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The Policy Implications of Nonstandard Work Arrangements

A substantial share of the workforce is in various types of temporary, contract, and part-time work arrangements, and evidence suggests that the share in at least some of these arrangements is growing. This growth has raised concern because jobs in so-called “nonstandard” arrangements often provide lower wages, fewer benefits, and less stability than comparable standard full-time jobs. In this article, I begin by briefly reviewing evidence on the number of workers in nonstandard staffing arrangements and trends in these arrangements. I then focus on some of the policy issues raised by these arrangements and trends.

The Number of Workers in Nonstandard Arrangements

Recent supplements to the February Current Population Survey (CPS) provide the first count of the number of workers in a wide variety of nonstandard staffing arrangements. Table 1 presents the distribution of the workforce by staffing arrangement in 1997.

To avoid double counting, the categories of employment in Table 1 were constructed to be mutually exclusive. However, some overlap among categories occurs particularly with direct-hire temporaries; a number of on-call workers and contract company workers are hired on a short-term basis. Taking these workers together, 3.2 percent of the workers are direct-hire temporaries.

Independent contractors form the largest category of nonstandard workers. Collectively, agency temporaries, on-call workers, independent contractors, contract company workers, and direct-hire temporaries make up 12.5 percent of the workforce.¹ Another 13.6 percent are regular part-time employees.

Trends in Nonstandard Work Arrangements

Information on trends in nonstandard arrangements is sparse. According to data from Current Employment Statistics (CES), employment in the help supply services industry, which is composed primarily of temporary help agency workers, grew dramatically in the 1980s and 1990s. From 1982 to 1998, the share of nonfarm payroll employment in help supply services increased from 0.5 percent to 2.3 percent. The overall share of the workforce in part-time jobs increased only slightly in the 1980s and has been stagnant in the 1990s.

Although time-series data on employment in other nonstandard work arrangements do not exist, indirect evidence suggests that the share in these arrangements is growing. Some researchers have cited the rapid growth in business services as evidence, on the grounds that many contract company workers are classified in this sector. Moreover, several employer surveys provide qualitative evidence that other types of nonstandard work arrangements have grown significantly in recent years (Abraham 1990; The Conference Board 1995; Abraham and Taylor 1996; Houseman 1997).

Table 1. Distribution of Employment by Work Arrangement, 1997

Arrangement	Definition	As percentage of workforce
Agency temporaries	Paid by a temporary-help agency	1.0
On-call or day laborers	Indicated they work as an on-call or day laborer	1.6
Independent contractors	Identified themselves as an independent contractor, independent consultant, or freelancer	6.7
Contract company workers	Work for company that contracts out their services, work at the client's site, and primarily work for one client	0.6
Other direct-hire temporaries	Job is temporary or they cannot stay as long as they wish for economic reasons and are not classified in any of above categories	2.6
Other self-employed	Self-employed workers who are not independent contractors	5.1
Regular part-time employees	Work fewer than 35 hours per week and are not in another nonstandard work arrangement	13.6
Regular full-time employees	Work 35 or more hours per week and are not in a nonstandard work arrangement	68.8

Source: Author's tabulations from the February 1997 CPS Supplement on Contingent and Alternative Work Arrangements.

Policy Issues

Recent studies, many of which are based on the Contingent and Alternative Work Arrangement Supplements to the CPS, have provided much new evidence on the implications of these staffing arrangements for workers. At the same time, new employer surveys have provided information on why businesses use—and have been increasing their use of—nonstandard work arrangements. Together, this information helps clarify important policy issues.²

Job security

The popular impression that workers in nonstandard arrangements have less job security is largely supported by recent evidence. Although independent contractors do not have less job security, on average, than regular full-time workers, those who are agency temporaries, on-call workers, direct-hire temporaries, contract company workers, and regular part-time employees are more likely to switch employers, become unemployed, or involuntarily drop out of the labor force.

These findings are consistent with evidence from employer surveys showing that firms traditionally have used all types of nonstandard work arrangements to accommodate fluctuations in their workload or to fill in for absences or vacancies in their regular staff. Some evidence also suggests that firms are increasing their use of temporary help and other nonstandard arrangements in order to increase their workforce flexibility. Arguably, firms have come under greater competitive pressure to reduce labor costs and, in response, increasingly have adopted a "just-in-time" workforce staffing strategy. Instead of overstaffing to accommodate employee absences or fluctuations in product demand, firms use various nonstandard arrangements to meet changes in their day-to-day staffing needs.

The low attachment between workers and firms implicit in many of these arrangements presents several problems for workers. For instance, many such workers are ineligible to receive unemployment insurance because they do not meet the minimum hours or earnings threshold with a particular employer within a base period. Some have proposed that states relax the eligibility requirements to make unemployment insurance more accessible to those in temporary assignments or with low hours.

Similarly, under current federal pension regulations, workers who frequently change jobs have difficulty qualifying for employer retirement plans. There is widespread support in Congress and the administration for increasing pension portability, which would likely help many in nonstandard work arrangements.

A related concern is that without strong attachments to employers, workers in nonstandard arrangements will not receive the training they need to keep abreast of technological developments and to secure good jobs in the future. There has been little research on this issue; we need to identify any such shortfalls in training and also private and public strategies for addressing the problem.

Benefits

A lack of benefits is a problem for workers in all nonstandard arrangements. These workers are much less likely than regular full-time workers to have health insurance or a retirement plan through their employer or from any other source even after controlling for worker and job characteristics.

In fact, evidence from employer surveys suggests that savings on benefit costs is often one reason employers use nonstandard work arrangements. Although no law requires employers to offer workers benefits like health insurance and retirement plans, if employers choose to offer these benefits, the Employee Retirement Income Security Act of 1974 (ERISA) and nondiscrimination clauses in the IRS tax code require that employers provide these benefits to a broad group of its workers. However, employers may circumvent benefits regulations by hiring on-call, temporary, or low-hour part-time workers, who often are not covered under the laws. In addition, restrictions on benefit plans do not apply to independent contractors, who are self-employed, or to agency temporaries and contract company workers, who are deemed another company's employees.

These benefits issues are receiving considerable attention in Congress and are currently being studied by a task force within the Department of Labor. Several types of policy strategies to increase benefits among workers in nonstandard arrangements have been discussed. One is to expand current benefits regulations to cover more workers in temporary and part-time positions. Legislation proposed in Massachusetts would go so far as to bar employers from discriminating on the basis of employment arrangements when determining wages and benefits. Any adverse effects on employment from such expanded regulation would need to be studied.

A second approach is to provide employers with positive incentives to offer benefits to workers in nonstandard arrangements or to eliminate existing barriers to their coverage. Current legislation before Congress that would increase pension portability is an example of such a policy.

A third approach is to increase enforcement of existing laws governing benefits. Allegedly, many employers misclassify workers into nonstandard arrangements to avoid providing these workers benefits or to evade other labor standards and employment taxes. The problem of misclassifying employees as independent contractors is particularly serious, although the IRS has tried to crack down on this practice in recent years. Increasing the penalties to employers and remedies to employees for such misclassification would also encourage employers to comply with the laws.

Labor standards

Like laws regulating benefits, other employment, labor, and related tax laws often set hours or earnings thresholds that exclude many part-time, on-call, and temporary workers from coverage. Such thresholds are usually defended on the grounds that the excluded workers demonstrate insufficient attachment to the workforce or that without such exclusions the laws would impose undue costs on businesses. However, the widespread and growing use of workers in nonstandard arrangements raises questions about whether current thresholds are too high and whether protection of these workers is adequate.

Moreover, coverage of workers in nonstandard arrangements is simply unclear in many instances. For example, because independent contractors are not employees, they are not covered by any employment or labor laws. However, whether an individual may be legally classified as an independent contractor is often unclear, resulting in many disputes over status that are resolved on a case-by-case basis by the courts. Adding to the confusion, the criteria used to classify individuals as independent contractors may vary from statute to statute; an individual may be an independent contractor under certain statutes but an employee under others.

Similar issues arise when firms use workers from staffing agencies. Although these workers are usually regarded as employees of the staffing company, in some cases the client company may be considered a "joint employer" and thus have obligations to workers under certain laws.

Concern that some employers use independent contractors or staffing firms to avoid benefits and other labor standards has prompted Congress, the IRS, and some states to clarify laws and curb such abuse in a few circumstances. However, many issues related to who is an employee and who is the employer—which get to the core question of which workers are covered by these laws and which employers are liable for their coverage—remain unresolved and are still being decided by the courts.

In its 1996 report, the Commission on the Future of Worker-Management Relations recommended

simplifying and standardizing the definition of "employee" and "employer" in employment, labor, and tax law to reduce confusion and to eliminate perverse incentives that encourage employers to use nonstandard work arrangements to circumvent the laws. Congress and the administration have yet to act on this recommendation.

Should Government Promote Temporary-Help Employment?

Although nonstandard work arrangements are often associated with low wages, few benefits, or little job security, it would be misleading to suggest that these arrangements are always, or even usually, bad for workers. Many in such arrangements, including the overwhelming majority of part-time workers and independent contractors, prefer their arrangement. And while agency temporaries express the least satisfaction with their work arrangement (over two-thirds would prefer a regular job, according to CPS data), employer survey data show that companies often use temporary-help agencies to screen workers for permanent positions. To the extent that this practice results in better job matches, both workers and firms stand to benefit.

Under the presumption that temporary-help agencies may be useful vehicles by which workers can gain job experience and secure permanent employment, some states have begun using temporary-help agencies to place unemployment-insurance and welfare recipients in jobs. Whether using temporary-help agencies to place disadvantaged workers in jobs is desirable depends on whether these workers are more likely to find good, stable jobs by using temporary-help agencies than they are by using alternative services. The research needed to answer this question—which ideally would involve conducting a random-assignment controlled experiment—has not been done.

Conclusion

Temporary, part-time, and contract employment arrangements offer many advantages to firms and workers. However, perhaps because most employment and labor laws were written many years ago, most were designed with the interests of regular full-time workers in mind. Policymakers need to assess whether these laws—including unemployment insurance laws, ERISA, the National Labor Relations Act, and workers' compensation laws—adequately protect the large and growing number in nonstandard work arrangements.

¹The number of workers counted as agency temporaries in the CPS is about half that in the BLS's establishment survey, and it is generally presumed that temporary-help employment is undercounted, at least somewhat, in the CPS. There are no alternative estimates of employment in the other nonstandard work arrangements against which the CPS numbers can be compared.

² I provide an extensive discussion of and citations to this literature in Houseman (1999).

Cited Works

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