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Immigration and Employment Policy Impacts

The Florida Citrus Case

by Leo C. Polopolus and Robert D. Emerson

>Agricultural entrepreneurs innovate their individual business organizations to deal with the risk of sanctions imposed by laws and regulations. In this discussion, labor intensive agricultural firms in Florida have modified their harvesting practices in response to the Immigration Reform and Control Act (IRCA) and other Federal and state labor laws. The net effect has been a shift in the management of routine seasonal labor jobs from growers to independent labor contractors. Moreover, these changes in the rules and regulations create entrepreneurial opportunities in labor contracting.

As evidenced by the Florida Valencia Orange Study, labor contractors provide harvest labor options not only for growers, but also for other fruit owners, such as processors, packing houses, and independent fruit buyers. While growers look for ways to avoid risks of IRCA penalties and sanctions, labor contractors are adept at dealing with the threat of IRCA sanctions in the midst of large numbers of documented, illegal foreign workers.

Passage of the Immigration Reform and Control Act (IRCA) of 1986 brought forth a new set of rules and regulations regarding the employment of farm laborers, particularly alien workers. IRCA redefined national policy regarding aliens, and, in so doing, affected every employer and worker in the United States. In contrast to the minimum wage and unemployment insurance laws, IRCA applies to both small and large agricultural employers.

Without getting involved in all of the provisions of this new statement of labor and immigration policy, one of the driving features of IRCA is the scope and severity of sanctions imposed upon wrongdoers. Civil, as well as criminal, fines can be imposed under IRCA for knowingly hiring, recruiting, or referring for a fee, aliens not authorized to work on farms in the United States.

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Case Study: Florida Valencia Oranges

The influence of national labor and immigration policy in the context of farm labor markets is illustrated by the Florida citrus industry.

Influenced by labor and immigration policies and the basic economics of harvesting, the primary employer of Florida's citrus harvesting labor is no longer the farmer. The employer of harvest workers is typically a third party that either harvests fruit only or engages in other citrus non-production activities. These third-party employers include labor contractors, processing firms, packing houses, and independent buyers of fruit.

Each potential employer has the option of hiring workers directly or contracting with labor contractors, sometimes called "subs" for labor intermediaries or subcontractors. The citrus processor may employ his own harvest workers directly with his own company crews, or contract with a subcontractor who hires workers directly.

A second example would find a grower delivering fruit to the same processor, but with fruit picked by workers also employed by a subcontractor. Third, an independent buyer may deliver fruit to a processor, but from fruit picked by yet another subcontractor. That subcontractor, however, may be simultaneously harvesting fruit for several buyers or several growers. The important point is that independent labor contractors are viable alternatives for all types of fruit owners.

In the 1990 Florida Valencia Orange Survey, 42 of the 55

IRCA Sanctions

The civil and criminal penalties and fines levied under IRCA are imposed for hiring illegal aliens and are quite ominous. All employers are mandated to examine prescribed documents of all prospective employees and to keep appropriate records. IRCA makes it unlawful to discriminate in the hiring of individuals on the basis of nationality or citizenship. Civil fines for first offenders range between \$250 and \$2,000 for each unauthorized alien employed. After more than two previous violations, civil fines increase to a minimum of \$3,000 and a maximum of \$10,000 for *each* unauthorized alien employed.

Criminal and/or civil money penalties may be levied against employers and others who engage in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens. Criminal penalties are also imposed for fraud or false statements or other misuse of visas, immigration permits and identity documents.

responding employers were farm labor contractors. These labor contractors employed 1,853 (57 percent) of the 3,270 fruit pickers employed by respondents of the survey.

Labor contractors perform several important services. All of these contractors harvest Valencia oranges; provide the goat loader; pay workers' compensation, unemployment insurance, social security, and withholding tax, and maintain the payroll (Table). All of the labor contractors report that they had Federal and state crew leader registration cards. Only two of the crews of labor contractors did not do the "roadsiding" of the fruit, i.e., moving the harvested fruit from within the grove into the tractor trailers at roadside. Almost one-half of the contractors haul fruit to the processor in trucks under their ownership or control. Auto insurance and liability insurance are provided for 87 percent and 96 percent of the crews, respectively (Table). Compensation for the services of labor contractors is correlated closely with the functions that they perform, particularly with whether or not the contractor provides the hauling service. The important economic value of these services is reflected in the compensation rate paid for labor contracting services in Valencia orange harvesting. It is roughly twice the piece rate paid directly to pickers.

We believe that citrus growers and other agricultural enterprises that utilize large numbers of workers are increasingly using "independent" labor contractors. These arrangements permit the growers to decrease the number of seasonal agricultural workers they hired directly, but yet facilitates the continued use of workers at historic levels.

These bilingual labor contractors are more adept at recruiting illegal aliens for seasonal farm work and understand migrant laborers and their social and economic networks better than do farmers. As a result, the value of using contractors seems to be even greater when the U.S. Government is lax in enforcing IRCA laws and imposing sanctions for violators.

Induced Entrepreneurship

Many agricultural firms are adjusting their business organizations in response to IRCA; others are seizing the opportunity to contract with growers to provide seasonal farm workers.

We observe that entrepreneurs in the Florida citrus industry continually re-evaluate how they accomplish their farming related activities. In essence, the entrepreneur determines what activities are to be carried out directly within the firm and which activities are to be "farmed" out with contracts. Some have decided to vertically integrate all functions from production, harvesting, and hauling through packing and processing. Others have placed production, harvesting, transportation, packing, and processing into separate legal corporations under some interlocking directorate. Another more common approach is to cast off harvesting and hauling to independent contractors.

There are several reasons why citrus growers have increased their use of independent labor contractors. First, much of the harvesting is highly routine work. Harvesting oranges for one firm requires the same skills as harvesting for another. There are few proprietary secrets at risk. Also, negotiating a contract with a labor contractor involves few additional features over necessary contracts in the absence of a labor contractor.

Second, utilizing a labor contractor probably significantly lowers transaction costs related to arranging for laborers. An obvious example is the smaller owner of fruit requiring only a few days of harvesting services. In contrast, labor contractors can take advantage of economies of scale by specializing in information unique to the harvest labor market: sources of workers, language skills, and communications with workers, all of which have little bearing to other activities in agricultural production. Most important-

ly, the cost of this knowledge can be spread over several different agricultural producers rather than be absorbed by the individual producer.

Third is the interest of growers to avoid the risk of having to pay penalties if law enforcement agencies find that they are not adequately checking documents of prospective workers and keeping adequate records.

Incentives to contract for laborers are less for large agricultural firms. They are able to spread these information costs over a larger volume of product and time. As a result, larger firms are more likely to hire harvest workers directly. Note, however, that the large firm need not be a grower. Processing plants and packing houses often integrate the harvesting activity into their operations. Their scale is sufficiently large to accommodate this, and they are also able to control when the commodity arrives at the processing plant. Sometimes, however, large firms organize a wholly-owned subsidiary dedicated to the harvesting.

The Contract

Because large penalties can accrue from willful negligence, dishonesty, or ineptness in carrying out agricultural labor functions, the contractual agreement between the owner of the agricultural commodity (e.g., fruit) and the contractor (e.g., employer) has become quite technical and explicit.

The labor contractor is required to certify that all employees involved in the harvesting are eligible to work in the United States and that they are employed and paid in compliance with the Minimum Wage and Child Labor requirements of the Fair Labor Standards Act, the Immigration Reform and Control Act, and the Migrant and Seasonal Worker Protection Act, as well as the Federal Occupational Safety and Health Act (OSHA), and other applicable state laws regulating labor contractors.

Labor contractors may also be required to certify to the fruit owners that they are insured under state Worker's Compensation laws and for general liability for bodily injury and property damage. They may also be required to prove that they carry automobile liability insurance.

Roles and Rules of Contractors

The primary function and role of the farm labor contractor is to coordinate seasonal labor supply and demand in an otherwise casual and disorderly farm labor market. Labor contractors have been persistently engaged in these roles for over 100 years in California agriculture, and for almost that long in the other major farm labor states of Florida and Texas.

Growers look to labor contractors to deliver a sufficient supply of

Labor Contractors

Labor contractors are independent intermediaries who, for a fee, recruit, hire, and supervise seasonal farm workers. Contractors may also provide housing, transportation, and other services for workers. The larger contractors may also provide "roadsiding," packing, and hauling services to the "owners of the agricultural commodities" which, in many cases, are the growers. However, in other instances, the fruit is sold before harvesting to processors, packers, and other buyers.

In addition to fulfilling registration requirements under state and Federal labor contractor laws, farm labor contractors negotiate verbal or written contracts with growers. While traditionally these owners of agricultural crops have been growers, harvest labor contracts are increasingly made with such "owners" as processors, packers, independent buyers, cooperatives, or other labor contractors.

Activities Performed by Labor Contractors, Florida Valencia Orange Harvest, Spring 1990.

Activity	Number of crews	Percent of crews
Harvesting the fruit	94	100
Roadsiding	92	98
Provide goat loader	94	100
Haul the fruit	42	45
Provide trucks for hauling	42	45
Auto insurance	82	87
Liability insurance	90	96
Workers' compensation	94	100
Unemployment insurance	94	100
Pay workers' social security	94	100
Withholding tax	94	100
Maintain payroll	94	100
Federal and state crew leader registration cards	94	100

Source: Emerson, Chunkasut, Moon, and Polopolus, 1990.

labor to meet highly seasonal labor needs and to oversee the work performed by seasonal farm employees. Labor contractors permit growers to avoid the details of field labor management, including the hassles and problems associated with recruitment, retention, productivity, payroll, transportation, meals, and housing. This permits the grower to treat labor like any other purchased input.

Labor contractors are particularly advantageous where workers are likely to be foreign born, migrant, illegal, unskilled, uneducated, and unorganized. Workers with these characteristics face difficulties in finding jobs and, consequently, rely upon informal networks of friends, relatives, and contractors for employment information.

Labor contractors are indispensable to seasonal labor markets because of their extensive contacts with farm worker communities and migration networks. Their bilingual skills help with non-English speaking workers and their networks provide entry possibilities for illegal workers and workers with little or no previous work experience in the United States. **C**

For More Information

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