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**MORE THAN AN IRCA OFFSHOOT:
GROWTH OF LABOR CONTRACTING IN
CALIFORNIA AGRICULTURE**

by

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Abstract

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More than an IRCA Offshoot: Growth of Labor Contracting in California Agriculture

It did not take long after Congress passed the Immigration Reform and Control Act of 1986 (IRCA) for legions to start pondering, predicting, and perceiving its impacts. The great boost that this law gave to fraudulent document mills may have been surpassed only by its mobilization of analysts seeking truth, grants, and influence. Particular attention has been focused on the agricultural labor market, where IRCA held promise for both new and old kinds of alternatives to widespread hiring of workers who were here illegally. The new direction pointed to a legal resident workforce with more stable employment, the old to an institutionalized reliance on guest workers employed under more heavily regulated conditions.

While the explicit goal of IRCA was to control unauthorized immigration to the United States, diverse interest groups had other, dubiously compatible aims in supporting this complex law. Among these purposes were to reduce the relative isolation of the farm labor market, tighten supply within it, and thereby improve conditions of employment in agriculture. By now, however, we have in voluminous testimony and studies a consensus that the majority of farm workers are hurting as much as ever--with low incomes, uncertainty about earnings opportunities, and involuntary unemployment for half the work year; strenuous work, when they can get it, often under dangerous conditions; and unmet needs for health care, housing, and various social services.^{1, 2}

Many observers relate tough times for workers to a trinity of labor market factors: (1) uncontrolled entry of new immigrants into the market, (2) decline of union membership and effectiveness, and (3) expanded use of and competition among farm labor contractors (FLCs). Opinions differ on the directions of influence among these three, but they are regarded as somehow all fitting together, with FLCs pivotal in growers' adjustments to IRCA that keep ineligible newcomers on the farm.³ Legislators at both the state and federal levels have introduced bills clearly presuming that FLCs are used to subvert legal standards for hiring and other terms of employment. To what extent is the increased importance of farm labor contractors in California really attributable to IRCA?

In his 1947-48 study, the Deputy Labor Commissioner noted that labor contractors had become more active simply because there was more call for their services.⁴ Growers believed that contractors relieved them of difficulties, uncertainties, and costs associated with direct employment of workers. Key to explaining the growth in activity of FLCs, now as it was then, is an understanding of growers who purchase the services they sell.

Tradition and Concern in California

As it has for more than a century, California agriculture relies to a large extent on recent immigrants performing field jobs that do not appeal to most settled U.S. residents. Conflicting assertions about this state of affairs are (1) that only immigrants are willing or able to do seasonal agricultural work, and (2) that plenty of legal resident workers are available but not effectively recruited by farm employers. Whatever the contributing factors, a succession of immigrant or disadvantaged groups has performed most of the work in California's labor-intensive specialty crops.⁵ When IRCA was enacted, California farm employers were understandably concerned about what it would bring.

The 1986 law included some measures that required specific change in employers' management practices and others that were expected to induce adjustments. It imposed on all employers new hiring and record-keeping obligations and created two new mechanisms by which people who had lived or worked here illegally could acquire legal U.S. resident status. One of these means, the Special Agricultural Worker (SAW) program, was available only to farm workers. IRCA also treated agriculture specially through a few other provisions, the very existence of which revealed expectations that farmers would be making managerial adjustments to a changed labor market. The law deferred until December 1988 the full application of sanctions for hiring ineligible workers and for failing to document the eligibility of new hires. It provided not only the SAW program but also the Replenishment Agricultural Worker (RAW) and the H-2A programs to further expand the farm labor supply with legal immigrants or guest workers if necessary. It placed new restrictions on Border Patrol access to farm fields and created a national Commission on Agricultural Workers to report to Congress on the effects of IRCA in agriculture.

The impact of IRCA was to be shaped through individual responses to the inducements and penalties it created. Employers were not only required to meet certain hiring standards but also pushed to rethink their non-regulated management practices. They would face decisions about the new legal obligations as well as their labor relations more generally. Some employer and worker responses were rather immediate and far-reaching, but major impacts would take form gradually, as even the context of these decisions would be fluid. Provisions did not all kick in at once, and some key implementing regulations and administrative policies took months or even years to establish. Long-term effects of IRCA might be seen as changes in: (1) the composition of the farm workforce, (2) the mobility and occupational choices of former farm workers who acquired legal status, (3) workers' exercise of employee protections under law, (4) union organizing activity, (5) pay and other terms of employment in agriculture, (6) the reliance on farm labor contractors, (7) the use of technologies that substitute machinery for labor, and ultimately, (8) the viability and structure of labor-intensive agriculture in the United States.^{6, 7}

In spring 1987, fears of widespread summer harvest disruptions were fed by general confusion about the new law, by IRCA regulations that restricted farm workers in Mexico from entering the United States to file SAW applications and obtain temporary work authorization, and by spot shortages of labor to perform early season tasks. Agriculture took a regular place on the nightly news, and government agencies readied themselves to cope with crisis. The INS convened a public meeting in Irvine to promote an exchange of informed views and suggestions among representative of grower, labor, and federal organizations. The Employment Development Department initiated a weekly farm labor report.⁸

The most pessimistic scenarios were not nearly realized. Transitional rules and offices were set up to facilitate the entrance of pending SAW applicants from Mexico. Temporary relaxation of documentation standards for proving work eligibility eased the employment of SAW applicants from either side of the border. Harvests appeared to progress through that first post-IRCA summer and fall with little abnormality.

Initial Response of Agricultural Employers

In November 1987, a year after IRCA was signed, a survey of agricultural employers in California explored their initial adjustments to the new law.^{9*} Findings summarized below are based on 456 California-based firms that provided location, workforce size, and commodity identification data. Employers are counted in the CDFA reporting region where they produce output of greatest value.

Respondents noted up to three types of commodities from which they derived most revenue, and their answers are aggregated with others in each respective crop mentioned (sum of response shares by crop thus exceeds 100%). A large majority (71.0%) of respondents produced only "SAW crops," in which 90 days of work between May 1985 and May 1986 was the key qualification for obtaining legal status as a Special Agricultural Worker. Commodity groups not fitting the "SAW crops" definition are dairy, poultry, other livestock, and "other" (mostly silage).

Information and understanding. Whether employers comply with any law depends first of all on whether they understand it. Many farmers were justifiably uncertain about the new law and what it required. Information on IRCA was unevenly available, and official guidelines were slow to reach many. Only 62% of respondents had yet received the official "Handbook for Employers" from the INS.

* The California Agricultural Statistics Service, Department of Food and Agriculture, drew a random sample of 2,000 employers for this study. Of 1938 employers who received the survey instrument, 487 (25%) responded. They were representative of all California agricultural employers, as characterized by the 1982 Census of Agriculture, in geographic and commodity distribution. Returns from medium sized organizations exceeded and from small organizations fell short of their proportionate shares of the state population.

Employer associations, educational and social service organizations, and news media were advising employers and aliens long before the INS launched any substantial effort to inform. Survey respondents said that their most useful information sources were periodicals, seminars, and newsletters. About 40% specified questions or topics on which they needed clarification. Most frequently mentioned were: documentation required to establish employment eligibility; new sources of farm labor supply; the deferral of sanctions for employers of workers in SAW commodities; and unity of families in which not all qualified for legal resident status.

Only 8.1% felt very certain about what IRCA required. Employers in this group did better on a straightforward twelve-item "exam" portion of the survey than groups who were less sure they understood; but they still missed, on average, more than one-third of the questions.

Aliens in agriculture. Survey responses confirmed that California agriculture did depend heavily on labor provided by aliens, in contrast to findings of the USDA Hired Farm Working Force Survey of 1983. In both 1986 and 1987, 85% of agricultural employers hired one or more aliens (table 1). Virtually as many farms hired illegal as legal alien workers in 1986. In 1987 fewer firms (55%) reported hiring illegal aliens and more (77%) legal aliens. About as many legal aliens (37%) as illegal aliens (38%) were hired in 1986. In 1987, while the percentage of jobs going to illegal aliens fell to 31%, the share to legal aliens rose to 41%. All aliens thus constituted nearly as many of the hires in 1987 (72%) as in 1986 (75%).

Self-reported (likely understated) employment of undocumented workers was most common among producers of SAW commodities and least common in non-SAW crops, to which the enforcement grace period did not apply. Illegal entrants comprised a larger share of the farm labor force in southern California and among the larger employers. Producers of grapes, fruits, and ornamentals were more likely to use illegal labor than were producers of livestock, cotton, dairy, grains or field crops, which utilize more capital-intensive production technologies.

Legalization assistance. If the rate of SAW applications was slower than expected during the first half year, it was not for want of grower cooperation. Farmers helped workers to apply for legalization under the SAW program for a few reasons: (1) simply caring about the welfare of the people who had worked for, and in many cases along side them over time; (2) understanding that the more legal workers there were, the better able all employers would be in the long run to comply with the new law; and (3) expecting that their assistance might improve relations on the farm and be reciprocated by greater

(Table 1)

Table 1. Hiring Of Aliens In California Agriculture, 1986-1987										
	respondents N %		Percent employers hiring:						Percent illegal of all hires**	
			Any Aliens		Legal Aliens		Illegal Aliens		1986	1987
			1986	1987	1986	1987	1986	1987		
---percent hiring one or more---										
All Employers	456									
Complete hiring data	392	100	85	85	71	77	71	55	38	31
Incomplete hiring data	64									
Only SAW Crops	283	72	93	93	77	84	79	64	40	34
Mixed Crops	61	16	76	79	67	72	59	39	27	17
No SAW Crops	48	12	51	48	36	40	34	19	12	3
Commodity*										
Poultry & Dairy	36	9	66	69	45	61	48	27	23	19
Livestock	52	13	56	50	46	44	43	23	21	7
Ornamental & Nurs.	35	9	97	94	84	91	70	57	38	32
Grapes	107	27	97	99	73	87	93	81	63	49
Nuts	90	23	91	90	79	84	72	51	34	26
Tree fruit	126	32	95	92	82	85	87	68	52	38
Other Fruit	29	7	95	94	83	86	86	70	25	34
Vegetables	48	12	98	98	84	83	79	76	21	14
Grains	59	15	71	75	62	69	50	37	21	8
Cotton	12	3	91	100	82	100	82	58	13	4
Edible Field Crops	48	12	84	87	77	83	58	47	25	11
Other	54	14	68	70	58	61	47	39	22	15
Region										
Southern Ca.	53	13	96	88	70	80	85	55	25	33
San Joaquin Valley	191	49	87	91	73	82	73	60	44	32

Table 2. Employers Complying With IRCA, 1987

	Percent		
	completing I-9 (after May 1987)	fired or refused to hire illegal	intend to hire only legal
All Sectors	55	24	55
Only SAW Crops	58	25	50
Mixed Crops	44	21	62
No SAW Crops	44	19	21
Commodity			
Poultry & Dairy	46	24	62
Livestock	37	21	70
Ornamental & Nurs.	71	48	57
Grapes	61	18	34
Nuts	54	25	51
Tree fruit	59	26	48
Other Fruit	67	19	55
Vegetables	64	25	60
Grains	39	20	65
Cotton	77	46	83
Edible Field Crops	50	25	62
Other	48	17	65
Region			
Southern Ca.	67	39	57
San Joaquin Valley	56	23	50
Sacramento Valley	39	16	67
Central Coast	63	24	54
Other Ca.	29	16	58
Size (employees at peak)			
0-6	41	23	69
7 - 19	51	24	55
20 - 49	57	23	52
50+	69	26	40
Hired Illegals			
1986 yes	63	31	46
no	31	10	73
1987 yes	63	22	37
no	49	29	75
Border Patrol Visit			
Yes	67	34	52
No	52	21	55
Knows Maximum Fine			
Yes	74	34	54
No	58	27	54
Exam Score			
Above 50%	38	20	56
Below 50%	66	26	54
Attended Association Meetings			
Yes	57	31	60
No	55	20	50

Table 3. Changes in Use of Four Recruitment Methods, 1986 to 1987

	Employer use in 1987 compared to 1986																		
	survey sample		FLC			EDD			Referral By Manager			Walk-in							
	N	%	not used	less	same	more	not used	less	same	more	not used	less	same	more					
All Employers	456	100.00	63	2	22	13	82	2	13	3	37	3	51	9	29	13	54	4	
Only SAW Crops	322	70.60	60	2	23	15	83	2	12	3	30	3	57	10	24	13	58	5	
Mixed Crops	72	15.80	52	3	32	13	72	2	19	7	40	3	47	10	31	16	48	5	
No SAW Crops	62	13.60	92	0	8	0	88	2	10	0	73	2	25	0	54	7	39	0	
Commodity																			
Poultry & Dairy	45	9.90	87	0	13	0	84	0	13	3	81	0	19	0	55	8	37	0	
Livestock	61	13.40	80	2	14	4	79	2	15	4	57	2	37	4	50	7	41	2	
Ornamental & Nurs.	46	10.10	84	0	8	8	82	0	18	0	26	0	63	13	15	18	65	2	
Grapes	121	26.50	45	2	27	26	88	1	9	2	23	5	63	13	19	11	62	8	
Nuts	100	21.90	64	1	24	11	85	1	9	2	29	2	56	13	28	13	56	3	
Tree fruit	140	30.70	54	3	25	18	87	2	7	4	26	4	60	10	26	13	56	3	
Other Fruit	32	7.00	69	0	21	10	68	4	24	4	18	4	68	10	13	17	70	0	
Vegetables	56	12.30	46	0	38	16	76	2	20	2	29	4	63	4	16	14	70	0	
Grains	71	15.60	59	2	31	8	73	4	19	4	35	0	56	9	34	18	48	0	
Cotton	13	2.90	15	8	46	31	92	0	8	0	38	0	54	8	15	31	47	8	
Edible Field Crops	55	12.10	46	0	44	10	73	2	25	0	38	0	56	6	16	31	47	8	
Other	66	14.50	63	2	25	10	74	2	19	5	43	5	45	7	27	16	53	4	
Region																			
Southern Ca.	67	14.70	73	0	21	6	79	2	19	0	42	0	47	11	19	20	59	2	
San Joaquin Valley	230	50.40	50	32	28	20	82	2	11	5	35	3	52	10	29	13	52	6	
Sacramento Valley	63	13.80	76	2	17	5	81	2	17	0	48	4	38	10	38	15	43	4	
Central Coast	71	15.60	83	0	13	4	89	0	9	2	33	5	60	2	34	7	59	0	
Other Ca.	25	5.50	86	0	9	5	79	0	21	0	29	5	62	4	25	4	67	4	
Hires (peak minus yr-round)																			
0 - 6	137	30.00	82	0	15	3	81	0	16	3	58	2	36	4	38	10	52	0	
7 - 19	85	18.60	72	2	14	12	88	3	8	1	45	2	44	9	34	16	44	6	
20 - 49	116	25.40	55	4	27	14	85	1	12	2	29	6	55	10	18	12	60	10	
50+	118	25.90	44	1	35	20	70	2	21	7	13	1	77	9	16	15	68	1	

**Table 4. FLCs Entering Business in Pre & Post-IRCA Periods
by Payroll & Previous Occupation**

	Year in Which Started FLC Business			
	All %	through 1976 %	1977-86 %	after 1986 %
<u>Payroll</u>				
<\$250K	26.7	33.3	20.8	30.6
\$250-\$499K	20.6	25.6	14.3	26.5
\$500-\$999K	17.0	12.8	18.2	18.4
\$1,000-\$2,999K	25.5	20.5	32.5	18.4
\$3,000K+	10.3	7.7	14.3	6.1
Total (N=100%)	165	39	77	49
<u>Prior Occupation</u>				
Ag Worker	9.6	15.2	9.1	5.6
Farm Foreman/ Supervisor	62.7	52.2	64.9	68.5
Farm Owner	6.8	8.7	6.5	5.6
Non-Agricultural	20.9	23.9	19.5	20.4
Total (N=100%)	177	46	77	54

Table 5. Grower Reasons for Contracting with FLCs

	#	%
Short term availability	24	80.0
Reduced paperwork	12	40.0
Reduced need for supervision	12	40.0
Easier recruitment	7	23.3
Reduced costs	6	20.0
Quality of work	6	20.0
Worker reliability	2	6.7
Labor dispute	1	3.3
Liability under laws	1	3.3
Language advantage	1	3.3
Specialized equipment	1	3.3
Other reason	2	6.7
Total Growers	30	100.0

* multiple mentions

**Figure 1. California: Annual Average Employment - FLCs Vs Other Farm
1978-91**

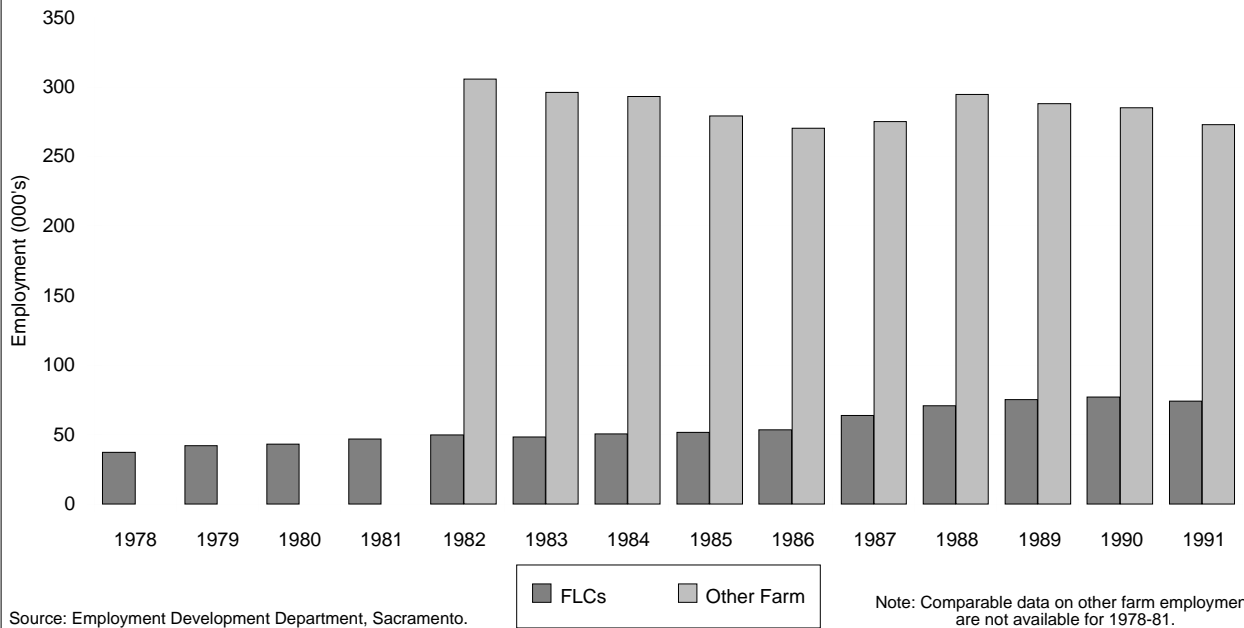
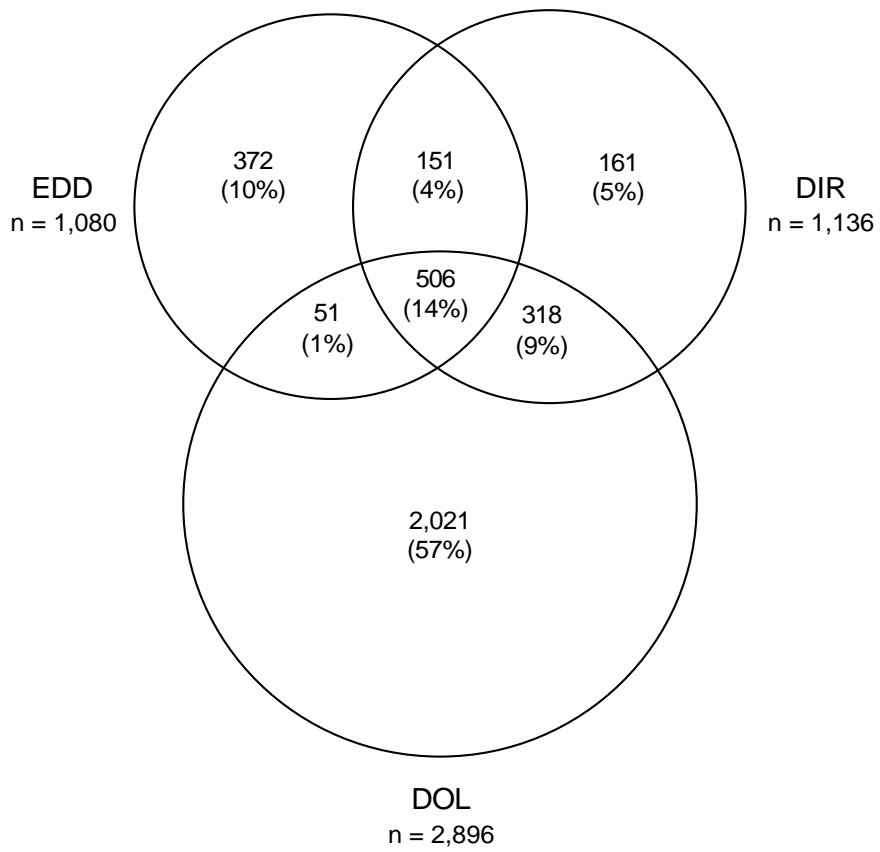


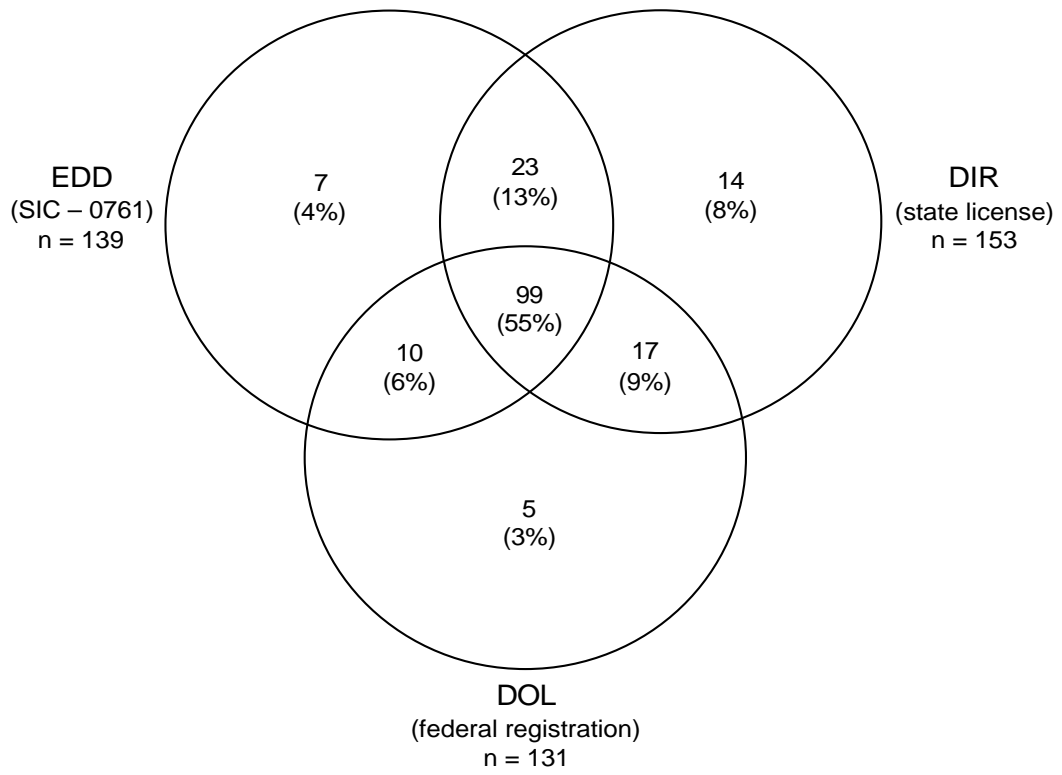
Figure 2. California FLCs on Government Lists, 1990

EDD - Employment Development Department
DIR - Department of Industrial Relations
DOL - U.S. Department of Labor



Total entities = 3,580

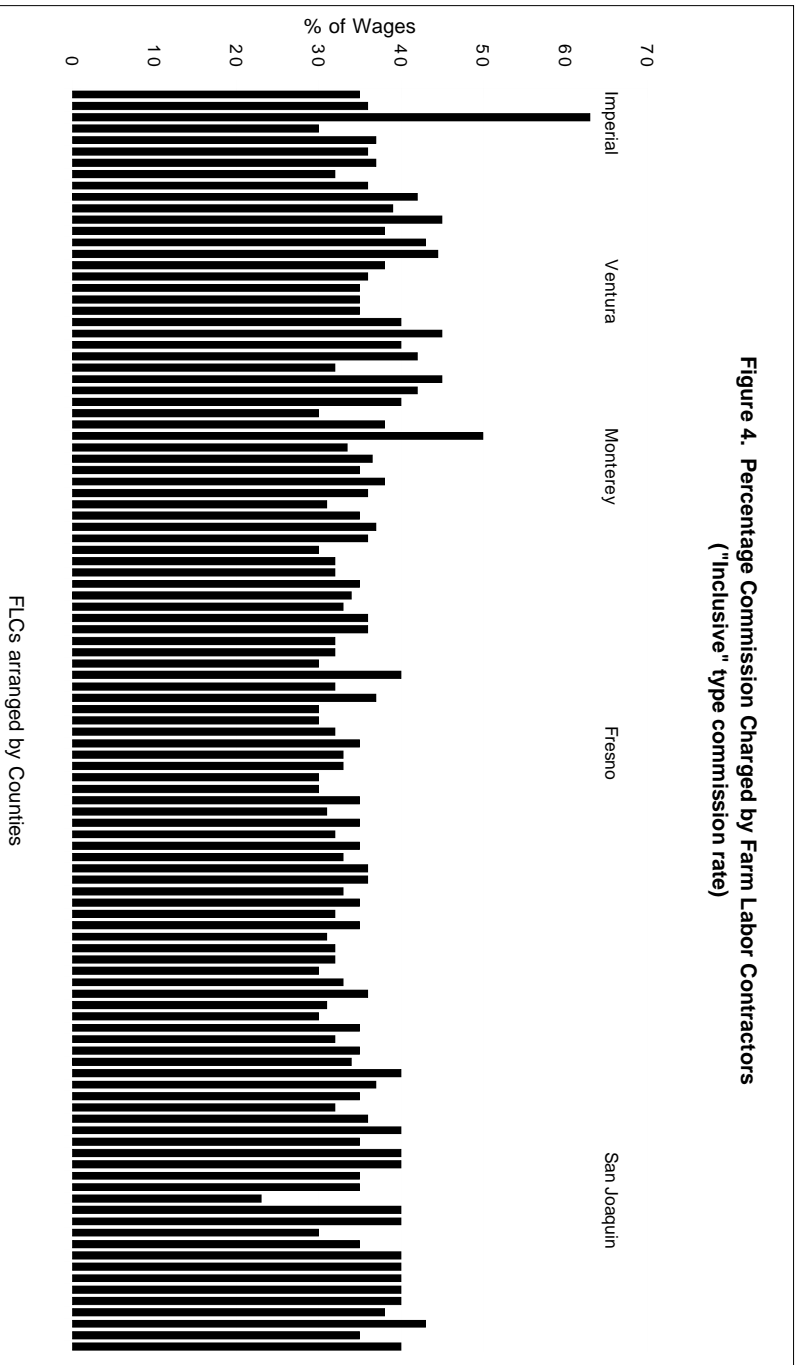
Figure 3. Survey Interviewees Identified as FLCs on Government Lists



Total entities = 180

5 appear on no list

**Figure 4. Percentage Commission Charged by Farm Labor Contractors
("Inclusive" type commission rate)**



FLOs arranged by Counties

**Figure 5. Differences*(%) Between Payroll Reported in Interview and UI File
(FLCs reporting under any SIC code)**

