

Press Release



The Department of Labor's Proposed Rule on Independent Work

ALLISON EDWARDS | SEPTEMBER 24, 2020

The Department of Labor (DOL) recently announced a proposed rule that would distinguish between employees and independent contractors under the Fair Labor Standards Act (FLSA). This rule is an important step toward clarifying worker classification and would mark the first time the DOL has defined the term “independent contractor,” write AAF’s Labor Market Policy Data Analyst Isabel Soto and Director of Regulatory Policy Dan Bosch. This rule could also result in net savings of \$369 million a year over 10 years and accrue \$3.2 billion in total net savings to the regulatory budget, they find.

An excerpt:

This proposed rule is a move toward standardizing the confusing and inconsistent definitions surrounding employment and independent contracting at both the federal and state levels. The debate surrounding classification is ongoing, particularly with California’s Assembly Bill 5 (AB5) and similar legislation in New York and New Jersey, and the DOL’s proposed rule is setting a marker under the FLSA that clarifies the difference between an employer-employee or a contractor relationship. The economic reality test would be far less restrictive than the ABC test that is part of AB5 and its national counterpart, the PRO Act. With the added clarity that this rule is expected to provide, businesses could be encouraged to hire independent contractors, creating higher demand for that kind of work. Furthermore it preserves and protects the advantages of contracting work, particularly worker autonomy. Self-employed workers generally report high job satisfaction by virtue of the flexibility and independence contracting allows.

[Read the analysis.](#)