

The Vermont Legislative Research Service

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¹ categorized contingent workers as

follows:

- x Agency Temporary Workers (Temps): Individuals are employed by temporary employment agencies. These agencies assign the work to work for other companies known as “client firms.”
- x Contract Company Workers : Individuals who work for firms and provide services to other firms under a contract, such as security or landscaping
- x Day Laborers : Individuals who find work by waiting at a site (sometimes a hiring site) where an employer comes and picks people up to work for the day, for example, low-skilled construction workers.
- x Direct -Hire Temps : Individuals who are hired directly by a firm to work for a temporary time period, such as seasonal employees

¹ Government Accountability Office (GAO), "Employment Arrangements: Improved Outreach Could Help Insure Proper Worker Classification" July 1, 2006, accessed February 10th, 2015, <http://www.gao.gov/new.items/d06656.pdf>, p. 6.

- x Independent contractors : Individuals who hire themselves out to customers to provide a product or service Included in this category are realtors and child care providers.
- x On-Call Workers : Individuals who work on an asneeded basis and are called in to work, such assubstitute teachers
- x Self-Employed Workers : Self-employed like independent contractors, but do not work under a contract, for example restaurant owners
- x Standard Part- Time workers : Individuals, who work less than 35 hours a week for the same employerand can either,earn wages or salaries

The estimated numbers of workers in each category can be found in Table 1.

	813
	1,217
	2,736
	2,972
	6,125
	10,342
	18,360
	42,567
	96,385
	138,952

Table 1: Contingent Workers and the Total Employed Work Force, February 2005

Source:GAO,"Employment Arrangements: Improved Outreach Could Help Insure Proper Worker Classification."

A 2014 MBO Partners² study categorized a contingent worker as “anyone 21 years or older who self-describes his/her job status as one or more of the following: an independent consultant/contractor, self-employed, a freelance worker, a temporary worker, a fixed term contract worker, an on-call worker, or a small business owner with fewer than 4 employees.” The MBO Partners report further shows an estimated 17.9 million “solopreneurs,” people working more than 15 hours a week outside of traditional employment, and 12.1 million “sidegiggers,” people who do independent work, but for less than 15 hours a week³.

In a research survey conducted by Edelman Berland on behalf of the Freelancers Union, an independent trade union for those workers whom identify as freelancers, the term freelancer was defined as “[i]ndividuals who have engaged in supplemental temporary, or project-or-contract-based work in the past 12 months.” In the survey, Edelman Berland broke down the different kinds of freelancers as such:

- x Independent Contractors (40% of the independent workforce/ 21.1 million) x x (us if(s

employed. The second is “workers including the self-employed and independent contractors who expect their employment to last for an additional year or less and who had worked at their jobs (or been selfemployed) for 1 year or less,” this estimate yields 2.3% of the working population. The third estimate is “workers who do not expect their jobs to last,” which is the broadest definition used by the BLS and yields an estimate of 4.1% of the total work force population. The BLS also includes several forms of alternative employment and their percentages of the total employed, these categories are as following:

- x Independent Contractors : 7.4%
- x On-Call Workers : 1.8%
- x Temporary Help Agency Workers : 0.9%
- x Workers Provided by Contract Firms : 0.6%⁶

Trends in Self-Employment

Self-employment is a major subsection of all the contingent worker classifications. Self-employment is the only nonemployee employer relation measured by the monthly Bureau of Labor Statistics report. Figure 1 shows the number selfemployed workers as a percentage of total employment over time. The numbers used to make the graph are from the current population survey conducted by the Census Bureau. The question used to determine if someone is selfemployed was “Last week were you employed by government, by a private company, a nonprofit organization, or were you selfemployed?”

Figure 2: Self Employment in the US

Source: Fox, Justin, "Where Are All the Self-Employed Workers?" Harvard Business Review, February 7, 2014, accessed February 1, 2015, <https://hbr.org/2014/02/where-are-all-the-self-employed-workers/>.

⁶ Bureau of Labor Statistics, "Contingent and Alternative Employment Arrangements," February 1, 2005, accessed February 10, 2015, <http://www.bls.gov/news.release/pdf/conemp.pdf>

According to a study done by economicmodeling.com, the Vermont selfemployment rate is the highest in the country, at just over 10 percent. Nationally the selfemployment rate has been falling slowly, since the Great Recession. This number only includes people who reported the majority of their income came from their self-employment and did not include people that are selfemployed for only a part of their income.

In the independent Edelman Berland survey, commissioned by the Freelancers Union, it is estimated that 53 million people in today's economy are engaged in freelance work, 34% of the workforce. This survey of 5,052 adults in the US also shows that of the people who identify as freelancers, 32% reported an increase in demand over the past year, while 15% reported a decrease.⁸

According to an ACS 2013 Five Year Estimate, a service run by the Census Bureau, 45,994 people over the age of 16 identify as selfemployed (incorporated and unincorporated) in Vermont. This makes up 14% of the total employed population of Vermont; a survey of 324,350 people. The American Community Survey 5 year estimates are run by the Census Bureau and consist of 60 months of consecutive data. This figure is higher than what was noted by economicmodeling.com.⁹

Worker Misclassification

According to the National Conference of State Legislatures

[e]mployee misclassification is the practice of labeling workers as independent contractors, rather than employees. The practice allows employers to avoid paying unemployment and other taxes on workers, and from covering them on workers compensation and unemployment insurance.¹⁰

The Vermont Department of labor classifies most workers as employees if they are hired by someone to complete a task according to workers compensation insurance law. The Department goes on to describe the classification of independent contractors as "someone

⁷ Wright, Joshua, "America's SelfEmployment Landscape," Economicmodeling.com, February 6, 2014, acc caw(u)4

you hire who performs a job that is not similar or connected to your business, and whose work you have no direction or control over.”

Vermont uses a twøpart test to determine if a worker should be classified as an employee or an independent contractor. First, there is a rightto-control test that uses a series of questions to determine the extent to which the employer controls the worker. The Internal Revenue Service has a similar rightto-control test with twenty factors.¹¹ If the right-to-control test proves inconclusive to 1qtoe -o -

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segment of the population are health insurance, retirement planning, and worker misclassification.

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