

**TOWARD A MORE SOCIALLY JUST FARM LABOR
CONTRACTING SYSTEM IN CALIFORNIA**

RON STROCHLIC

JULY 2010



**CALIFORNIA
INSTITUTE FOR
RURAL STUDIES**

Acknowledgements

Our sincere thanks to the following for making this effort possible: Roots of Change, for generous funding and for providing the Labor Workgroup with the opportunity to convene and explore mechanisms for improving conditions for agricultural workers; members of the Roots of Change Labor Workgroup: Patty Chang, Alegría de la Cruz, Jennifer Hernandez, Brett Melone, Mily Treviño Saucedo and honorary member Martha Guzmán Aceves; to Noah Kaufman, Margaret MacSems, Kate Snow and Deeba Yavrom for assistance with conceptual development, research and conducting interviews; and to the growers, farm labor contractors, buyers and others that so generously offered their knowledge and insights.

Introduction

This report is the result of a seed that germinated during the Roots of Change (ROC) Fellows retreat in the winter of 2009. The retreat convened food system thought leaders from around California over the course of three three-day sessions. Each of the four workgroups – Labor, Regional Food Systems, Healthy Food Access and Outreach to Conventional Agriculture – was tasked with developing a bold and ambitious strategy for making California’s food system more sustainable. Specifically, the Labor Workgroup¹ was given the goal of identifying strategies for improving conditions for California’s over one million agricultural workers and their accompanying family members.

The Labor Workgroup's analysis of the myriad factors contributing to poor working and living conditions among farmworkers produced a long list of concerns, from low pay to a highly dysfunctional immigration system. Nonetheless, after careful consideration, the group determined that abuses associated with the current farm labor contracting system are responsible for many of the ills plaguing California’s agricultural workers.

The workgroup’s initial focus was on developing an alternative “ethical” farm labor contracting business serving growers interested in more sustainable labor practices, including improved conditions for contract workers. Upon deeper reflection, however, the challenges of starting a new business became increasingly apparent. The focus of our work consequently shifted from starting a new business to promoting improved labor practices among existing farm labor contractors (FLCs). The theory of change is based on growing market demand for domestic products produced under fair labor conditions. Growers wishing to market their products as “sustainable” are increasingly being asked to demonstrate fair labor conditions – for both direct-hire and contract workers. That dynamic will in turn encourage growers to increasingly seek out FLCs offering equitable labor conditions.

As a first step in assessing the feasibility of improving labor conditions among farm labor contractors, we sought to identify grower interest in contracting with FLCs providing positive labor conditions. An exploratory analysis was conducted, based on in-depth interviews with 15 growers that currently hire FLCs or have done so in the past. The purpose of these interviews was to identify grower perceptions of this idea and their willingness to hire farm labor contractors with sustainable labor practices. The interviews were conducted with organic and sustainable growers, who are most likely to sell to buyers interested in making sustainability claims. As a result, we assumed they would also be willing to work with alternative FLCs. An additional 10 key informant interviews were conducted with farm labor contractors, buyers, farm labor advocates and researchers.

¹ The Labor Workgroup members are: Patty Chang, Feed the Hunger Foundation; Alegria de la Cruz, California Rural Legal Assistance (CRLA); Jennifer Hernandez, Cultivo Consulting; Brett Melone, Agriculture and Land Based Training Association (ALBA); Mily Treviño Saucedo, Lideres Campesinas; and Ron Strohlic, California Institute for Rural Studies.

Farm Labor Contractors in California Agriculture

Farm labor contractors have been part of California’s agricultural landscape for approximately 150 years. The earliest contractors were Chinese and Japanese immigrants who served as bilingual intermediaries between English-speaking employers and non-English-speaking workers (Thilmany and Martin 1995; Vaupel and Martin 1986). With growing anti-Asian sentiment and a changing agricultural workforce, Chinese and Japanese contractors were replaced by Mexican contractors following World War I.

There were 1,176 FLCs registered with the state of California in 2010 (California DIR). While FLCs are located in all of California’s principal agricultural regions, the majority are based in the Central Valley (see Table 1). However, FLCs and their crews are highly mobile, and contractors based in one region often supply workers to growers in neighboring and non-neighboring counties. For example, many contract workers employed in Napa County vineyards are employed by FLCs based in the Central Valley and commute from Madera County on a daily basis (Strochlic et al 2007).

Table 1. Geographic Distribution of Farm Labor Contractors in California

Region	N	Percent
Central Valley	704	59.9
Central Coast	142	12.1
North Coast	99	8.4
South Coast	83	7.1
Sacramento Valley	73	6.2
Desert	63	5.4
Out of state	12	1.0
Total	1176	100

The majority of farm labor contractors are Latino and many are former farmworkers themselves. Their businesses vary significantly in size, ranging from small “mom and pop” operations to large firms with thousands of employees. Average payrolls are approximately one million dollars and range from \$10,000 to \$15 million or more.

The use of FLCs has been increasing in recent years. One estimate states that one third of agricultural workers in California are employed by FLCs (Aguirre International 2005), a figure that has remained constant since the 1990s (Rosenberg et al 1998; Thilmany and Martin 1995). Martin (2003; 2007), however, puts that figure closer to one half of all farmworkers, noting that,

As recently as 1990, there were almost three workers who were hired directly by the farm on which they were employed for each worker brought to a farm by a contractor in California. By 2006, the number of workers hired directly by crop farmers was the same as the number brought to farms by contractors.

Martin (2003) notes that this growth in use of FLCs is attributable to the fact that “contractors can provide...seasonal workers cheaply and are willing to absorb the risks of enforcement of labor, immigration, and tax laws.”

Farm labor contractors assume responsibility for virtually all aspects of labor management, including worker recruitment, supervision and payment; employment-related paperwork, taxes and insurance; drinking water and field sanitation; and safety training and equipment. While there are different methods of charging growers for their services, most FLCs charge based on total wages and a commission of generally 30-40%.

Growers cite a range of reasons for working with FLCs as opposed to hiring workers directly. Reasons include reduced paperwork, less need to recruit workers, reduced legal liability, cost-savings, reduced supervision requirements, access to a temporary workforce to meet seasonal labor demands, reduced language problems and avoidance of unionization and/or labor management disputes (Isé et al 1996; Martin 1997; Rosenberg et al 1992; Vaupel 1992).

The number of FLCs in California has increased by more than 50% in recent years, from 776 in 1983 (Vaupel and Martin 1986b) to 1,176 today (California DIR 2010). This growth in the use of farm labor contractors is often attributed to the Immigration Reform and Control Act (IRCA) of 1986, which increased both record keeping requirements for growers and sanctions for hiring undocumented workers. As Martin (1994) explains, since “IRCA’s employer sanctions increased the potential cost of hiring illegal alien workers...growers rationally tried to shift these risks to FLCs.”

Martin (1994) cites additional factors contributing to a rise in FLCs, including the legalization of immigrants under IRCA, which allowed more individuals to register as FLCs (since registration requires legal status in the U.S.) and the arrival of what he terms “new-new” immigrants – i.e. indigenous farmworkers from Mexico and Central America. The growing presence of indigenous farmworkers in California has created more demand for FLCs able to serve as intermediaries between them and growers, since “farmers used to dealing with Mexicans from the Central Highlands were not necessarily capable of dealing with the Mixtecs and Guatemalan Indians arriving today” (Martin 1994).

Isé et al (1996) cite additional legislative changes which “may have prompted some growers to hire more FLC workers in an attempt to avoid liability problems.” Those include the California Agricultural Labor Relations Act (ALRA) of 1975, which required employers to bargain collectively with unions representing farmworkers and thus may have prompted growers to reduce the number of direct hire workers. Additionally, SB 198, which was passed in 1990, required growers to establish written injury and illness prevention programs. This requirement may have prompted some growers to outsource their labor management function to contractors.

Abuses Associated with Farm Labor Contractors

Reports of abuse on the part of FLCs date to the earliest days of contractors in California. As Vaupel and Martin (1986) note, “Workers were dissatisfied with the [farm labor contracting] system and complained of being deprived of their full wages by contractors. Beginning in 1928

in the Imperial Valley, workers called strikes against contractors and demanded an end to the contracting system.”

Continued reports of abuse on the part of FLCs led to the passage of the Farm Labor Contractor Registration Act (FLCRA) in 1963, which required farm labor contractors to disclose wages and working conditions, keep accurate records of each worker’s production and issue written wage statements itemizing deductions. It also prohibited FLCs from hiring undocumented workers (Vaupel and Martin 1986). Nonetheless, FLCRA had limited impacts on working conditions, given low rates of FLC registration and lack of enforcement of the act’s provisions. The FLCRA was replaced by the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) in 1983, which, along with the Fair Labor Standards Act, is still the principal legislation protecting farmworkers.

The U.S. Department of Labor conducted research to verify growing reports of abuse on the part of FLCs. That research, summarized in the 1962 report, *A Summary of Farm Labor Crew Practices*, cites numerous forms of abuse, including withholding wages from workers, abandoning workers without paying them, paying workers less than the agreed rate, making improper deductions, short-counting or short-weighting units produced, requiring workers to overfill standard units paid by piece rate, giving the employer inflated production figures, charging workers for rental of equipment provided free by growers, keeping bonus or other money due workers, overcharging workers for transportation or collecting for transportation expenses from both employers and workers, and abandoning crews far from home (Vaupel and Martin 1986a, 1986b).

Many of the abuses identified in 1962 Department of Labor report continue today. A survey of attorneys at public interest law offices serving farmworkers (Schacht 2000) provides a detailed description of the major violations associated with farm labor contractors. The principal complaints for which farmworkers have sought redress include the following broad categories and specific abuses:

Wage & Hour Violations

- Failure to pay minimum wages
- Failure to pay overtime wages
- Payment with bad checks
- Failure to pay when due
- Illegal deductions from pay
- Illegal charges for tools
- Excessive charges for transportation
- Cheating on piece rates promised to be paid
- Failure to provide itemized paystubs
- Failure to pay final payroll
- Failure to pay at all

Retaliatory Job Actions

Firings for:

- Complaining about being sprayed by pesticides

- Questioning work assignments based on a medical condition
- Requesting work breaks
- Requesting an increase in salary
- Requesting pay for periods where workers were required to remain on call
- Reporting serious workplace injuries
- Refusing to use a short-handled hoe
- Refusing to enter a field recently sprayed with pesticides
- Filing workers' compensation claims
- Complaining about dirty field toilet facilities
- Being denied the right to return to a job because of taking pregnancy leave and taking family medical leave

Illegal Workplace Practices

- Forcing workers to labor with driverless tractors in the fields, sometimes resulting in death
- Failure to provide toilets, hand washing facilities and drinking water and cups
- Illegally exposing workers to toxic pesticide spray
- Use of unsafe farm vehicles for transportation of workers in the fields
- Forcing workers to use illegal short-handled hoes

Other Illegal Business Practices

- Use of child labor
- Sexual harassment
- Refusing to allow workers to seek medical care after the crew has been exposed to toxic pesticides
- Firing workers after workplace injuries
- Refusing to pay medical bills
- Making false promises of high wages during interstate and international recruitment
- Operating without proper FLC and/or drivers' licenses
- Use of "false front" family members to avoid liability and loss of licenses
- Furnishing 'replacement workers' willing to work for lower wages and benefits
- Fraudulent filing of bankruptcy to avoid payment of workers' claims

Despite the widespread reputation for abuse among FLCs, it is important to note that many contractors are responsible and law-abiding employers. However, their efforts have often been undermined by competition from unscrupulous and inexperienced FLCs. The former may undercharge to obtain more business, while the latter may not know how much to charge in order to cover the costs of doing business. Reputable FLCs have complained that "cutthroat competition and...lack of governmental enforcement of rules and regulations put honest contractors at a disadvantage" (Rosenberg et al 1992). Competition has also affected farmworker health and safety – at times with fatal consequences – since FLCs have often chosen to cut back on health and safety training, or field sanitation, shade or drinking water in order to remain competitive (Thilmany 1996).

FLCs that do not charge enough to cover their costs often seek to recoup those costs from farmworkers, through underpayment or overcharging. As Martin (1994) notes, "Farmers typically know what the going overhead or commission is, and thus FLCs are unlikely to extract

an extra-high fee from them. Newly-arrived immigrants, on the other hand, may not know the minimum wage, so that FLCs can turn what appears to be a money-losing deal with farmers into a profit-making deal by extracting money from workers.” Citing the U.S. Industrial Commission in 1901, Martin (1994) further notes that “the position of the contractor...is peculiarly that of an organizer and employer of immigrants.... He holds his own mainly because of his ability to get cheap labor... (he) succeeds because he lives among the poorest class of people, knows them personally, knows their circumstances, and can drive the hardest kind of bargain with them.”

On-going FLC abuse of farmworkers is made possible by a number of factors, including insufficient enforcement and oversight on the part of responsible agencies; farmworker fears of being fired if they complain; lack of grower oversight over FLC employee conditions, in part a function of limited enforcement of joint grower-FLCs liability laws; and a revolving door of abusive FLCs. In this last regard, Martin (1997) notes that “contractors who are fined go out of business and are [typically] replaced by other intermediaries who operate in the same manner. In other words, sledgehammer enforcement in an industry rife with violations is more likely to put individuals out of business rather than change the structure of employment.”

Given the many abuses associated with FLCs, it is not surprising that agricultural workers “overwhelmingly prefer to work directly for growers,” who are perceived as “providing, superior pay, benefits and working conditions; treating workers better; communicating instructions more clearly; and providing extended hours of work per day and per season” (Billikopf 1997).

Farmworkers employed directly by growers earn approximately one dollar more per hour than FLC workers. California Department of Employment (EDD) data for 2006 indicate that the average 2006 wage for all agricultural workers was \$9.84 per hour, compared with \$8.80 per hour for contract workers.

Sixty-two percent of farmworkers surveyed by Billikopf (1997) cited issues associated with pay are the principal reason they preferred direct employment with growers. Problems included FLCs “not paying what they owed; not paying without a struggle on the part of the workers; not paying on a timely basis” and not informing farmworkers “whether they were working for piece rate or hourly pay.”

Treatment and working conditions were stated as the next most important reason farmworkers preferred employment directly with growers. Preferences cited included “better, less-abusive treatment by growers; being able to deal with [growers] directly; receiving better explanations and fewer conflicts when dealing with growers; work for growers being slower paced; growers being more likely to provide breaks and toilets in the fields; less stoop work arranged by growers; and FLCs more likely to fire a worker ‘who misses a little work’.”

Workers also cited a higher likelihood of receiving benefits such as health insurance and housing when hired directly by growers, along with “the ability of growers to offer more constant work or longer hours” (Billikopf 1997). Higher rates of abuse among FLCs are corroborated by U.S. Department of Labor enforcement activities in the California raisin/grape harvest, which “found more than 50% of FLCs, and about 20% of growers, violating federal minimum wage requirements” (Schacht 2000).

Is an Ethical Farm Labor Contracting System Feasible?

The purpose of this exploratory analysis was to assess the feasibility of a farm labor contracting system offering agricultural workers more equitable working conditions. With growing awareness of the role of labor conditions in sustainability, individual firms and broader food system sustainability initiatives are increasingly including positive labor practices in their criteria. It is therefore becoming more important that farmers wishing to make sustainability claims provide good conditions for direct hire workers. However, since sustainability initiatives are increasingly taking a supply chain approach including all phases of the “farm-to-fork” trajectory, it is also becoming important that growers working with FLCs ensure that contract workers are treated fairly.²

Since the provision of improved labor conditions for FLC workers will mean higher costs for growers, a principal focus of this research was determining grower ability and willingness to pay FLCs more, with the understanding that these costs would be passed on to workers in the form of higher wages and/or benefits. Because many growers have had long term relationships with FLCs, an additional question was whether or not growers would be willing to sever the relationship with their current FLCs and switch to someone with better labor practices (in the event their FLCs were unable or unwilling to provide better conditions).

Research Findings

Wages

None of the growers interviewed set a pay rate for FLC workers, preferring to leave that to the contractors. As a grower explained, “They set the pay rate. We negotiate a total price but not the employees’ salaries.” Nonetheless, that same grower explained that “We do have to make sure they’re paying people within the law.” Similarly, another noted that, “We negotiate with the FLC on services and they decide the worker pay.”

Several growers explained that they do not set wage rates because they do not want to upset neighboring farmers by offering higher than average wages. As a strawberry grower explained, “We do not push the price down because we pay the legal minimum wage. We do not push the price up because we do not want to make the neighbors mad. If I’m paying 25 cents more per hour and all the labor comes to me, my neighbors will get upset with me.” In a similar vein, another noted that he sets pay rates in accordance with “The grower group standard. I don’t want to be out of line with them.”

California EDD data indicating that direct hire workers earn more than their FLC counterparts was corroborated by some respondents. As one grower noted, “They don’t get paid as much as

² A larger and more complex question is the overall sustainability of the farm labor contracting system and whether food produced by contract workers can truly be sustainable. This paper does not attempt to answer that question. Rather, given the reality that many farms do rely on farm labor contractors and are unlikely to discontinue using them in the near future, the question at hand is how to promote equitable conditions for FLC workers within the context of market-driven efforts to promote greater sustainability in the food system.

our direct hire workers. I see what I pay for them.” Conversely, most respondents reported that wage rates are comparable, even when workers are paid above minimum wage. A strawberry grower on the Central Coast, where wages are typically higher than other parts of California, explained that, “We pay about the same – maybe a little bit more, but not much.” An avocado grower on the Central Coast also stated, “We pay about the same to both crews. It’s gotta be the same.”

Reasons for Hiring FLCs

The growers interviewed provided a number of reasons in response to the question of why they hire FLCs. The principal reason cited was reduced liability. As a grower explained, “You don’t get into trouble. The FLC is responsible.” While most growers mentioned reduced liability in general terms, one was very explicit about the fact that FLCs provide undocumented workers. As he explained, “My crew is legal. We cannot hire illegals on the farm. But the FLC does that. They hire illegal citizens.”

Growers also cited reduced paperwork, reduced worker training and the provision of insurance as other reasons for working with FLCs. In the words of one respondent, “The FLCs are required to maintain high level documentation pertaining to very heavy regulations regarding food safety and labor standards. They maintain the documentation for us. That helps us a lot. It is so much easier on the grower not to have to do all that. They have to file with various authorities and we trust that all is being properly monitored. We have no doubt about their training the workers.” In a similar vein, another noted that “We don’t have to have these people’s papers on file, going online... That’s a fulltime job. I’m overworked as it is.”

Access to labor was an additional reason for working with FLCs. “We work with FLCs because they’re the only ones who are going to do all that labor,” one grower reported. Another explained, “We use FLCs because we’re in a bind. We lay off employees at the end of the harvesting season. They leave for Oxnard.”

Two growers – one with lemons and avocados and another with a diversified farm – work with FLCs because they can provide specialized labor. The lemon and avocado grower on the South Coast explained, “Our philosophy of pruning is that you’re building a tree through multiple years. Our FLC’s guys are very carefully trained and carefully overseen. They do really, really good work.” The diversified farmer noted that his FLC can provide skilled labor at the right time, explaining that, “These workers are specifically trained. By contracting we can get that very specific labor need met just when we need it.” He also mentioned lower training costs, claiming that, “They have a very particular skill set. It would cost us more to train the workers ourselves. They’re trained by the FLC. It wouldn’t pan out for us if we had to train and retrain.”

Disadvantages of FLCs

The growers interviewed had few complaints about the FLCs they work with, and most expressed satisfaction and reiterated the benefits cited above.

Nonetheless, some challenges were noted, specifically the quality of work, the need for supervision and decreased efficiency. With respect to the quality of work, a cherry farmer in the Sacramento Valley said, “We have to be out there making sure they’re picking not green ones, the right size. The FLC doesn’t really care about the quality of the crop. Nobody does except you.” She went on to explain that, “We have to be out there. Someone who works for us is watching, because the contractor has five or six things going on. They’re trying to maximize their income. They run back and forth. They don’t oversee the people. They’ll just pick what’s there, they don’t care.”

A strawberry grower cited decreased efficiency and higher costs when working with a contractor, explaining that, “The quality was fine, what suffered was the efficiency. I didn’t get the best people or the best management. Now that I am swinging it myself I am seeing a 30% decrease in the cost of harvesting.”

One farm manager noted that the main disadvantage to working with FLCs is the impact on direct hire employees’ morale, noting that, “The only risk is that our [direct hire] employees get upset, even though they’re not available to work. People think that they’re going to get replaced.”

Perceptions of Market Demand for Fair Labor Conditions

Since our assumption for promoting improved FLC practices is based on growing market demand for fair labor products, a key question was the extent to which growers have noticed increased market demand for products produced under fair labor conditions.

Only three of the growers interviewed have seen increased scrutiny of farm labor conditions on the part of buyers. As one commented, “Yes, we are seeing that. Our big market buyers, Walmart and Costco, come out to the farm and check on labor practices. They want to know that we don’t have sweat shop conditions. They talk with the crew, check on equipment, ask about wages etc.” Similarly, a strawberry grower explained that “We work with Driscoll's. They’re strict about full insurance and benefits and positive environment.”

While another strawberry grower cited increased questions regarding fair labor conditions, he claimed that pressure to demonstrate that is low. As he explained, “One distributor I grow for is really concerned about labor practices, but there’s not much pressure for it. Whole Foods also has this overall thing, but they kind of gloss it over it. Every year they ask some questions in a survey...”

Growers selling to wholesalers have not seen increased demand for fair labor practices. As one explained, “For our buyers this is not a major factor. They are huge corporate chains. It’s a tough sell.” That was echoed by another, who is, however, seeing a change in smaller, niche markets. “We’re Sunkist growers and our avocados are going all over the world. We’re growing for big companies and that kind of niche marketing is not part of the picture. That’s more something that smaller marketers can take advantage of and get a premium for.”

The perception that interest in fair labor products is still a niche market issue was echoed by a grower with experience in both worlds. “We sell at the Bay Area farmers’ markets and people want to know about these things and want to feel good about themselves. But when you’re selling pallets to a packing house and it’s going all over the U.S. and the world, they don’t care. They want the cheapest price. It’s not until the world starts demanding it. And they are. Things are changing. We’re selling both.”

Grower Interest in Hiring Ethical FLCs

Most of the growers interviewed expressed interest in working with FLCs offering fair labor conditions. The overall sentiment was perhaps best summed up one grower, who responded, “Of course. That’s a no brainer.”

The growers offered a number of reasons for wanting to work with ethical FLCs, including a desire to “stabilize crews, reduce training cost and improve product quality.” In that vein, a grower noted that “happier workers produce better products,” while another explained that, “We take pride in having happy employees. It would be more costly not to maintain happy workers.”

While interested, a strawberry farmer claimed that an ethical FLC would need to offer “much better conditions than the ones I now supply.” He explained that their farm already offers good conditions for farmworkers, since, “in strawberries we are out in the open, visible to all to see. There’s a lot of vigilance.”

Another grower cited business and liability concerns as a reason for wanting to work with an ethical FLC. As he explained, “In the high value crop it just doesn’t make any sense to treat workers badly. It isn’t worth it to cut corners and get caught. There’s too much profit at stake.”

Although not currently working with FLCs that are certified as "ethical", growers are concerned with the way their workers are treated. As a result, several felt that the decision to hire a "certified ethical" FLC would depend on issues including increased cost and transparency with regard to contract worker conditions. As one grower explained, it would “depend on the relationship and the cost. And of course if it really was better conditions.” That was corroborated by another, who claimed that “I would do it if I could trust the certification.” Buyers interviewed echoed the need for guarantees that FLC conditions truly were better. Although third party certification is considered the “gold standard” for insuring fair conditions, buyers expressed a willingness to consider less stringent forms of verification for the moment, while stating some concerns about potential for "greenwashing."

One grower also noted that reputable FLCs would be likely to welcome some sort of certification as well, since it would offer them a form of recognition. As he explained, “The FLCs I know have a relationship with growers, they don’t skip around. Some of the people I know would welcome that type of certification.”

Willingness to Pay

While most growers expressed some willingness to pay more for FLCs providing better labor conditions, the overall consensus was that they would not be willing to pay much more than they currently do. A farm manager speculated that, “If the minimum were \$8 we would go to \$8.50. But if the minimum were \$10 we would pay \$10. It’s up to my boss, but it’s pretty tight.” Similarly, another grower stated that, “we would pay a little bit more, but it’s already expensive.”

One grower cited concerns about an ability to recoup higher costs, noting that, “I would not give 100% of my business to someone new. I would try them out and see if the market would bear the increase in cost.” Another expressed concerns about upsetting neighboring farmers by paying above the going rate. As he explained, “I wouldn’t want to be paying \$9 if the neighbors were paying \$8. All the labor would come to me and they would be disgruntled. If all the farms paid \$9 that would be great.”

A farmer paying piece rate felt he could raise wages, but expressed concerns about the impacts of raising piece rates on product quality. As he explained, “Raising the wage rate depends on the margin pricing. It’s fairly easy to raise the hourly rate, but it’s just a token, not terribly motivating. The piece rate is more motivation, but then you run the risk of pushing on the quality. Keep in mind that in strawberries labor is 65% of the cost.”

In contrast, some farmers were not willing to pay more for labor than they are now paying. As one explained, “There’s no way. We cannot absorb any more cost.” Similarly, another claimed that, “I am only paying the wages I can afford. If I go broke nobody gets paid.” That grower echoed concerns about parity with local wages, claiming that wage rates “must be in line with what everybody else is paying.”

Based on experiences with other sustainability schemes, buyers are more likely to reward growers demonstrating fair labor practices with continued business and/or increased volume rather than price premiums. Since growers will likely need to absorb these additional costs of production, they will need to decide whether incorporating yet another aspect of sustainability is cost-effective.

Ultimately, many may decide to do so. As a grower explained, “We farmers are resilient. We say we can’t pay another penny more for gas or fertilizer or labor and then when we have to, we do.”

Grower Perceptions of this Approach

While the growers supported the idea of ethical farm labor contractors in the abstract, they expressed some ambivalence about the overall feasibility of this approach. Some of their opinions were based on their perceptions of the market and consumer willingness to pay more for their food. As one explained, “You have to be realistic. It’s a race to the bottom. Nobody wants to pay more.”

Interestingly, a more common view was that this approach would not improve conditions much, since many felt that farmworker conditions have improved significantly in recent years. As a grower explained, “They’ve got pretty good conditions now. They get paid, protection, benefits. Improvement? I don’t think there’s much to improve. Maybe better housing, better benefits. No, I don’t think this would lead to significant improvements.”

That sentiment was echoed by another grower, who felt that “There is always room for improvement but, no, I don’t think it would result in a significant improvement. Conditions have already improved a lot.” Similarly, another claimed that, “Things have already improved. Things are a lot better than 10, 20 or 30 years ago, what with the improvements on heat stress, food safety and toilets.”

In contrast, a grower who no longer works with FLCs expressed skepticism about efforts to reform this sector, claiming that, “It’s a great idea, but FLCs... It’s another degree of separation between workers and growers. They’re some of the biggest abusers.”

Conclusions

Based on the findings from this exploratory analysis, an alternative "ethical" model for farm labor contracting may not be feasible. On the one hand, all of the growers interviewed expressed a willingness to work with ethical FLCs – some because they value their workers and others because of market demands. Some even stated a limited willingness to pay slightly more for improved contract worker conditions. Three respondents also noted increased interest in fair labor practices on the part of some of their buyers.

However, growers stated they are unwilling or unable to carry the burden of paying more than 50 cents per hour for FLCs providing improved labor conditions. This amount would not be sufficient to bring contract workers’ wages in line with those of direct hire employees and would not allow for the provision of fringe benefits such as health insurance or paid time off. Further, most respondents did not report increased demand for improved labor conditions on the part of buyers, which will likely be the main factor motivating most growers to contract with more ethical FLCs.

Nonetheless, as supply chain codes of conduct and sustainability initiatives increasingly incorporate fair labor practices as criteria for certification of sustainability, growers working with FLCs will need to demonstrate that their labor contractors provide them. Some large buyers are already asking about farm labor conditions. If the market demands it, the number of buyers concerned about fair labor practices will grow and demands for verification processes will likely become more rigorous.

The findings from this exploratory research cannot be considered a mandate for moving forward with a plan for fair labor certification of FLCs. However, while the need for an ethical farm labor contracting system is not a high priority at the present moment, scrutiny of farm labor conditions is mounting and growers will increasingly be required to demonstrate fair treatment of both direct hire and contract workers.

This study shows that the organic growers interviewed had difficulty meeting all the demands of the current marketplace, including labor regulations and record keeping. Their responses indicated that these demands have led them to utilize FLCs. At the same time, they are under economic stresses that limit their ability to change their labor practices.

Based on current trends rather than on the results of this specific research, it may be useful to develop a plan to test an "ethical" certification model for FLCs. To achieve this, the next steps would include developing criteria for defining fair farm labor contracting conditions, identifying growers and FLCs most likely to participate in an effort of this nature and developing verification criteria.

Demand for fair labor certified products will need to be weighed against buyer willingness to pay growers a price that reflects the cost of providing improved farm labor conditions. Labor costs can represent 60% of gross revenues on organic farms, so improving labor conditions on these farms may be costlier than implementing the types of environmental improvements often demanded by buyers. Ideas for improving conditions without increasing costs will need to be developed or buyer education campaigns will need to be created to convince people that paying more for a "fair" product is worth the cost. Growers have expressed willingness to pay a little – albeit not much more – to work with ethical FLCs. As a result of this inability of growers to pay more, the development of criteria for fair FLC conditions will need to address buyer willingness to pay more for fair labor practices. In particular, if buyers are unwilling to pay growers a price premium reflecting higher costs of production – as they currently do for organic products – it may be that rather than developing a new model for FLCs, more pressure will need to be placed on enforcement agencies. Policy may need to lead practice and compliance with current laws may help to improve farm labor conditions more than a system of market based certification.

REFERENCES

Aguirre International. (2005). *The California Farm Labor Force: Overview and Trends from The National Agricultural Workers Survey*. Burlingame, CA: Aguirre International.

Billikopf, Gregory Encina. (1997). "Workers prefer growers over FLCs." *California Agriculture* 51(1):30-32.

California Department of Industrial Relations (DIR). "Farm labor contractors license database." <http://www.dir.ca.gov/databases/dlse/lr/farmlic.html>.

California Department of Employment Development (EDD). "Agricultural employment in California." <http://www.labormarketinfo.edd.ca.gov/?PAGEID=158>.

Martin, Philip L. and Greg Miller. (1990). "Farm employment and wage patterns in the mid-1980s." *California Agriculture* 44(6):16-18.

Martin, Philip L. (1994). "Good intentions gone awry: IRCA and U.S. agriculture." *Annals of the Academy of Political and Social Science*, Vol 534.

Martin, Philip L. (2003) *Promise Unfulfilled: Unions, Immigration and the Farm Workers*. Ithaca: Cornell University Press.

Isé, Sabrina J., [Jeffrey M. Perloff](#), Steve R. Sutter, Suzanne Vaupel. (1996). "Grower beliefs determine hiring practices." *California Agriculture* 50(2):17-20.

Martin, Philip. (1997). "Immigration and the Changing Face of Rural America." Paper presented in the series *Increasing Understanding of Public Problems and Policies*, presented at the National Public Policy Education Conference. <http://www.farmfoundation.org/news/articlefiles/39-martin.pdf>.

Martin, Philip. (2007). "Farm labor shortages: How real? What response?" Backgrounder: Center for Immigration Studies. <http://www.cis.org/articles/2007/back907.pdf>

Rosenberg, H., S. Vaupel, D. Villarejo, J. M. Perloff, and D. Runsten. (1992). *Farm Labor Contractors in California*. Report to the Labor Market Information Division, California Employment Development Department.

Rosenberg, H.R. (1993). "More than an IRCA Offshoot: Growth of Labor Contracting in California Agriculture." University of California-Berkeley Working Paper.

Rosenberg, Howard, Anne Steirman, Susan Gabbard, Richard Mines. (1998). *Who Works on California Farms: Demographic and Employment Findings from the National Agricultural Workers Survey*. Berkeley: University of California, Agricultural Personnel Management Program.

Rural Migration News. (1997). "Farm labor contractors." Vol. 3, No. 4.
<http://migration.ucdavis.edu>.

Rural Migration News. (2010). "California farm worker data." Vol. 16, No. 2.
<http://migration.ucdavis.edu>.

Schacht, Mark S. (2000). *Farm Labor Contractor Abuses in California*. Sacramento: California Rural Legal Assistance Foundation.
http://www.globalexchange.org/countries/americas/unitedstates/farmworkers/crlaf_farm_violation.pdf.

Strochlic, Ron, Don Villarejo, Sandra Nichols, Cathy Wirth and Raoul Lievanos. (2007). *An Assessment of the Demand for Farmworker Housing in Napa County*. Davis, CA: California Institute for Rural Studies.

Thilmany, Dawn and Philip L. Martin. (1995). "Farm labor contractors play new roles in agriculture." *California Agriculture* 49(5):37-40.

Thilmany, Dawn D. (1996). "FLC usage among California growers under IRCA: An empirical analysis of farm labor market risk management." *American Journal of Agricultural Economics*, Vol. 78, No. 4.

Vaupel, Suzanne (1992). *Growers' Decisions to Hire Farm Labor Contractors and Custom Harvesters*. Davis, CA: University of California, Division of Agriculture and Natural Resources.

Vaupel, Suzanne and Philip L. Martin. (1986a). "Farm labor contractors." *California Agriculture* 40(3):12-15.

Vaupel, Suzanne & Martin, Philip L. (1986b). *Activity and Regulation of Farm Labor Contractors*. Information Series 11918. Davis, California: UC Giannini Foundation of Agricultural Economics.