Agricultural Personnel Management Program

Project Report

An Analysis of Contract Relationships between Farm Labor Contractors and Farmers in California Agriculture

Dawn Thilmany

Edited by **Carole Frank Nuckton**

Cooperative Extension ■ University of California ■ Division of Agriculture and Natural Resources

Publication APMP004

Dawn Thilmany, Ph.D., former graduate student in the Department of Agricultural Economics, University of California, Davis, is now Assistant Professor, Department of Economics, Utah State University, Logan.

Carole Frank Nuckton, Ph.D. Agricultural Economics, UC Davis, was with the UC Agricultural Issues Center, then was a visiting associate professor at Oregon State University, and is now a writer and editor living in Bend, Oregon.

This report was prepared with support from the University of California Agricultural Personnel Management Program. The author is grateful to the growers and farm labor contractors interviewed in this study for giving freely of their time and for granting permission to be identified by name. Thanks also are due to Philip Martin, Ed Taylor, Steven Blank, and Howard Rosenberg for helpful suggestions and contacts for this study.

The UC Agricultural Personnel Management Program (APMP) strives to promote the use of personnel practices that enhance operational results as well as social regard for California agriculture. It supports research and education from a variety of disciplinary perspectives that address either basic management processes or particular topics of current concern. APMP projects consider labor management in relation to business aims, personal interests, the standards of labor law, and other public policies.

Projects selected for funding by the program show promise of contributing to effective management of labor in agricultural production. Research results presented in reports such as this may provide guidance for decision making by farmers, farm labor contractors, and others who directly manage agricultural labor, as well as by public policy makers and agency administrators.

Agricultural Personnel Management Program
University of California
319 Giannini Hall
Berkeley, CA 94720-3310

Howard R. Rosenberg, Director
Betsey H. Tabraham, Coordinator

Additional copies of the report are available for $1.75 (to cover postage and handling). Make check payable to *UC Regents*, and order by title and number from:

ANR Publications
University of California
6701 San Pablo Avenue
Oakland, CA 94608-1239

Telephone: 510/642-2431
FAX: 510/643-5470

Printed March 1995

An Analysis of Contract Relationships between Farm Labor Contractors and Farmers in California Agriculture

Dawn Thilmany

Edited by **Carole Frank Nuckton**

Publication APMP004

AGRICULTURAL PERSONNEL MANAGEMENT PROGRAM

UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION
DIVISION OF AGRICULTURE AND NATURAL RESOURCES

Contents

Introduction

Early in the history of California farming, the unique challenges that arose with the management of immigrant workers created the need for farm labor intermediaries. Their initial role was to serve as translators to Chinese; later, to Mexican immigrant workers. This "middle management" in the farm labor market, who became known as Farm Labor Contractors (FLCs), gradually expanded services to include recruitment, supervision, and payroll (Vandeman et al., 1991).

Over the past century, FLCs' role evolved alongside the immigration and labor policies as applied to California agriculture. In the late 1980s and early 1990s, their role apparently has been changing again. This report illuminates the nature of this change by presenting findings from interviews with a set of prominent FLCs in California, along with some of their grower-clients.

Although the number of workers employed by FLCs in California has risen steadily over time, there was a pronounced increase in FLC employment in the late 1980s (fig. 1). Other labor-in-

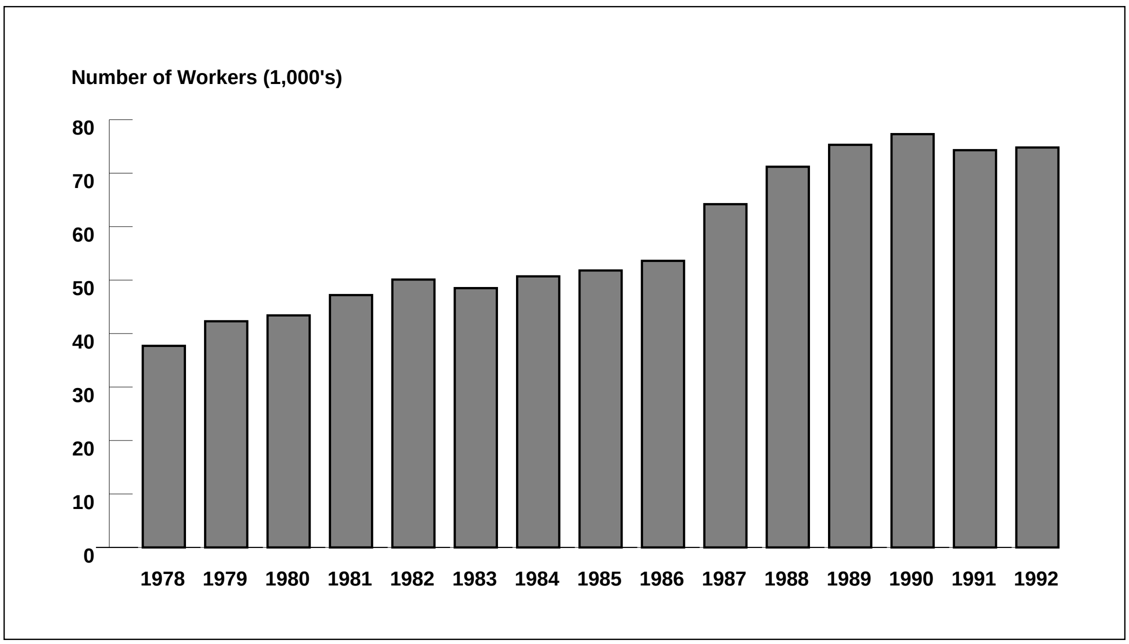

Fig. 1. Annual average employment of workers by farm labor contractors increased markedly in the late 1980s. (Source: Adapted from Agricultural Personnel Management Program, 1992.)

tensive agricultural regions, such as Texas and Florida, have experienced the same phenomenon (Polopolus and Emerson, 1991; Goodwin, 1991). One explanation is the escalating regulatory climate under the 1986 Immigration Reform and Control Act (IRCA) and other labor market policies.

In this report, 11 case studies illustrate how FLCs are adapting business practices to changing farm labor market conditions. Although the focus of the case studies is on the FLCs' operations, the views of 10 of their grower employers are also reported. In describing the advantages of successful working relationships established between farmers and their FLCs, the case studies show why labor intermediaries are an attractive alternative to direct-hire of seasonal workers.

The choice of cases for study was made rather informally, by getting the names of potential participants from Extension agents and the phone book, calling them, and selecting those who seemed most interested in the project. All FLCs interviewed were prominent operators in their region. Because of their prominence, they were also among the most prone to being checked for their compliance with various regulations.

The FLCs' background, business practices, and experiences with workers, farmer-employers, and government agencies are reported. Some who started out in the FLC business by providing services (translation, recruitment, transportation) to workers describe how and why their role has changed. Service provision to workers has become more costly because of increasingly stringent regulations, particularly for housing and transportation. For transportation, the California Highway Patrol must regularly inspect the buses, whose drivers must have physicals and be certified.

At the same time, farmers' needs have changed. They need FLCs to share their increasing regulatory compliance responsibility, potential liability, and associated paperwork. Another important factor is that, at least in some areas, there is considerable competition among FLCs to get grower-clients, while the supply of willing workers is apparently no problem. Thus, while FLCs still deal with both workers and farmers, most are now more oriented toward the needs of farmers and provide largely grower-oriented rather than worker-oriented services. Those who have been in business a number of years (see table 1) have experienced and describe this shift.

There is a widespread perception that illegal practices are being used by FLCs to successfully compete for contracts (Vaupel and Martin, 1987; Vandeman et al., 1991); FLCs are even stereotyped by this cut-rate image. While some FLCs' rates may be considerably lower than others', many farmers are employing responsible FLCs at a somewhat higher cost because of their other advantages. However, as the report shows, this situation differs among regions, crops, and labor market environment. The case studies demonstrate that there is indeed a diverse set of FLCs with varied business practices, that FLCs are not just those who fit the stereotype, and that there are some who operate reputable, successful agribusiness firms. The report objec-

Table 1. Summary Information on Study Participants

Contractor	Region	Crops	Years in business	Number of grower-clients	Number of workers on payroll	Payroll	"Exclusive" commission rate*	"Inclusive" commission rate*	Contract form
A.G. Martinez	Sacramento Valley	tomatoes, sugar beets	31	3	25	<$100,000	6–10%		written
Ayala Contracting	San Joaquin Valley	row crops, tree nuts, citrus, vineyards	2	110	1,800	$4.5 million		34–37%	written
F and F Contracting	San Joaquin Valley	garlic, citrus, and tree crops	12	38	1,300	$5 million		32–33%	written
Fresno Ag Labor Services	San Joaquin Valley	vineyards, tree fruit	20	150	1,000	>$3 million		33–36%	verbal
Green Thumb, Inc.	Salinas Valley	tomatoes, peppers, broccoli	21	20	200	$2.5 million		40%	verbal
JCA Labor Contractors, Inc.	Salinas Valley	artichokes, other vegetables	12	42	3,500	$7 million	11–12%		written or verbal
LDS	Salinas Valley	vineyards, vegetables	12	30	500	$3.5 million	12%		written or verbal
Araujo & Araujo	Imperial Valley	sugar beets, cotton, vegetables	28	50	300	$2 million		35–37%	verbal
El Don	Imperial Valley	sugar beets, vegetables	31	20	1,500	$3.5 million		33–39%	verbal
JV	Imperial Valley	sugar beets, vegetables	1	5	100–150	$250,000		35%	verbal
R.V. Esquer	Imperial Valley	sugar beets, vegetables, cotton	7	25–30	700–800	$3 million		36%	written or verbal

* "Exclusive" commissions are meant to cover FLC business expenses, overhead, and profit, but not payroll taxes and mandatory insurance, which are separately billed. "Inclusive" commissions are meant to include provision for workers' compensation insurance, unemployment insurance, and all other payroll taxes. Workers' compensation rates vary by crop.

tively describes how some FLCs and growers work together to effectively manage agricultural labor needs.

Apparently, farmers are not using FLCs primarily to assure themselves of a supply of workers when needed. Only one of the 11 FLCs mentioned worker supply as a reason their clients used an FLC.

Two major themes run through all or nearly all the case studies:

First, the most prevalent reasons offered by growers for using FLCs were (1) they want to share responsibility for compliance in heightened levels of regulatory oversight (i.e., they want an FLC as a buffer between themselves and the regulators), and (2) they need to delegate an increasingly heavy record-keeping load.

Second, the competitive environment for FLCs differs markedly among regions, crops, and labor market conditions. In some situations, lower-cost FLCs win out, while those offering more service and responsibility to growers lose contracts. In other environments, those with a good reputation for dependable service, quality work, and careful compliance with regulations can successfully outbid for grower contracts.

Summary of the Eleven FLC Operations

The case studies reported in the next section will flesh out these two themes. Table 1 summarizes information about the FLCs who represent four important agricultural valleys in California (Sacramento, San Joaquin, Salinas, and Imperial) and a variety of crops.

The FLCs have various business sizes and "product lines" in response to their clients' differing crops, organizational structures, and needs for hiring a contractor (Rosenberg, 1993) and to the labor market environment in the region of operation. Their years in business range from 1 to 31; the number of grower-clients, from 3 to 110 (average 45); the number of workers hired, from 25 to 3,500; and their payroll, from less than $100,000 to $7 million.

The size and age of the FLC firms are not closely correlated; the two smallest firms represent both the youngest and the oldest one in the group. Participants from some of the older FLC firms mentioned that they had been working for the same growers their entire business career. The size of an FLC's payroll depends, of course, on the number of workers employed and the type of work (crop), but does not directly relate to the number of grower-clients served.

The business relationships between growers and FLCs are still quite informal. Five of the 11 contract only verbally. However, the use of written contracts between growers and FLCs is becoming more prevalent. Three of the 11 FLCs now put all of their agreements with growers in writing, while another three write some of their contracts. It is only recently that more FLCs have begun to use formal, written contracts. Eighty-two percent of the FLCs surveyed in the 1992 Agricultural Personnel Management Program study (published as an Employment Development Department report) responded that they do not put their contracts in writing. The move to more formal contracts has not necessarily been at the growers' request, but rather, often stems from the FLCs' own concerns.

The case studies reflect working relationships as they were in 1993. The FLCs' field supervisors and office managers both provided valuable information; the former on recruitment, training, and safety of workers; the latter, on the required paperwork. (A few of the smaller operations relied on only one person to manage both the workers and the office work.) The questions used are reported in the appendix. To obtain growers' viewpoints, the farm manager who worked most closely with the particular FLCs was questioned.

The 11 FLCs interviewed were asked why they thought growers hired them; they were allowed multiple responses (table 2). Ten referred to their dependability and the good working relationship they had with their grower-clients. Ten also mentioned that they probably were hired to reduce growers' paperwork. Over half of the FLCs reported that growers seemed concerned about their liability for compliance with regulations and their responsibilities under IRCA. Six FLCs also thought that labor management issues were important, i.e., FLCs perform all worker supervision. Four felt they were hired to reduce growers' labor costs, three offered other reasons, but only one mentioned being hired to secure a supply of labor.

Several FLCs mentioned that their costs had increased markedly over the last ten years, especially due to the necessity of dealing with regulation-associated record keeping. In regions with strong competition among FLCs for contracts, increased costs are difficult to cover with higher commissions. In fact, one contractor (Green Thumb) reported that the prevailing commission rate for a crop had dropped because of competing offers. Several other FLCs noted

Table 2. FLC Attribution of Why Growers Hire Them

Reason	Number (%) of FLCs offering this reason
To reduce paperwork	10 (91%)
FLC dependability	10 (91%)
Good working relationship with FLC	10 (91%)
To reduce liability	6 (55%)
To delegate worker supervision	6 (55%)
Concerns about IRCA	6 (55%)
To lower labor costs	4 (36%)
To guarantee labor source	1 (9%)
Past labor disputes	0 (0%)
To handle timing of short-term employment	0 (0%)
Other	3 (27%)

that, despite an increased awareness of the importance of an FLC's reputation, there are many growers who still will not pay a premium for quality work.

Some case study participants surmised that FLCs who offer cheaper rates are desperate for business. Then, the inability of these low-commission FLCs to meet expenses forces them to cut corners somewhere, for example, by paying workers with cash to avoid payroll taxes, hiring child labor, failing to provide proper field sanitation, or not paying the minimum wage. Some interviewees worried that this short-changing of workers could eventually result in a step backward in terms of working conditions.

On the other hand, most of the FLCs interviewed believe that over the past ten years, more opportunities have opened up for them because growers are procuring more of their labor needs from FLCs. Several FLC firms employ well-trained, experienced laborers who are very skilled at the careful harvest and proper packing of specific crops; provision of quality work can make a significant difference in a grower's yield and return. Although only some think that this actually gains them a commission (and wage) premium, they all credit it with their ability to retain grower-clients who otherwise could be paying much lower rates to some other FLC.

Grower Interviews

Most of the ten growers interviewed have been using FLCs to meet at least some share of their labor needs for many years. However, within the past two or three years, three of the growers have switched to hiring all of their labor through FLCs, and all but one grower have increased their use of FLC labor significantly. Growers confirmed most of the reasons for their hiring FLCs as reported in table 2. All are concerned about the increased demands on resources of labor management in recent years, especially the paperwork load, safety programs for workers, and worries that IRCA has raised about their liability for correct compliance. One grower believes that "IRCA's document verification demands, safety regulations … [and other policies governing farm labor] … have all lent to the attractiveness of FLCs."

All growers were quick to mention the good working relationship they had developed with a particular FLC as their main incentive to rely on contract labor. They feel that their FLC has provided reliable service, established reputable business practices, and maintained dependable work crews. Five of the growers had specific problems with other FLCs in the past, leading them to particularly appreciate and be loyal to their current contractor. (In these cases, the FLC received a commission rate above the going rate.) One grower stated that the FLC was "just like a part of the company family." Several of the participating FLCs began their farm labor management careers with growers for whom they still work, partially explaining their reciprocally strong allegiance.

One grower (Smith of Valley Farm Management in the Salinas Valley) mentioned that FLC labor is less expensive than directly hiring workers ($6 / hour versus $7.80 / hour for regular workers). Besides, the extreme seasonality of some operations makes it infeasible to directly employ a workforce on a regular basis. But overall, growers reiterated that their primary reason for relying on FLCs is due to the increasing amounts of regulation. They feel that FLCs specialize in the management functions needed to handle their seasonal labor needs.

Region-Specific Effects

The competitive climate for FLC operations varies by crop and region of operation. Regions differ in the supply of workers and their alternative employment options, while crops differ in the seasonality of demand for labor. There are also regional differences in the working relationships between government employment officials and FLCs.

The largest FLC employers (measured by payroll) operate in the Salinas Valley (table 1). Payrolls there are large primarily because the region produces crops year-round; therefore, the aggregate payroll represents a longer period of time. Also, any workers employed year-round earn more per hour than seasonal laborers.

Relations with government agencies seem best in the Salinas and Imperial valleys. FLCs in both valleys mentioned that the seminars provided by the Employment Development Department (EDD) are valuable to them and that their contacts with government officials assist them in “keeping up with the laws.” In contrast, FLCs in the Central Valley are less connected with government agencies who could assist them with information and advice on various worker, paperwork, and other regulatory problems. As a result, they are less sure about their vulnerability to being investigated. Contractors in the San Joaquin Valley described their relationships with government agencies as adversarial rather than congenial. Since most agencies have both regulatory-enforcement and educational components, those FLCs who feel an adversarial relationship may be missing out on educational service benefits.

One San Joaquin Valley contractor (Fresno Ag Labor Services) believes that FLCs there, especially in the Fresno area, are so competitive they are downward-pricing themselves right out of business. Although he sees this competition as very regionally specific to the San Joaquin Valley, similar comments were expressed by FLCs in other regions. A competitive climate implies that FLCs concerned about maintaining their grower-client base must keep profit margins tight between a reasonable price for services and their increasing costs of doing business.

One grower offered insights about differences in grower attitudes toward FLCs. It is not just that growers of more profitable crops can afford higher commissions to FLCs and better wages to workers, but also that those with high-value crops are more interested in protecting product quality, so they seek an FLC with a good reputation for quality work and sound business practices. But with less valuable crops, farm managers are more likely to hire the FLC with the lowest bid. This situation gives rise to FLCs’ cutting corners in their business practices in order to offer lower prices. Although not documented in this study, some growers hiring cut-rate FLCs have gotten into legal and financial trouble because of poor quality work, failure to pay workers, and other problems.

The Role of Regulation in FLC-Grower Relations

Several FLCs feel their grower-client base has increased largely due to grower fears about complying with all the regulations. Growers with large, established operations know they have a lot to lose and seek protection by using FLCs as a buffer between themselves and the government. However, the issue about who is responsible for compliance with regulations is far from clear. Five of the case participants commented that neither FLCs nor growers are sure with whom the compliance liability lies.

Some growers believe they can transfer liability for farm worker employees and labor law responsibilities entirely to another party, the FLC. One FLC (Fresno Ag Labor Services) reported that a grower-client, who does his own labor supervision, hires him only to complete the payroll and assume liability. This FLC receives the usual commission for managing the accounts without providing any worker recruitment or supervision. The arrangement is only to allow the grower to sidestep potential liability.

Growers who do not perceive themselves as personally liable for labor law abidance could tend to select contractors solely on the basis of their cost. Other growers realize that they themselves may be ultimately liable for compliance with regulations. These growers focus closely on the business practices of their FLC to minimize the potential for fines and penalties. They would tend to hire labor through those FLCs with well-established businesses and good reputations.

In the middle, are two FLC study participants who believe the grower and the FLC are *jointly* liable for compliance with the regulations. Joint liability (or the belief in joint liability) would also encourage growers to hire reputable FLCs and could help deter the questionable business practices of some FLCs.

At any rate, a known effect of increased regulation is the burgeoning paperwork involved — in the office of either the grower or the FLC. All the FLCs studied carry this paperwork responsibility. All but one of them have enlarged their office staff within the past five years to accommodate the increased paperwork associated with regulations. Staff of the 11 FLC businesses range from 2 to 35 employees (some part-time or seasonal). Except for two FLCs who have added a safety technician to meet tighter standards, all increased staffing has been in office management.

IRCA

Among the new legal requirements are those that came in with IRCA. These affected all participants in the farm labor market. Although other factors played important roles in growers' decisions, the uncertainty that came with IRCA, plus associated paperwork, seems to have been the "last straw" leading many growers to turn labor management over to FLCs.

One FLC (F and F) complained that IRCA was implemented without necessary supporting policies. She told how the company used to contact the Immigration and Naturalization Service (INS) or the Border Patrol to verify worker documents, a service that is no longer available. Further, due to worries about discrimination, the EDD has stopped checking the identification of workers it sends to employers. Now IRCA lays the responsibility directly on the employer to check documents when hiring workers, many of whom carry authentic-looking, but fraudulent, papers. FLCs have worked out effective methods of monitoring workers, including computerized employment records with photograph files and Social Security numbers that can be cross-checked.

IRCA has also affected the composition of the immigrant workforce. One FLC claims that most of the Special Agricultural Workers — SAWs, who were granted legal status by IRCA to ensure that agriculture was not severely harmed by decreased immigration — have exited agriculture. She further noted that there is a certain arrogance among those legalized (or those with good-enough papers) who remain in agriculture.

TIPP

Besides IRCA, another regulatory development is the Targeted Industries Partnership Program (TIPP), an inspection program for agriculture and the garment industry started in late 1992 by three agencies — the California Department of Industrial Relations, Division of Labor Standards Enforcement; EDD; and the U.S. Department of Labor.

A typical TIPP visit begins in the field, inspecting sanitary facilities, looking for child labor violations, and ensuring that proper materials are posted. The agents then move to the office to check payroll, time sheets, and I-9 forms.

Nine of the 11 FLCs interviewed had undergone a TIPP inspection in 1993, with some receiving multiple visits. Three of the nine received a citation, while three others were warned — one each about a child labor situation, an unsanitary restroom at the field site, and improper completion of I-9s.

One grower argued that the TIPP benefits those growers and contractors who are doing their best to comply with the law. Because of their visibility, the larger agricultural operations are more likely to be targeted for investigation. However, the TIPP is likely to cause all growers to take the laws more seriously, and, in turn, to be more careful in their choice of contractor. Thus, some growers believe TIPP will benefit the most reputable FLCs with good records.

The Case Studies

This section details the findings discussed above by recounting some of the experiences. The case studies are presented in the same order as they are listed in table 1. Growers' opinions on some of the same subjects are also reported. The primary thrust is that the California farm labor market is adjusting to a changed regulatory climate. This restructuring is apparently accelerating the transfer of labor management duties to farm labor contractors. The grower/contractor pairs interviewed for this study were in good communication, were moving towards formalizing business agreements, and were very aware of one another's business practices.

■ A.G. Martinez, Farm Labor Contractor

A.G. (Paul) Martinez has been in the labor contracting business in the Sacramento Valley for over 30 years. He and his wife, Lupe, operate the business out of their home in West Sacramento. Near the end of the Bracero period, in 1962, he purchased an FLC operation from his cousin that included two buses for worker transportation, plus the last three years of a lease on a labor camp outside of West Sacramento. Although Paul and Lupe briefly considered leaving the business when the lease ran out, they decided to continue and, over 30 years, have adapted their operation to the changing times.

At the end of the Bracero program in 1964, Martinez and other FLCs ran what amounted to a service industry for workers, arranging employment and providing housing, transportation, food, and other services to immigrant workers. During this period Martinez arranged employment for 75 workers and provided other services for 50. Eventually, Martinez closed the labor camp, citing the stringent laws on housing, meals, and transportation that made the operation troublesome and costly.

His business shifted from service provision to concentrate on hiring and supervision. He employed large crews of 2,000 workers for the hand-harvest of processing tomatoes. Then, with the advent of the tomato harvester, his business changed again. Small crews of 11 workers are employed on a harvester, but over a longer season.

As Martinez grew older, he reduced the number of growers he works for (from 20 to 3) and the number of workers he employs. Now he hires only 25 to 30 workers, even during the prime work seasons. Although his downsizing was mainly through grower attrition (tomatoes are now grown on fewer, but larger, farms), it was also a conscious decision: "Contracting is hard work, and as I have gotten older, I have wanted less business."

The nature of the Martinez operation has changed in other ways too. Whereas most of the effort used to be directed at providing worker services (housing, transportation), now a large part goes to the clerical work associated with hiring workers and maintaining the books and payroll.

Like all FLCs, Martinez is responsible for establishing the eligibility of the workers he employs, a difficult task made harder by the real-appearing, but fraudulent, documents that many carry. Although Martinez has not been investigated by the TIPP, he has been checked by the three TIPP participating agencies, as well as by the INS. However, no fines have been issued.

Contracts

Martinez employs workers by verbal agreement, supplemented with bulletins posted at the job site detailing wages and benefits offered. Agreements with growers are generally written contracts noting wages and commission rates, and including a section about workers' compensation and other payroll deductions, as well as a clause stating that only legal workers will be employed. For regular customers, there is usually one formal, written contract for the year, even though there will be additional jobs at various times during the year. He uses oral agreements for these smaller, short-time jobs.

Competition

Martinez does not see the FLC sector in the Sacramento Valley as strongly competitive. There are eight large contractors in the region who apparently work well together, going by prevailing commission and wage rates ($4.40 / hour for sorting tomatoes; $7 / hour to harvesting machine operators). Their competition with each other is mainly in terms of reputation and service, rather than cost.

The Grower Interview

One of Martinez's long-time, large grower-clients is the Martinelli Brothers of Clarksburg. Albert Martinelli chose to be interviewed at the same time as Martinez, revealing their close association. (Martinelli also uses another FLC whose commission is at 6% exclusive of payroll deductions, while Martinez's ranges as high as 10%, depending on the crop value that year.)

In 1993, the Martinelli Brothers had 4,000 acres of tomatoes, alfalfa, wheat, safflower, sugar beets, field corn, and hay. On average, they have about 1,200 acres in tomatoes, which, except for some sugar beet work, is the only crop that needs seasonal labor.

Martinelli feels he has to hire through FLCs because he and other growers simply cannot handle the demands of labor management and compliance with the current labor market regulations. He perceives an enormous pressure on FLCs who are held responsible for many of the problems in the farm labor market. He sees workers as being less faithful to their FLCs than they once were. Worker-FLC disagreements are not much different from those between any employers and their workers; yet, when complaints become public, FLCs are criticized by government agencies and others. And the situation is exacerbated by the existence of some disreputable FLC operations. Bad circumstances that result from a few FLCs' actions have led to more stringent regulations for all agricultural employers.

In Summary

A.G. Martinez, Farm Labor Contractor, now concentrates on recruiting and supervising workers in a manner that complies with a complete set of regulations governing FLCs. This emphasis has resulted in a major shift of resources into the bookkeeping aspects of his operation.

Martinez, the FLC, and Martinelli, the grower, agree that growers use FLCs to manage all the difficult issues that come up in hiring and supervising farm laborers. Growers also need FLCs to handle the paperwork load associated with regulations and to share liability for compliance with those regulations. Martinelli and Martinez enjoy their good working relationship. Martinelli claims he would not remain in enterprises that required seasonal workers if there were no FLCs to manage the labor.

■ Ayala Contracting Company

Piedad Ayala owns and operates a San Joaquin Valley contracting company whose home office is in Avenal, California. While most of its work is in Kings and Fresno counties, the company also serves growers in Kern, Madera, Tulare, and even San Luis Obispo counties.

Although the business was only formed in 1992, Ayala farmed for 15 years and then worked in farm labor management for 12 years. Between 1988 and 1992, he conducted all of the personnel hiring and management for another FLC, Lawley Contracting. With Ayala's experience in labor services, background, and resources, his new firm took all the grower-clients from Lawley, who then went out of business. Since then, Ayala's new company has experienced substantial growth and anticipates continued expansion. He also is diversifying into crop consulting as a complement to his contracting operation.

Due to his reputation for quality work and solid business practices, Ayala contracted with 110 growers in 1993, up from only 50 in 1988 when he was with Lawley. The number of workers employed is down from 3,000 five years ago, to 2,500 in 1992, and 1,800 in 1993, largely because of reduced crop acreage on the northwest side of the San Joaquin Valley. Also, there is less garlic production in the area, a crop that would employ 800 to 900 workers at a time during a short harvest season. Despite this decline in worker numbers, the payroll is up to $4.5 million from $2 million in 1992, due to employment of more skilled workers, e.g., machinery operators and irrigators.

In response to the company's growth and the current regulatory climate, Ayala employs 35 year-round staff people in the field and office, almost double the number of staff employed by Lawley Contracting five years ago. Well-educated staff helps keep the company in compliance with regulations and labor laws, such as field-site poster requirements and safety training. For example, SB 198 requires all employers to have written injury and illness prevention programs that include worker training. Meanwhile, computerized billing and record keeping, mobile phones, and other equipment allow the office staff to operate more efficiently.

Competition

Ayala provides labor for a wide range of commodities, including row crops, vegetables, citrus, other tree fruits and nuts, vineyards, plus some work in cotton and grains. There are significant differences in competition for contracts among crops, with fresh market tomatoes and broccoli being the crops for which Ayala's workers can offer the most advantage. His company employs well-trained, experienced laborers who are very skilled in selecting, carefully harvesting, and properly packing these crops, thereby giving the grower a gain in yield and return. Ayala also provides consulting on the planting and pruning of tomatoes, almonds, and broccoli. Not that consulting gains him a premium, but it does allow him to solidly retain clients and helps account for the remarkable growth in his business.

Despite there being low-cost contractors in the valley, because of his reputation for quality workmanship, Ayala's business is thriving. His commissions range between 34% and 37%, inclusive of payroll deductions. The variation is mostly due to differing workers' compensation rates for different crops. Also, increases in workers' compensation premiums account for the continuous rise in absolute commission rates. Thus, the share retained by the business has remained stable, while office and other costs have risen.

While an FLC could probably break even at 32%, there are some who charge only 26 to 27%. These below-cost contractors have to cut somewhere. They may fail to ensure that piece rates are sufficient to meet minimum wage standards or they may underpay relative to terms agreed upon with the grower. Each season an FLC or two shows up offering low rates, but they stay in business only a few weeks. Sometimes growers must then pay the workers directly.

Contracts

Workers are hired through verbal agreements with crew foremen, but all terms of employment are also publicized at the field site in accordance with labor laws. The workers are offered a payroll deduction Christmas savings plan, while the office staff, supervisors, and foremen receive paid vacation. Ayala's workers are loyal to the company and return each season (first to Lawley, now to Ayala). Thus, his crews have considerable experience and good skill levels to offer.

Formal contracts are now a common business practice for the company. Putting a contract in writing protects the operation's interests and ensures legal protection if and when disputes arise. All new grower contracts are negotiated, written agreements that include the FLC license number, payment terms, default provisions, collection procedures, quality standards, completion dates, and the commission rate. Ayala still uses oral contracts with some growers with whom he has done business for a long time.

The Grower Interview

In addition to the feedlots that made Harris Farms famous, the company also has over 15,000 acres in crop production. About one-third is in cotton, 10% in almonds, one-fourth in processing and fresh tomatoes, and the rest in fresh market onions, bell peppers, garlic, and melons.

Harris Farms uses contract labor for weeding cotton, weeding and thinning tomatoes, pruning and poling almond trees, and assisting with irrigation. Some companies that contract with Harris, e.g., Calgene for fresh tomatoes, provide their own FLCs and workers. Harris Farms directly manages about 250 year-round employees, plus another 350 workers employed for seasonal work. Contract labor accounts for between 20% and 30% of the total.

At Harris Farms, the interview was with Erick Johnson, Vice President and Chief Operating Officer for the Crop Division. Johnson is in charge of the production and management decisions, including the choice of FLCs.

Johnson noted that the company's primary reason for relying on FLCs for much of the seasonal work is the increasing amount of regulation. Even though Harris Farms has hired an additional office staff person to handle compliance, Johnson feels that contractors are better suited to manage regulations on seasonal labor, because they are specialists in that area.

Johnson believes that the TIPP will benefit growers and contractors who are doing their best to comply with the law. Although Harris Farms and other large agricultural operations are often targeted for TIPP investigations, the program has encouraged all growers to take laws more seriously and has led to their more careful selection of FLCs. This should benefit those FLCs with good records. When TIPP visited Harris Farms, no violations were found.

Harris Farms has used other FLCs and currently contracts with Ayala and Sunrise Labor; each offers different services. Among other things, Ayala's crews are trained to handle certain special tasks such as almond pruning. Johnson is very satisfied with Ayala, who devotes significant time and resources to complying with documentation and training requirements and other laws and regulations. Ayala who has educated himself on these issues, passes the information on to his office staff and crew leaders.

In Summary

Ayala Contracting is a young, healthy business operation. As Ayala and his client both noted, growers will continue to increase their use of contract labor in the face of increasing regulations. With stricter enforcement of the laws, those FLCs with good reputations will be in demand. Ayala Contracting has successfully risen to these challenges and offers growers reliable work crews managed with sound business practices.

■ F and F Contracting

Frank Echeverria owns and operates F and F Contracting. The operation provides labor services to growers in the San Joaquin Valley — Fresno, Madera, Kern, Tulare counties — and in Monterey and Riverside counties.

Echeverria had worked in agriculture many years, including being a foreman for an FLC, before buying an FLC operation 12 years ago. With his knowledge of four languages and experience as a foreman, he was well qualified to manage farm labor.

At first, F and F consisted of just Echeverria and an independent bookkeeping service. Three years ago, the company set up an office in Fresno and hired an office manager, Bobbi Wise, whom we interviewed. Since then, the office staff has increased to six — five full-time and one part-time — to accommodate the increased paperwork and bookkeeping demands of a larger workforce employed by F and F, as well as to meet regulatory requirements of the government.

F and F Contracting provides labor for 38 growers, but three of them account for the majority of the business. Although the number of growers contracting with F and F has not changed much (one was lost, two or three have been added), several have expanded their operations, diversified into more crops, and increased their labor needs. Encouraged by two growers two years ago, F and F began offering trucking services to ensure the delivery of quality products from the field to the plant. Etxe Trucking now hauls garlic, citrus, and olives for F and F's grower-clients.

F and F's work is 65% in garlic; the firm employs from 200 workers in the off-season to 1,100 at the peak of the garlic harvest. Most of the rest of F and F's contracting is in citrus, with some additional labor provided to grapes, olives, nuts, apples, and squash as their grower-clients have diversified. F and F's total payroll has increased 30% over the last three years, due to higher wages, more volume, and higher payroll deductions, plus additional pay for the new trucking business.

Although many "old timers" return each season, the turnover rate is increasing, particularly among younger workers. Costs too have increased. Wise reported that the most notable recent change has been with the more stringent safety and safety-training regulations. (The increased concern with worker safety is also important to the company that provides workers' compensation coverage for F and F.)

Workers' compensation and unemployment insurance (UI) have also had a significant effect on F and F's cost of operation. Wise believes that, "…with increased rules and regulations, workers are becoming more knowledgeable about what's available to them. They are learning to take advantage of the system. They use more government assistance such as UI." In fact, Wise says that the UI premiums for F and F have increased from 2.8 to 5.4% in three years because of workers' increased UI claims. She estimates that one-third of the workers have post office boxes where they receive their UI checks while they are visiting Mexico for the winter.

Wise believes that growers use FLC labor to keep their workers' compensation and UI costs down, as well as to pass on to a third party the paperwork, liability for compliance with safety and other regulations, and labor management. For example, F and F Contracting had been investigated by TIPP several times within the previous year but passed inspection at every onsite visit. Growers appreciate their good working relationship with F and F. Wise perceives the grower uncertainty about the many issues surrounding farm labor management and immigration reform as an important factor in their increased demand for FLC services.

Contracts

F and F has always hired workers on verbal agreements. But now workers must fill out I-9 applications and W-4 forms and must show proper identification as required by IRCA.

F and F always uses some form of written contractual agreement with its grower-clients. Wise has noticed that many growers now request that parts of the agreement be formalized in writing. The company also has written guidelines on how it manages safety, field sanitation, payroll reports, worker documentation, and quality work for the growers. Wages and commission rates are included in the agreement only if they differ from figures in the company's official rate sheet.

The Grower Interview

S & J Ranch in Madera is a large operation that raises olives and citrus on almost 4,000 acres. Participating in the study interview was Ron Watson, who has been a farm manager for over 15 years; with S & J Ranch, for three. Watson has always used FLCs to manage his seasonal workforce, but believes that growers who once managed all their labor internally are now using more contract labor and that those who have historically used some contract labor are now using more. He sees the necessity of compliance with regulations as pushing the demand for FLCs. Watson considers F and F as ". . . just like a part of the company family." Because Watson understands that he is ultimately responsible for S & J's labor, he appreciates this trusting, strong relationship with F and F.

Competition

Although F and F's commission rate (inclusive of payroll deductions) at 32 to 33% is below average, the company does well on the volume and value of crops handled. In contrast, Watson noted that in Tulare County with its large number of small, family farms, the labor market is more strongly competitive.

Two large growers who contract with F and F control most of the garlic crop. Garlic has a high volume and pays a good piece rate ($2.00-$2.50/bucket) making it an attractive crop for both workers and F and F, even at its relatively low commission rate. In contrast, because of more FLC competition, it is difficult to make good money in grapes. Furthermore, it is even hard to supply the needed workers for the harvest, as many return to Mexico in the late fall.

Wise at F and F, which contracts in several regions of the state, feels that the Fresno area has a relatively competitive climate for labor contract services, but that the mid-Salinas Valley near Greenfield is more aggressively competitive. (This is supported by the Green Thumb case study.)

In Summary

In addition to offering competitive rates, F and F attracts and retains grower-clients by providing good workers, excellent service, quality work, and a respectable reputation. Being the most geographically diversified FLC in this study, the case shows how an FLC can adapt its operation to meet various labor market conditions for different crops in several regions, successfully satisfying its clients and the government agencies. F and F has grown not by adding clients, but by serving current ones in more ways.

■ Fresno Ag Labor Services

Larry Peters, Sr., and his son Larry Peters, Jr., manage Fresno Ag Labor Services (FALS), which is registered and working in Fresno, Madera, and Kings counties. The company was started 20 years ago by Larry Peters, Sr., who as a grower, packer and shipper, saw the need for establishing a quality FLC business. Larry Peters, Jr., joined the business 14 years ago and has been a leader in the farm labor contracting community. He started the FLC Alliance, which is no longer active, but at one time had over 70 FLC members representing some 50,000 to 80,000 workers.

FALS had about 150 grower-clients in 1993, almost double the number five years before. The payroll at $3 million (in 1992) continues to grow, as does the workforce at about 1,000.

In the previous five years, the size of the office and management staff had doubled from three to six, due, in a large part, to the increased paperwork demands of regulations and, in a smaller part, to the operation's expansion. Two of the new clerical staff positions take care of IRCA's I-9 forms.

Stricter safety standards have also imposed additional costs of training and compliance on the operation, while the TIPP has put them "on guard." FALS has been investigated by all agencies associated with the TIPP, including recent visits by Cal-OSHA and the state labor commissioner. Although the U.S. Department of Labor once cited FALS for hiring illegal immigrant workers, there had been no fines or citations at recent TIPP investigations.

Peters, Jr., believes the company's growth is based on growers' worries about all the new regulations. FALS even has one client who uses FALS strictly as a legal buffer. For the usual commission, FALS manages this account without performing any recruiting or supervision of workers. Peters, Jr., feels growers and FLCs are (or should be) jointly liable for ensuring, for example, that workers earn at least the minimum wage when doing piece work.

FALS provides labor for pruning, thinning, grafting and harvest of vineyards (60% of the payroll) and tree fruit crops (40%). Because of its reputation for quality work, the company can pay a premium to workers; field workers earn an above-average wage ($4.65 / hour versus $4.50 / hour). Commission rates vary depending on workers' compensation for a particular crop. The commission is 35% for tree fruit work (17% is workers' compensation); 33% for vineyard work (8%). Despite a lower commission, grapes earn FALS more profit.

Peters, Jr., has not noticed any change in worker availability with IRCA. Because there is no problem with worker supply, FALS offers no worker service other than arranging their employment. However, some crew leaders do provide transportation for their workers, a service that requires careful monitoring because of the strict regulations.

Although IRCA hasn't affected worker supply, it has apparently made it easier for workers to abuse the system. Peters, Jr., believes that there is no way that employers can be enforcers of immigration laws and that most of the SAWs (90%) have exited agriculture.

Contracts

Workers are hired by verbal agreement, supplemented by safety forms (required by the workers' compensation insurance carrier), a list of rules, and bulletin boards at the office and field sites, stating the terms of employment.

FALS has always had only verbal agreements with its grower-clients. Wages and commission rates are verbally stated, while quality and timeliness standards are understood and expected, based on FALS's reputation for dependable, high-quality work. Referrals from satisfied growers has been a primary factor behind FALS's expansion.

The Grower Interview

Matsonaga Farms is a 60-acre operation in Fresno County that produces grapes, nectarines, and onions; it also runs a trucking company to haul grapes during the harvest season. Kerry Matsonaga, who had been using FLCs to supply part of his labor since he began farming seven years ago, has recently switched to hiring it all through FLCs, including that used in his trucking operation. Matsonaga explained what led him to seek more FLC help: increased demands of paperwork and safety requirements and the concerns that IRCA raises about liability for compliance. He had problems with other FLCs in the past, finding them not a dependable enough source of workers when needed. Other growers referred him to FALS, with whom he now has a good working relationship.

Competition

Peters, Jr., believes that the farm labor contracting market is so competitive that some FLCs are downward-pricing themselves right out of business. There are some FLCs who do not charge enough commission to meet expenses. They must find ways to somehow reduce costs, often illegally, for example, by hiring child labor, not providing proper field sanitation, or paying less than the minimum wage. However, he believes this "cut-throat" competition is specific to the San Joaquin Valley, especially in the Fresno area.

In Summary

Peters, Jr., of Fresno Ag Labor Services is a leader in the movement by FLCs to influence how employers, including FLCs, are regulated. Because of competition in the area for getting grower-client contracts and the ease of finding workers, FALS and other FLCs have to focus on serving growers rather than workers. Peters, Jr., believes that some laws meant to protect workers have ultimately hurt them. As an FLC leader he argues that all participants in the farm labor market would be better off with fewer, but better enforced, laws.

■ Green Thumb, FLC, Inc.

Green Thumb FLC, Inc., is co-managed by June Lafferty, who handles the office and keeps contact with grower-clients, and John Ramirez, who is the field supervisor in charge of workers. Since 1972, Green Thumb has operated in Monterey County at the southern end of the Salinas Valley.

Green Thumb workers weed, thin, and harvest a variety of crops. Green and red chilies account for about 30% of the payroll; broccoli, 30%; miscellaneous row crops, 10 to 20%; and hand-picked tomatoes, 10%. Year-round vineyard work adds some stability to the workforce. Vlasic Pickle's cucumber operation used to represent a lucrative 20 to 30% share of Green Thumb's business until Vlasic left the Salinas Valley in 1993, citing increasing costs of operating in Monterey County.

Green Thumb's business is down sharply due to strong FLC competition in the area. The number of grower-clients decreased from 26 in 1988 to 20 in 1993; the number of workers, from 600 to 200; and the payroll from $3.75 million to $2.5 million. Meanwhile, the office workload and costs of operation have increased.

At the request of the company providing worker's compensation insurance, new employees are given a 12-page booklet covering the safety standards; they also receive safety training from Green Thumb. Responding to stricter safety regulations has increased Green Thumb's costs.

Green Thumb gives close attention to details, such as safety and sanitation. Green Thumb was visited by TIPP agencies three times between August 1992 and September 1993, but had never been penalized or cited. Lafferty believes that Green Thumb is more likely to be investigated because of its visibility in the community and the fact that many of the fields being worked are along major roadways.

Contracts

All of Green Thumb's contracts with both workers and growers are by verbal agreement. Those with growers state the agreed-upon wages and commission rates. Quality standards are not incorporated but are understood as necessary to retain Green Thumb's grower-client base. Despite the arrangements all being verbal, there is much documentation that must be provided to growers, including certificates of insurance and proof of worker's compensation, liability coverage, federal and county registration, and state license. Also, with each labor bill, Green Thumb furnishes growers a report giving the daily wages earned by each worker, identified by name, address, and social security number.

Competition

According to Lafferty, the FLCs who carefully comply with all the regulations, meet the paperwork challenge, and provide safety programs for workers have experienced continually increasing costs over the last ten years. But an even greater challenge to the company is the overly competitive FLC sector. There have been significant drops in the prevailing commission rates for all crops that Green Thumb works with. For example, the broccoli and chili pepper commission (exclusive of payroll deductions) is down to 10% from 12% one year ago. With so many FLCs bidding for work, Green Thumb cannot win out by offering better quality work; rather, it has had to match the drops in commission rates. Lafferty reported that even some of Green Thumb's long-time grower-clients are not as faithful as they once were.

Some of the larger growers, especially the younger ones, have begun hiring workers through their foremen instead of using FLCs, feeling they can better handle labor management and regulation compliance internally. This trend further reduces the potential contract market for Green Thumb.

Those FLCs who undercut the going commission rate must somehow reduce their expenses to stay in business. Some pay in cash to avoid costly paperwork and payroll taxes, underpay workers, fill out I-9s without proper documentation, or simply break various laws. Successful evasion of the law by some makes the going tough for all others.

Lafferty believes the competitive climate is ultimately detrimental to workers. She feels that increasingly strict regulations that are unsystematically enforced are a large part of the problem. Large, highly publicized fines on violations could perhaps alleviate the situation.

The Grower Interview

Since 1957, Thorne and Thorne Company has grown vegetable row crops such as broccoli, lettuce, garlic, onions, and chili peppers, in the southern Salinas Valley near Greenfield. With some double-cropping, they produce about 1,200 acres worth of vegetable crops on 800 acres each year.

Although Thorne and Thorne has a crew of year-round, full-time workers for tasks such as irrigation and machine operation, the huge demand for seasonal labor at harvest has always been met by hiring workers through FLCs. Jim Thorne believes growers and workers need such agents who can act as a clearinghouse for workers, giving them better opportunities for longer term employment.

Thorne appreciates his strong working relationship with Green Thumb, which provides a dependable set of workers to his fields when needed. He also appreciates the changes that Green Thumb has had to accommodate to, such as the increased demands of immigration accountability, bookkeeping costs, and payroll records.

Thorne and Thorne has increased its size of operation and has transferred a larger share of the workload to contract labor. For example, they used to directly hire a few families from the area to weed vegetable row crops, but now rely on contract labor for this work. Thorne also noted that several other growers who previously hired all of their own regular and seasonal crews have begun to use contract labor for seasonal harvest, thinning, and weeding. This increased demand for FLCs, however, is apparently not sufficient to alleviate the competitive situation in the contractor sector.

Another complication is the strong ties between large companies and the growers they contract with. These companies often arrange for their own FLCs, adding more FLC competition to the area and weakening the relationship between Thorne and Thorne and Green Thumb. For example, Thorne and Thorne grows garlic under contract for Christopher Garlic, but Christopher's FLC, based in Stockton, handles the labor. Problems with this arrangement have occurred. Once when the workers' checks were late, they threatened to burn Thorne and Thorne's fields. The issue was settled within days, but it illustrates a widening breach between growers and workers.

In Summary

Green Thumb FLC, Inc., has been notably affected by increased competition among farm labor contractors. This is the only one of 11 cases studied that has decreased in size, not by choice, but because of competing FLCs drawing Green Thumb's customers away by offering significantly lower commission rates. Here, then, is a clear example of how the farm labor market conditions can change and detrimentally affect long-time working relationships between growers and their labor contractors.

Green Thumb not only has struggled with the increased costs of compliance with regulations, but has, at the same time, been asked by long-term grower-clients to lower rates. Lafferty of Green Thumb worries that the proliferation of cut-rate contractors will ruin the reputation of the entire FLC industry, because workers, growers, and the government are being cheated.

■ JCA Labor Contractors, Inc.

JCA Labor Contractors, Inc., was started in the early 1980s by Jesus C. Alderete whose father ran an FLC business in Oregon. JCA, registered to operate only in Monterey County, concentrates its work in the northern end of the Salinas Valley. Lynn Flowerdew, controller, was interviewed. She works with JCA's grower-clients and manages the office but spends some time in the fields dealing with workers' needs.

JCA specializes in artichokes, supplying 90% of the labor for artichoke production in California, but also works in broccoli, lettuce, anise, cilantro, spinach, cauliflower, strawberries, and mixed greens. In 1993, the company was providing labor services to 42 growers, up from 12 to 15 growers five years before that. JCA employed 3,500 workers; five years before, only 1,000. The 1993 payroll was about $7 million; five years previously, only $1.5 million. Meanwhile, only one employee has been added to the office staff.

In addition to the large artichoke operations that make up most of JCA's business, a number of smaller growers have turned to JCA for contract labor. Flowerdew reiterated the reasons — lower labor costs, reduced paperwork, and JCA's dependable performance and good business practices. She was one of the few FLCs interviewed who even mentioned worker availability as a factor. By using JCA, growers share liability for compliance and have less worry about immigration reform and the hassles of labor management.

As the once-strong farm labor unions in the valley have weakened, less anxious growers are turning to FLCs as an economical, centralized method of labor management. Flowerdew feels that, despite all the new rules and regulations, there are more to come, but that this trend may eventually lead to well-defined, joint liability for compliance between growers and FLCs. Such a result will benefit the most law-abiding of the contractors.

OSHA's requirement of written documentation of worker safety programs has led JCA to expand its safety training. In 1993, JCA was visited by all the participating agencies in the TIPP. Although the firm was cited for a child labor violation, the citation was thrown out and no penalties were due. Visiting agents also took I-9 forms on all JCA's workers, presumably to forward to the INS.

Among IRCA's effects, Flowerdew perceives a distinct difference in worker attitudes, e.g., their work ethic and knowledge of the legal system, between the more confident SAWs and recently arrived Mexican immigrants. She finds the latter group more grateful and accommodating.

Contracts

All terms with workers are agreed upon verbally with the necessary information being provided to workers both at the time of employment and daily at the job site. Flowerdew notes that workers are much better informed from various sources about their rights than they were five years ago.

In the past, all grower contracts were verbal, but now, with new clients, JCA prefers written agreements about the wage rate, commission rate, payroll deductions, quality control factors, and terms of payment. However, JCA continues to use verbal contracts with long-term grower-clients.

Competition

The artichoke growers are long-time customers of JCA, which trains workers for special tasks in artichokes — transplanting, stumping, and harvesting. Although JCA has recruited several additional workers as the business has expanded, many employees have worked in artichokes a long time and have become specialists. The result is JCA's near monopsony in the artichoke labor market.

Many of the other crops that JCA works are more competitive for FLC contracts in terms of wage and commission rates. Still, JCA's commissions are above average in the area (11-12%, exclusive of payroll deductions, versus 10%). Flowerdew explained that JCA can enjoy higher rates because of its consistency, dependability, reputation, and availability on short notice. Also, the growers who use JCA must feel it is worth an extra percentage point or two to know they have hired an FLC who is legitimate in the eyes of both the workers and the government. Flowerdew mentioned that some FLCs in the area do not just bend the rules — they break them, for example, by evading payroll taxes and worker's compensation.

The Grower Interview

SeaMist Farms owns 4,000 of the 8,000 artichoke acres in California. Art Barrientos, one of the managers, was interviewed. SeaMist began using JCA in the early 1980s, but only for the short peak-harvest artichoke season. As SeaMist's operating costs increased, Barrientos realized that contracting more labor could save money by reducing the number of full-time workers employed. SeaMist currently employs two full-time worker crews, but meets all its seasonal needs by contracting labor from JCA.

Like other growers interviewed, Barrientos believes that the demands of labor, immigration, and safety regulations have led many growers to use FLCs. He mentioned that some growers contract with the lowest cost FLCs without regard for record or reputation, often with poor quality results. More growers have become aware of the importance of choosing their FLC carefully to ensure compliance with regulations. Barrientos added that it might take some severe penalties on certain growers before all are more careful.

In Summary

JCA has developed an expertise in training and retaining workers skilled in the unique tasks of artichoke stumping, transplanting, and harvesting, giving the firm a near monopsony in the crop, providing 90% of all workers employed in California artichokes. This dominance is possible because the artichoke industry is concentrated in a small area, and the crop is produced by only a few companies, most of whom have familial connections.

JCA is proceeding to formalize more of its business agreements through written contracts. Due in a large part to its well-documented and professionally communicated business practices, JCA continues to attract more grower-clients who want to transfer the responsibility of labor management to a third party. In the current labor market, growers are looking for an economical, reliable, and legal source of labor services.

LDS Labor Contracting

LDS Labor Contracting, owned and managed by Linda De Santiago, operates primarily in Monterey County, but it is also registered in San Benito County where one client has acreage. De Santiago first worked in her father's FLC business, then started LDS 12 years ago. She directs the foremen in the field and manages the office.

LDS works for about 30 grower-clients and prides itself on its close business relationships with them. Although the same growers sign up with LDS year after year, several also use another FLC to meet seasonal demand. LDS's grower base has not changed much; rather, the company's focus is offering good service to existing clientele. However, LDS's grower-clients have expanded acreage and diversified into other crops such as grapes and citrus.

Currently, 60% of LDS's work is in vineyards; 40%, in thinning and harvesting vegetable row crops. In vineyards, tasks include planting, pruning, tying, and harvesting. LDS also provides some labor for bottling wine, yard work, and trucking — jobs that provide some workers with regular, year-round work. The number of workers has stayed rather constant, at about 500; the payroll is $3-$4 million. One staff person has been added to handle I-9 forms.

LDS had not yet been investigated under TIPP, but the TIPP agencies had visited in the past to inspect pay stubs, buses, and sanitary facilities. Among the issues associated with farm labor, De Santiago feels that field sanitation standards are the most strictly enforced.

Like other FLCs, LDS has adapted to the demands of IRCA, including the heavy paperwork load. The authenticity of workers' documents is generally accepted because the word is out that neither growers nor FLCs are responsible for discriminating between real and real-looking, but fraudulent, documents.

Since IRCA, growers hire a larger share of their labor needs through FLCs. De Santiago commented that workers are more knowledgeable about the system, pointing out that both UI and workers' compensation claims have risen markedly over the past five years. She noted that radio broadcasts in Spanish carry ads by lawyers specializing in workers' compensation cases.

Contracts

Contracts with workers are verbal, with information on wages provided, as required by law, on a bulletin board at the field site. No services are offered to workers except occasionally transporting them to fields where growers do not want vehicles parked. Before IRCA, LDS experienced some shortage of workers; now De Santiago claims there are too many workers in the Salinas Valley.

At the request of some growers, LDS has moved from all verbal to some written contracts. The written contracts specify wages, commission rates, some quality standards, and the FLC license number. However, even the verbal contracts go into more detail than previously.

Competition

Only a few grape growers in the area use contract labor, so there is little price competition among FLCs for vineyard contracts. Less supervision is needed and better wages are offered in grapes than in vegetables. In contrast, row-crop vegetable labor contracts are very competitive, as most FLCs in the Salinas Valley are experienced in these crops. However, LDS's long-term solid relationship with vegetable crop grower-clients supports an above-average commission of 12%, exclusive of payroll deductions.

In both vegetables and vineyards, LDS remains competitive, not so much by price, but by making good business decisions and establishing and maintaining a good reputation with growers. There are, however, FLCs in the area who offer cheaper rates by paying cash wages, avoiding accounting requirements, and evading payroll deductions.

De Santiago believes that growers are now more concerned with their liability and their FLC's careful compliance with regulations than even with the quality of work performed. The Western Growers Association has increased members' awareness in these matters. De Santiago sees regulations continuing to be the biggest issue for FLCs in the future.

The Grower Interview

Richard Smith of Valley Farm Management in Salinas, a long-time customer of LDS, was interviewed. Valley Farm directly employs 70 workers year-round, plus up to 150 seasonal workers contracted through LDS. The farm operation has doubled in size by using more contract labor, not by hiring any more regular workers.

Additional contract labor is being used to work in a vineyard redevelopment project, but when this is completed, the farm's labor needs will decrease. Because of the one-time nature of the vineyard project, LDS's provision of the extra workers was convenient for Valley Farm and much less expensive than a direct hire would have been.

Smith explained the differences in the competitive environment for FLCs depending on their location in the Salinas Valley. In the northern valley, lucrative crops such as lettuce and broccoli are produced (as well as artichokes, referred to in the JCA case). These growers with higher potential profits are most interested in product quality, look for FLCs who will give them this quality, and are willing to pay more for their services. At the south end of the valley, less valuable crops are produced, such as carrots and potatoes, and a highly competitive environment prevails among FLCs bidding for contracts (e.g., the Green Thumb case).

Smith claims that the two main reasons for using FLCs are (1) FLC labor is less expensive than establishing a directly hired workforce ($6 / hour / worker versus $7.80) and (2) the extreme seasonality of many operations makes it infeasible to employ regular (year-round, full-time) workers. Further, IRCA's document verification demands, safety regulations, and many other labor policies all make FLCs attractive to growers.

In Summary

The primary concern of LDS is to serve well its existing customers rather than pushing to expand its client base. As LDS's growers have expanded and diversified, LDS has adapted its operation to their needs. In addition, LDS has made an effort to keep some workers employed year-round by diversifying into less traditional areas of farm labor such as yard work and bottling wine.

■ Araujo and Araujo Farm Labor Contractors

Araujo and Araujo (A&A), an Imperial Valley farm labor contracting business, is currently owned and operated by Linda Araujo Cornejo and Charlie Araujo, the daughter and son of Angel Araujo, Sr., who with a partner, John Guillen, started the business in the mid-1960s. Both Linda and Charlie have long been involved in this family operation. Since they took over from their father in 1993, Linda is managing the office; Charlie, the field workers.

Sugar beets, cotton, and alfalfa account for 80 to 90% of A&A's grower contracts. The main tasks are preharvest weeding and thinning. The company has also contracted for harvesting onions and tomatoes. Recently, they have provided labor for harvesting organic produce, such as broccoli and mixed lettuce. With organics, special tasks are involved, including an extra person in the crew to individually label each field pack unit (e.g., each broccoli bunch).

The Araujos contract labor for almost 50 growers, a base that has remained relatively constant over the past five years. A&A's business follows the ups and downs of its grower-clients, with the payroll varying by half a million dollars from year to year around an average of $2 million. In 1993, a sugar beet refinery closed, forcing some clients to cut back on acreage (some went bankrupt) and, accordingly, their demand for farm labor was reduced. A&A hired only 9 or 10 crews of 30 to 35 workers during 1993, a substantial decline from the 17 crews hired in 1992.

While the size of A&A's grower-client base has remained relatively stable, the number of office staff has increased substantially over the past decade to accommodate the increased record keeping required. In the past, Linda handled all the office work personally. Later much of the work was computerized. Then, about five years ago, one nine-month position was filled. More recently, three additional part-time workers were added.

Over the years of this family FLC business, the worker supply situation has changed markedly. In the early 1980s, worker recruitment was more of a problem. The Araujos reported that some FLCs used to bring donuts and coffee to the sites to induce workers to choose them for the day. Today, A&A has no difficulty recruiting workers. And it has a good history of retaining much of the workforce from year to year, especially since it provides nine-month employment, September through May.

Since IRCA, the Araujos have had some problems with worker hesitancy to provide documents when being enlisted. Some say they have lost or misplaced their papers. A&A's staff has caught workers with two sets of documents — one for employment, the other for collecting unemployment insurance.

A&A was investigated by all three agencies in the TIPP, and I-9s were collected for the INS. They received only a warning about a technicality in filling out the I-9 forms. They believe that the size of their operation increases the likelihood of being investigated.

Araujo and Araujo have adapted to meet the changing times. They find the seminars provided by the Employment Development Department and insurance companies useful in keeping up with the laws.

Contracts

Although all contracts with workers are based on verbal agreements, the relationships have become more formal. Workers, paid on a weekly basis, are recruited through A&A's foremen. While information is provided at the job site, foremen also hold "tailgate" meetings with their crews, giving information on wages, necessary reporting requirements, and field safety (as required by the workers' compensation insurance provider). These "educational costs" encourage retaining workers rather than hiring new ones.

Because of its long history of successful working relationships with grower-clients, A&A still makes verbal agreements with growers about wages, contractor commissions, and the like. However, when the work is completed, an itemized bill is presented.

Competition

The Araujos feel they are cost-competitive in the FLC sector with commission rates of 35 to 37%, inclusive of payroll deductions. Workers' compensation rates vary by crop — e.g., alfalfa, 18.9%; vegetable crops, 12.2% — considerably more than the variation in the overall commission rate. Thus, some crops are more profitable for them.

The Araujos see themselves as providing a reasonably priced service to growers for their seasonal labor needs because of their experience and knowledge about the laws and regulations for which employers are responsible. It is especially their reputation for strict compliance with regulations and for quality work that explains the loyalty of their grower-client base.

While the Araujos have invested much time and resources in building this reputation, they surmise that other FLCs are not so careful. They wonder how some can offer 30 to 32% commission rates, several points below theirs. They suppose that some contractors must be paying workers in cash and underpaying taxes, and that unlicensed FLCs must also cut other corners to save costs.

The TIPP found six or seven of these Imperial Valley contractors operating without a license. One who owed $255,000 to the IRS went out of business. Hearing of such cases leads growers to pay more attention to their FLC's business practices; this increased awareness benefits reputable companies like A&A. But even the Araujos now receive inquiries from growers about how they meet and comply with certain laws.

The Grower Interview

Steve Watte manages three farms near Brawley with 6,000 acres in production — 3,600 in alfalfa and Bermuda grass, 500 in lettuce, 400 in tomatoes, 200 in onions, and 200 in organic produce. The farms supplement their year-round workforce with labor from A&A, paying wages of $524,000 in 1993.

Watte reported that he uses contract labor primarily because seasonal work is difficult to manage. He feels that contractors can benefit both growers and workers, because they can match grower needs with worker services.

In the past, Watte has used other FLCs who are no longer in business and once unsuccessfully used a company insider to manage a harvest crew. Watte now feels fortunate to be working with A&A and is comfortable relying on them for an increasing share of his labor needs, such as the new contract for harvesting organic produce. He also believes that the industry trend is to switch to, or increase, the use of contract labor as growers feel burdened by the increasing reporting requirements when employing workers directly.

In Summary

Through the years of operation, Araujo and Araujo, a family business, has evolved to meet the changing demands of the farm labor market. The past challenge of recruiting and training enough workers to meet the demand has given way to new challenges of carefully and thoroughly complying with a myriad of paperwork and regulatory requirements. Although there are some new technologies and methods in the fields, the greatest adaptation has been in the office. A&A maintains its customer base through historically good relationships that now include consideration of growers' concerns about their liability for strict adherence to all laws and regulations.

■ El Don Farm Labor Contractor, Inc.

El Don Farm Labor Contractor, Inc., has its headquarters in Calexico in the Imperial Valley. Its founder, Don Currier, Sr., began enterprising in agriculture in the 1940s (during the Bracero program) when he trucked off-grade produce from the Central Valley to farm labor camps in the Imperial Valley and provided other goods and services to workers. During the late 1950s, he managed several labor camps. In 1962, when he married into a grower's family, he began providing labor services to this grower and several others in a partnership. El Don is now operated by Currier's son.

From its inception, Hector Torres has been with El Don. Torres began as a farm worker, then drove buses for labor camps. His role with El Don has been pivotal in the success of the business, which has grown from 12 to 15 foremen-led crews of 40 workers to 30 to 40 crews.

Enedina Payeur, who has worked in the office of El Don since 1975, has seen a large increase in demand for bookkeeping. She used to handle the office herself, but now has hired help during the four- to five-month busy season. El Don now employs five full-time staff, including a safety technician.

Broccoli and cauliflower account for about one-third of El Don's contracts; other crops include cabbage, onions, asparagus, mixed lettuce, and field crops such as sugar beets. Workers prefer vegetable crops that pay piece-rates, while sugar beets with relatively lower workers' compensation rates are the most profitable for FLCs, despite a lower overall commission rate.

El Don has served about 20 growers a year over the last two decades. However, recently two factors have shrunk its acreage base from 12,000-15,000 acres to only 8,000, and the payroll from over $5 million to $3.5 million. These are, first, the loss of a sugar processing plant in the region and, second, the whitefly infestation that dropped the melon acreage to almost nothing.

El Don hauls vegetable crops for some growers and provides transportation for workers, despite increased regulation of this service. El Don experienced some worker shortage in the past, but today has little trouble recruiting enough workers, though this situation is due partly to the large decline in acreage in the valley.

Contracts

El Don continues to use verbal agreements with growers to establish wages, commission rates, quality standards, and the completion date. The FLC-grower relationship is a trusting one; therefore, according to Torres, growers are not concerned about new regulations and policies such as the TIPP. Torres attends all the EDD seminars and meets regularly with his foremen to familiarize them with all facets of the farm labor laws.

Competition

El Don has lost several clients in recent years to FLCs whose rates are lower. El Don charges 39% for vegetable crops, inclusive of payroll deductions — which Torres says is a break-even rate. He cannot understand how the average FLC rate can be 35%, with some charging only 33%. However, even with above-average commissions, El Don maintains good working relationships with most clients. The competitive success of this company is due to its outstanding reputation and work quality.

The Grower Interview

El Don recently contracted with American Farms, with headquarters in the San Joaquin Valley. The farm's Imperial Valley operation includes about 3,000 acres of vegetable crops (broccoli, cauliflower, jalapeños, lettuce, tomatoes, onions), some feed and fodder crops (Bermuda grass, Sudan grass, alfalfa, and wheat), and sugar beets (American Farms was not affected by the refinery's closing). American Farms maintains its own crews and brings them to the Imperial Valley for the high-value, high-volume vegetable crop harvest. El Don contracts to perform all preharvest work such as thinning and weeding, plus some general ranch work.

We interviewed Alex Jack, the general manager of the Imperial Valley branch of American Farms. Jack has used some labor contracting services for some of his seasonal labor needs for the past 20 years. Now he contracts exclusively through El Don. Jack says his choice of contractors is based on the quality and reliability of services that El Don provides rather than the price.

In Summary

El Don was established by an agricultural producer with considerable experience in labor management services. The FLC business is being continued by its founder's son who meets the labor needs of some 20 Imperial Valley grower-clients. A large part of the success of this company is due to its reliance on Hector Torres, an employee who has supervised the operations of the company since its inception. Torres emphasizes training staff and workers about their roles and responsibilities in an increasingly regulatory climate.

■ JV Contracting

JV Contracting was started in 1993 by Frank Barraza and Jorge Velasquez (Barraza's nephew), replacing Barraza's FLC operation that was forced to close upon a 300% increase in workers' compensation premiums. The new company pays a base-level premium and serves the same five grower-clients as did the former company. Most of the work crews are also the same, so the new company is building on the experience and reputation of the old one.

Before operating an FLC business, Barraza was a farm worker, then a crew foreman, supplementing his income with work at the machine shop on one of the farms. He opened a contracting operation in the late 1980s. His nephew, Velasquez, had assisted him in the business for many years.

Sylvia Rodriguez, the office manager, has been with Barraza since 1990. She commented on the increasingly businesslike nature of the operation through an ever-changing labor market climate.

JV contracts for preharvest and harvest tasks in sugar beets, asparagus, tomatoes, mixed lettuce, and melons, with melons and lettuce being the most lucrative for both the workers and the firm, and the short-season asparagus harvest the most physically difficult.

In 1992, Barraza employed four crews of 25 to 40 workers each, with a total payroll of $250,000. In 1993, the payroll was down to $140,000 because of the four-month lapse between Barraza's closing down and JV's starting up. However, one grower has added a lettuce contract, so business is back to normal and is expanding. Barraza and Velasquez have plans to visit growers during the off season to try to arrange more melon contracts for the company.

JV was visited by representatives of Cal-OSHA and the Department of Labor as part of the TIPP without receiving any citations, and I-9 forms were collected from the office for the INS. Barraza commented that all the FLCs in the area have been investigated.

JV charges average commission rates (35% inclusive of payroll deductions) and is able to increase profits by doing equipment assembly and maintenance within house, using Barraza's machine-shop experience. Also, the base-level workers' compensation rates gave the company a fresh start. While keeping a 7 to 9% margin, JV hopes to increase volume. Expansion during the busy season will help cover the down time when only one or two crews are employed. Barraza's continued employment in a machine shop adds to the company's financial success.

The new company, painfully aware of the cost of compensation claims, is astutely cautious about safety training and worker injury prevention. Even with maintenance of a safe work environment, however, Barraza noted that there is not sufficient surveillance of workers' compensation to prevent fraudulent claims.

Barraza reviewed his history of contracting as one of increasing regulations and bookkeeping requirements. He sees these indirect labor management costs, rather than any worries about recruiting enough workers, as the primary reasons growers turn to FLCs. It is the increasingly complex labor management situation that has led growers to reevaluate their opportunity costs of directly hiring labor. Most have concluded that contract labor costs them less.

Contracts

JV's foremen verbally set wages with the workers upon their hire ($4.25 / hour for preharvest work; $4.50 / hour for harvest). JV's contracts with growers are also by verbal agreements that include the commission rate, wages, completion date, and quality standards. Barraza and Velasquez feel comfortable with the arrangement because they know their current customers well. Contracts with two growers with whom Barraza had payment difficulties were not renewed.

The Grower Interview

John Veysey heads three farming operations in the Imperial Valley — John Veysey Farms, John Veysey, Inc., and Ranchos Dos Palmos — with over 5,000 acres of production, much of which is double-cropped. About 40% is planted in various feed grasses such as alfalfa and Sudan grass, with most operations highly mechanized. Veysey also produces sugar beets using some seasonal labor, but beet production is down about 25%. About half his acreage is in various vegetable crops and melons that need a large number of seasonal workers for preharvest (weeding and thinning) and harvest.

Veysey himself once operated a farm labor contracting business, and over the years of farming has used several FLCs, including Araujo and Araujo and El Don (both reported above). Currently, he employs two FLCs — JV and R.V. Esquer (the next case study), using as many as 350 workers per day during the busy season.

Veysey commented on the major problems of farming today — water supply and cost, competing in a global market, pesticide resistance and controls, and labor. But, at least, he feels he has labor management under control by using JV and other reputable farm labor contractors.

Veysey and Barraza have a long history of working together. In fact, Barraza was a foreman in Veysey's FLC business, and, when Barraza became an FLC, Veysey was one of his first clients. To this day, Veysey feels that JV Contracting is like part of his own business. Reciprocally, Barraza gives Veysey special rates because he can always count on receiving his business.

In Summary

JV Contracting replaced an earlier operation run by the same people, using mostly the same workers, and serving the same growers. The new FLC company began with a new basis for workers' compensation premiums and has flourished in a competitive environment by offering quality work, maintaining a safe work environment, strictly abiding by all the laws, and following the letter of the regulations.

■ R.V. Esquer Labor Contractor

R.V. Esquer, owned and managed by Ramona Esquer, operates out of an office in Heber, California, to provide labor for growers in the Imperial Valley. Esquer worked for La Cienga Contracting for 16 years as a payroll clerk. When La Cienga closed down in 1987, Esquer used her knowledge of farm labor contracting and contacts with La Cienga's growers to start her own business.

Asparagus, melons, and onions make up over half of Esquer's contracts. The company also provides workers for sugar beets, cotton, broccoli, artichokes, lettuce, eggplant, cauliflower, cucumbers, and squash. The various piece-rate-paid produce crops are the most profitable for workers and the FLC, but there is also more competition among FLCs for these contracts.

Esquer contracts labor for 25 to 30 growers; hires 700 to 800 farm workers on season, 150 to 200 off season; and has a payroll of about $3 million, an increase of $1 million from five years previously. Sugar beet and melon acreage is down sharply from 1992 levels. One grower-client lost his sugar refinery contract for 600 acres of beets, and several growers are producing only one crop of melons instead of two because of the whitefly infestation. Meanwhile, Esquer's growers' mixed lettuce production has increased 300%. So, although total volume of business is down, work in lettuce and other produce has increased and is profitable for the company.

Esquer has plans to expand into the San Joaquin Valley to contract labor for melon producers there who are attempting to make up for the decreased supply from the Imperial Valley. Meanwhile, she wants to maintain the size and scope of her Imperial Valley operation.

While the total acreage served by Esquer has decreased, she has attracted several new grower-clients. She attributes her success to her company's reputation for careful compliance with the laws and regulations and for providing dependable workers. Still, she has lost some clients when other FLCs have offered cheaper rates and, occasionally, because a particular relationship did not work out.

Although Ramona Esquer is the only full-time employee of the company and, at one time, handled all the office work, she now hires two part-time, seasonal office staff people during the busy season. She has seen a significant increase in the paperwork associated with hiring and managing labor (e.g., the I-9 forms on every worker), but commented that computerization of the records has eased the load. She counts learning the requirements and expectations of all regulations as the biggest challenge to her operation over the last five years.

Esquer believes that growers are finding it less expensive to use FLCs than to directly hire their labor, thereby delegating labor management, including immigration and liability issues, to a third party. However, she cautions that when labor management is completely divorced from a grower's production decisions, considerations for the workers can be forgotten. She gives the example of some fields with irrigation furrows that are difficult to walk, increasing the chances of ankle injuries.

Under TIPP, Esquer has been investigated by agents from the county, the state agricultural commissioner's office, Cal-OSHA, and the California Highway Patrol (to inspect buses and carpooling practices), as well as by representatives of the INS. The operation was cited for an insufficiently clean restroom and a carpool violation (a foremen was discovered providing worker transportation in exchange for gas money). Fines for the two violations totaled $1,200.

Contracts

Esquer reported that on an average working day during the season, 30,000 workers cross the border at Mexicali to work. These commuters, who have their documents checked daily at the border, make up 95% of Esquer's workforce.

Esquer pays workers daily to avoid any obligation to those who do not come up to her standards. Because of this daily-pay basis, the company writes over 100,000 paychecks per year. All workers are hired by a verbal agreement with the terms and conditions of employment posted on bulletin boards at the field site, as required by law. Esquer provides transportation for the workers to the field sites, but this service requires certification of bus drivers and upkeep of the buses to meet Department of Motor Vehicle standards. Although there is no trouble recruiting enough workers, this extra service helps retain the good ones.

In the past, all Esquer's grower contracts were oral, but now, depending on the client, some are written. They are written if any special equipment owned by the grower is used; this type of agreement spells out maintenance details. In other cases, contracts are written whenever Esquer has any doubts about the deal — particularly, when it is a new contract. Whether written or oral, the contracts outline basic terms such as wages, commission rates, and quality standards.

Competition

Esquer charges the regional industry average of 36%, but feels she competes well with other FLCs because of the company's reputation for quality work and good management. Her workers have related stories about their experiences with other FLCs who cut corners to keep their costs down, allowing them to charge lower rates. Evidently, there are some whose rates are so low they are unable to pay their workers.

The Grower Interview

John Veysey, an Imperial Valley grower, uses JV Contracting (the previous case study) and R.V. Esquer, hiring a total of 350 workers at the peak. Veysey commented that he visits Esquer's office almost daily during the busy season to check on how the work is progressing. Although he trusts both his FLCs, his policy is to never rely solely on just one vendor of any input. Realizing that unexpected circumstances often arise, he decreases his input supply management risk by having alternatives. While Veysey feels that joint grower-FLC liability for compliance with regulations will never be established officially, in effect, he does feel that he shares the responsibility with the two FLCs he trusts.

In Summary

R.V. Esquer Labor Contracting is a solid business operation that has been able to meet the changing demands of labor management. Ramona Esquer has worked hard to manage the field and office responsibilities, both of which have been significantly affected by new and tougher laws. Esquer sees the strict regulatory climate as her greatest challenge, but realizes that this is also behind her company's success in that it has led more growers to rely on reputable FLCs.

Appendix:

Farm Labor Contractor Case Study Questionnaire

Name of contractor operation:
Contact person:
Name on FLC license if different from above:
Phone number(s):
Address:
County and state of registration:
If operating in more than one county or state, list all locations:

Operation Background

How long have you been in business?
How and by whom was the business begun?
How long have you been with the business (contact person)?
Who is the manager / owner and how did they get involved in farm labor contracting?
How has your business changed in the past 10 years?
  Past five years?
  Past year?
How do you think the business will change in the future?
What policies, taxes, business conditions or agricultural practices have affected your company the most in the past year (the past five years) ?

Business History

How many grower clients do you currently contract labor for? Is this more or less than a year ago?
  Five years ago?
How many regular employees does the operation employ? Is this more or less than a year ago?
  Five years ago?
How have your employee needs changed? Why?

How many fieldworkers did you employ in 1992? Do you expect to hire fewer or more in 1993?

How many workers did you employ five years ago?

What was your payroll in 1992? Will your 1993 payroll be more or less than 1992?

How has your payroll changed from five years ago?

What influenced changes in the number of growers you work with, the number of workers you employ and the size of your payroll?

FLC Commodities, Tasks, and Worker Services

What is the primary commodity and task you provide labor for?

What percentage of your work is in this crop?

What other commodities and tasks do you work in?

Is there anything that makes any of these commodities more or less attractive?

Of the commodities that you work with, which is the most competitive with respect to labor, and why?

The least competitive, and why?

Do you provide any services besides labor to growers?

In what commodities?

What services do you provide to your workers?

Have you had any difficulty recruiting enough workers for any crop or task in any season?

What or when?

Contracts

Do you use written or oral contracts with your grower clients?

Is this different from the past?

Why? (If mixed response for different growers ask why.)

What types of factors are addressed in your contracts (i.e., wages, quality standards, completion date, commission rate)?

Do you have written or oral contracts with your workers?

Is this different from the past?

Why do you use written or oral contracts?

What types of factors are addressed in these contract (i.e., wages, fees for other services)?

Has your use of contracts or the contracts' content changed in the past five years?

If so, why?

The FLC Sector

How competitive do you feel FLCs are in your crops and / or region?

(If more than one crop or region, get comparisons across crops or regions).

What is the average commission rate and wage for the crop(s) and task(s) you work in?
Do you offer competitive rates and wages to your grower-clients?
If not, what do you feel is the most important factor in making your operation competitive?
How do you feel about other FLCs who offer rates and wages below what you can offer?
Has the cost structure of FLC operations changed in the past five years? How?
What rules, regulations or laws do you think are broken the most often by FLCs?
Do growers seem concerned with the reputation of the FLCs they use?
Do you believe that the evasion of some laws allows some FLCs to cut costs?
Do growers perceive that they are liable for their FLC's actions?

Growers

Has your grower customer base changed much in the last five years? Why?
In general, how have your relations with growers changed in the last five years?
Have you lost any grower customers this year? Why?
Have you gained any new grower customers this year? Why?

Rank the following reasons in the order of importance that you perceive each factor plays in your average grower-client's decision to use FLC labor rather than directly hiring workers.

Worker availability	_______
Lower costs	_______
Paperwork	_______
Liability	_______
Immigration Reform	_______
Dependable Work	_______
Avoid Labor Management	_______
Good Relations With FLC	_______
Recruitment Costs Too High	_______
Common Business Practice for Crop	_______

Ask the FLC if you can meet with a grower client or get a contact name.
Interview growers and include the same ranking list to compare results.

Legal Matters

Do any rules, regulations, or laws have a significant impact on your operation?
If so, which seem the most significant?
Have you been investigated by any local, state or federal agencies?
If so, which ones and when?

Have you ever been fined or penalized?

If so, describe in detail.

Do you believe that your operation is more or less likely to be investigated and / or fined by these agencies?

If so, why?

What types of laws most affect your way of doing business (i.e., immigration, taxes, labor)?

What are your views on employer sanctions under the current immigration reforms?

Do you believe that growers, FLCs or workers have changed their approach to hiring because of immigration law? How?

References

Agricultural Personnel Management Program, University of California

1992 *Farm Labor Contractors in California.* Report to the Labor Market Information Division, California Employment Development Department, Sacramento. By H.R. Rosenberg, S. Vaupel, D. Villarejo, J.M. Perloff, and D. Runsten, with C. Edmonds, V. Pradhan, A. Garcia, L. Lynch, and Y. Camara. Published by EDD as California Agricultural Studies 92-2. (July). 114p.

Goodwin, Jr., H.L.

1991 "Entrepreneurship, Sanctions and Labor Contracting: Discussion." *Southern Journal of Agricultural Economics* (July): 69-73.

Polopolus, L.C., and R.D. Emerson

1991 "Entrepreneurship, Sanctions and Labor Contracting." *Southern Journal of Agricultural Economics* (July): 57-67.

Rosenberg, H.R.

1993 *More Than an IRCA Offshoot: Growth of Labor Contracting in California Agriculture.* Working Paper No. 693. (November). Department of Agricultural and Resource Economics, University of California, Berkeley.

Vandeman, A., E. Sadoulet, and A. de Janvry

1991 "Labor Contracting and a Theory of Contract Choice in California Agriculture." *American Journal of Agricultural Economics* (August): 681-692.

Vaupel, S., and P.L. Martin

1987 "Evaluating Employer Sanctions: Farm Labor Contractor Experience." *Industrial Relations* 26: 304-313.

600-pr-4/95-BT