales and management).

When employees are misclassified as independent contractors, they may be excluded from coverage under key laws designed to protect workers and may not have access to employer-provided health insurance coverage and pension plans. Moreover, misclassification of employees can affect the administration of many federal and state programs, such as payment of taxes and payments into state workers' compensation and unemployment insurance programs. Notably, the tests used to determine whether a worker is an independent contractor or an employee are complex, subjective, and differ from law to law.

DOL detects and addresses misclassification of employees as independent contractors by investigating complaints, but does not always forward misclassification cases to other federal and state agencies. DOL investigators detect and address employee misclassification primarily when responding to FLSA minimum wage and overtime pay complaints. DOL procedures require officials to share information with other federal and state agencies whenever investigators find possible violations of other laws. However, the district offices GAO contacted vary in how often they forward misclassification as a possible violation of other laws. As one form of outreach to workers, DOL has an FLSA workplace poster that explains the act, but it is missing key contact information.