U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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November 10, 2022

The Honorable Sherrod Brown
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Mark Warner
United States Senate

Nonstandard and Contracted Work Arrangements: Data from the 2020 Annual Business Survey and Analysis of 2021 10-K Filings

The nature of the workforce is changing and millions of U.S. workers hold nonstandard (temporary, on-call, or part-time) jobs or work in the gig economy.[1] Some studies indicate that employers are increasingly contracting out business functions that were once managed internally, contributing to concerns about contract employees receiving lower pay and reduced access to benefits.[2] Furthermore, investors are increasingly asking public companies to disclose information on environmental, social, and governance factors, including those related to human capital and labor conditions.[3]

Policymakers and other stakeholders have a variety of reasons for wanting to understand the number of workers in nonstandard and contracted arrangements and the reported effects on topics such as workplace safety, wages, and access to benefits. For example, workers in certain nonstandard or contracted arrangements may not qualify for unemployment insurance or have access to company-provided retirement benefits and health insurance.

You asked us to review what available data show about companies' use of nonstandard and certain contracted work arrangements, and the reported effects on topics such as workplace safety, wages, and access to benefits. While comprehensive data on these work arrangements may be limited, this report provides preliminary observations about companies' use of these work arrangements as reported in the following:

[1]GAO, *Contingent Workforce: BLS Is Reassessing Measurement of Nontraditional Workers*, GAO-19-273R (Washington, D.C.: Jan. 29, 2019).

[2]For example, see David Weil, "Understanding the Present and Future of Work in the Fissured Workplace Context," *Russell Sage Foundation Journal of the Social Sciences*, vol. 5, no. 5 (2019): 147-65; National Academies of Sciences, Engineering, and Medicine, *Measuring Alternative Work Arrangements for Research and Policy* (Washington, D.C.: The National Academies Press, 2020); and Katharine G. Abraham and Susan N. Houseman, "Contingent and Alternative Employment: Lessons from the Contingent Worker Supplement, 1995–2017," prepared for the Department of Labor, Chief Evaluation Office (October 2020).

[3]GAO, *Public Companies: Disclosure of Environmental, Social, and Governance Factors and Options to Enhance Them*, GAO-20-530 (Washington, D.C.: July 2, 2020).

- The 2020 Annual Business Survey (ABS) of approximately 300,000 companies, conducted by the U.S. Census Bureau and the National Center for Science and Engineering Statistics within the National Science Foundation.

- Annual reports (2021 Form 10-Ks) submitted to the Securities and Exchange Commission (SEC) by companies listed in the S&P 500.

On October 20, 2022, we briefed members of your staff on the preliminary results of our review. This report formally transmits the briefing slides (see enclosure 1).

As part of our ongoing work, we analyzed ABS survey responses on types of workers (e.g., full-time, part-time, temporary, contractor) by industry sector to obtain information about nonstandard and contracted arrangements.[4] Information reported on various business and owner characteristics in the ABS—including types of workers—is not generalizable to all U.S. companies, partly because Census considers it supplementary to key survey statistics and does not adjust it for nonresponse. Census adjusts key statistics in the ABS (e.g., number of firms, receipts, payroll, and employment) for nonresponse and regards them as generalizable.

We also selected a generalizable random sample of 80 Form 10-K reports for 2021.[5] All estimates based on this sample have a margin of error of plus or minus 10 percentage points at the 95 percent level of confidence. We used a data collection instrument to record information on companies' mention of specific types of nonstandard or contracted work arrangements; mention of human capital or nonstandard or contracted work arrangements in the Risk Factors section of the filing; and mention of topics such as workplace safety, wages, and access to benefits related to these arrangements. We then estimated our findings for all S&P companies filing 10-K reports in 2021. The information we gathered is not a comprehensive inventory of companies' public disclosures on nonstandard and contracted work arrangements and our review does not measure companies' actual practices (including information about workers' pay or access benefits), or provide comprehensive information about them.

The ongoing work on which this report is based is being conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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[4]ABS measures by sector with two-digit 2017 North American Industry Classification System codes. ABS uses the year in which survey data were collected in the survey name rather than the year for which data were collected. Thus, the 2020 ABS covers 2019. Approximately 68 percent of the 300,000 businesses sampled responded to the survey. The Census Bureau considers a response as one in which the business provides at least the number of owners and the number of employees.

[5]Federal securities laws require publicly reporting companies in the United States to disclose information on an ongoing basis. See 15 U.S.C. §§ 78m, 78o(d). Domestic companies must annually submit a report on Form 10-K, which provides an overview of the company's business and financial condition, and includes audited financial statements. A section of the Form 10-K called "Business (Part 1-Item 1) generally requires companies to include a description of their human capital resources, including the number of persons they employ and any human capital measures or objectives on which they focus in managing the business to the extent this information is material to understanding the business.

In summary, we found the following:

A significant share of companies responding to the 2020 ABS reported using nonstandard work arrangements or contracted workers.

Thirty-three percent of respondents reported using "contractors, subcontractors, independent contractors, or outside consultants," and 50 percent reported using part-time workers. The information sector had the highest proportion of companies reporting the use of contracted workers (57 percent) among sectors we examined.[6]

Almost all the 2021 10-Ks from S&P 500 companies discussed using nonstandard work arrangements or contracted workers. More specifically,

- **Human capital**. We estimated that 99 percent of the 10-K reports discussed issues related to companies' employees, workers, or labor in the Risk Factors section (Part 1–Item 1A) where companies include material risks to their business. The topics discussed included retaining skilled labor, increased workforce costs, strikes, and absenteeism resulting from COVID-19.

- **Contracted work arrangements**. We estimated that 89 percent of the reports mentioned use of contractors of any type, including independent contractors or firms. Suppliers contracting with a business to deliver a good or provide material as part of the supply chain process sometimes were referred to as contractors in the 10-Ks.

- **Service contractors**. We estimated that 65 percent of the 10-K reports discussed companies' use of contracting arrangements for services such as IT support, human resources, or maintenance.

- **Risks**. We estimated that approximately 84 percent of the 10-Ks discussed use of contractors in the Risk Factors section. In this context, some companies cited risks related to decreased oversight, poor performance, security breaches, or risks stemming from contract workers performing critical activities (such as IT support). The reports also cited factors that could increase labor costs. For example, one filer stated that if its independent contractors were determined to be direct employees, it would be required to provide employee benefits, workers' compensation, and unemployment benefits. The filer also noted this would increase its exposure under various federal and state tax, labor, employment, and tort laws. A health care company filing also cited increased costs resulting from worker shortages and the need to hire temporary workers and pay wages above standard compensation during the pandemic.

A small percentage of companies' 10-Ks mentioned work conditions and outcomes expressly for nonstandard or contracted workers.

We estimated that 9 percent of the 10-K reports mentioned nonstandard or contracted workers in any discussion about work conditions (such as access to benefits, flexible work

[6]The information sector—as measured by 2017 North American Industry Classification System codes—includes internet publishing and broadcasting and web search portals; telecommunications (e.g., satellite, wireless, wired); data processing, hosting, and related services; motion picture and sound recording industries; radio and television broadcasting; newspaper, periodical, book, and directory publishers; news syndicates; software publishers; and publishing industries.

arrangements, or access to training and professional development activities).[7] Furthermore, we estimated that 15 percent expressly mentioned these workers in any discussion of wages and workforce costs or of health and safety (such as workplace injuries).

Agency Comments

We provided a draft of this report to the Census Bureau and SEC for review and comment. SEC provided technical comments, which we incorporated as appropriate.

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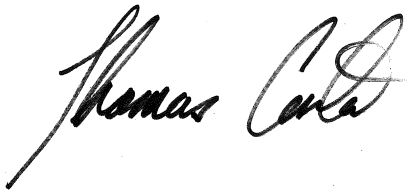
We are sending copies of this report to the Director of the Census Bureau, the Chair of the SEC, relevant congressional committees, and other interested parties. In addition, this report will be available at no charge on GAO's website at http://www.gao.gov.

If you or your staff members have any questions concerning this report, please contact Thomas Costa at (202) 512-4769 or costat@gao.gov, or Michael Clements at (202) 512-8678 or clementsm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Betty Ward-Zukerman (Assistant Director), John Fisher (Assistant Director), Kimberly Reardon (Analyst in Charge), Leah DeWolf, Justin Fisher, Jill Lacey, Marc Molino, Silda Nikaj, James Rebbe, Stephen Robblee, Barbara Roesmann, and Stacy Ann Spence.



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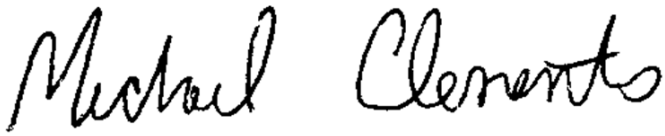

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Enclosure

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[7]The 10-Ks describe topics such as workplace safety, wages, and access to benefits from the employer rather than the worker perspective.

Appendix: Nonstandard and Contracted Work Arrangements

Data from the 2020 Annual Business Survey and Analysis of 2021 10-K Filings October 20, 2022

(see attached accessible PDF of presentation)