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U.S. Department of Labor Issues New Wage and Hour Opinion Letter, Concludes Service Providers for a Virtual Marketplace Company Are Independent Contractors | U.S. Department of Labor

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WASHINGTON, DC – The U.S. Department of Labor announced today that it has issued a new opinion letter that addresses compliance issues related to the Fair Labor Standards Act (FLSA). An opinion letter is an official, written opinion by the Department's Wage and Hour Division (WHD) on how a particular law applies in specific circumstances presented by the individual person or entity that requested the letter.

The opinion letter issued today is:

- [FLSA2019-6](#), addressing whether a service provider for a virtual marketplace company is an employee of the company or an independent contractor under the FLSA.

This letter responds to a request on behalf of a particular virtual marketplace company. It concludes that the workers who provide services to consumers through this specific company's virtual platform are independent contractors, not employees of the

company. To make this determination, WHD applied its longstanding and unchanged six-factor balancing test, derived from Supreme Court precedent:

- The nature and degree of the potential employer's control;
- The permanency of the worker's relationship with the potential employer;
- The amount of the worker's investment in facilities, equipment, or helpers;
- The amount of skill, initiative, judgment, or foresight required for the worker's services;
- The worker's opportunities for profit or loss; and
- The extent of integration of the worker's services into the potential employer's business.

"An important role of the U.S. Department of Labor is to ensure that employers who want to do the right thing have clear compliance assistance," said Keith Sonderling, Acting Administrator of the Department's Wage and Hour Division. "Today, the U.S. Department of Labor offers further insight into the nexus of current labor law and innovations in the job market."

The Department offers a [search function](#) allowing users to search existing opinion letters by keyword, year, topic, and a variety of other filters; and encourages the public [to submit requests for opinion letters](#) to WHD to obtain an opinion or to determine whether existing guidance already addresses their questions. The Division exercises its discretion in determining whether and how it will respond to each request.