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UNEARTHING A LABOR NETWORK

 Polaris Financial Intelligence Unit



TABLE OF CONTENTS

ROADMAP: TRACKING EXPLOITATIVE FARMS

- 1** FARM LABOR CONTRACTOR SUED OR DEBARRED
- 2** FARMS ESCAPE NOTICE
- 3** FARMS SWAP CONTRACTORS
- 4** FARMS USE DIFFERENT NAMES
- 5** LABOR CONTRACTORS MAY BE NETWORKED

TRACKING EXPLOITATIVE FARMS



A farm labor contractor is sued by former workers and/or debarred by the U.S. Department of Labor's Wage and Hour Division from participating in the H-2A worker program.

Red Flag: Violations or legal cases against a labor contractor



The farm where workers were exploited is not penalized or debarred. The farm continues to use vulnerable workers through the H-2A program.



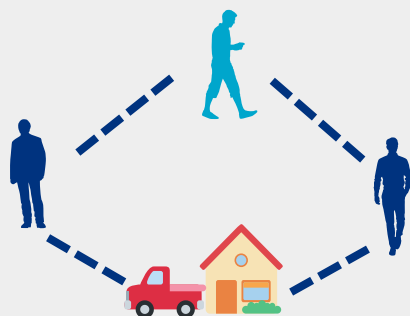
After the debarment of a contractor, farms continue to recruit workers through another contractor.



Red Flag: Farms switch contractors after their previous contractor is debarred



H-2A recruitment is done either in their own name, in the name of another business with same owner, or without a name altogether and only identified by address or approximate address of the farm.



Labor contractors are often networked. When farms switch between labor contractors, they are often not switching between strangers but rather contractors who are connected in a dense web.



Red Flag: Suspicious labor contractors are connected through property and vehicle transactions



Red Flag: Multiple businesses registered to the same owner, work orders without farm names



1 | FARM LABOR CONTRACTOR SUED OR DEBARRED

Many open-source labor trafficking situations can be identified through lawsuits filed by former workers or contractors being debarred by the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD). Lawsuits sometimes cite the Trafficking Victims Protection Act (TVPA) and more frequently cite the Fair Labor Standards Act (FLSA) and Migrant and Seasonal Agricultural Worker Protection Act (MSPA). Because of the severity of the enforcement action, details about a WHD debarment can often be found in an official WHD press release.

01 Identify possible labor trafficking

Labor trafficking cases do not often make the news, but WHD press releases on H-2A debarments are public and so are many cases. In many cases of labor trafficking, victims are required to cooperate with law enforcement to be eligible for a T-Visa. As a result, lawyers who represent labor trafficking victims may file lawsuits to establish a paper trail of their client's willingness to cooperate.

02 Identify key actors

Identify farm labor contractors (FLCs) that are involved in exploiting workers. Using the H-2A job order database available on the DOL website (<https://www.dol.gov/agencies/eta/foreign-labor/performance>), identify the name of the FLC as well as the farms they contracted for (worksites).

03 Look deeper into history of violations

Look into both farm labor contractors and farms to see if they have prior labor violations. A useful database for this is enforcedata.dol.gov, which will provide a list of OSHA and WHD violations.

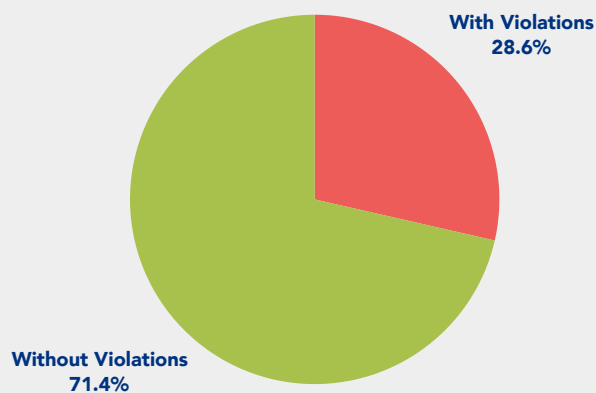




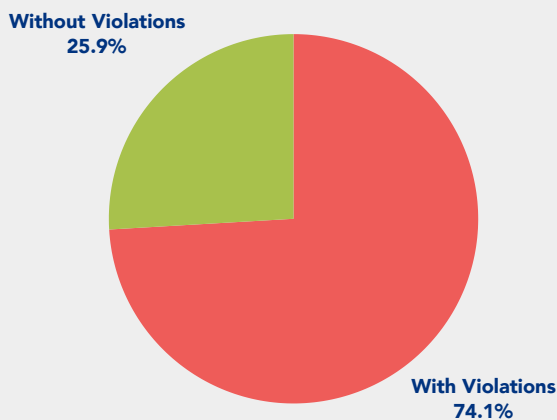
2 | FARMS ESCAPE NOTICE

Farm owners and farm businesses are often not held accountable for labor abuses that happened on their land and in service of their bottom line. More often than not, labor contractors, not the farms owners themselves, are the ones who receive WHD and Occupational Safety and Health Administration (OSHA) violations.

Farms



Labor Contractors

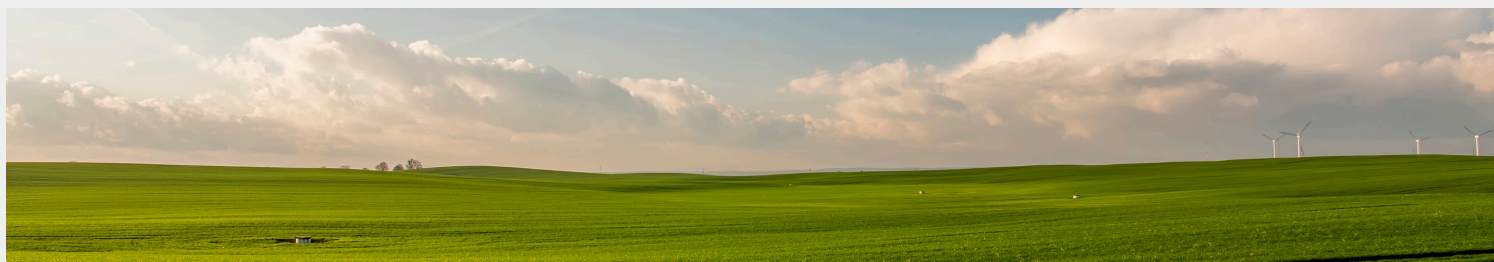


Labor contractors punished but not farms

In a case study of a labor trafficking network, Polaris found that of the 70 farms that likely used exploited workers, only 20 had violations on the books (28.6%). On the other hand, 20 of 27 farm labor contractors implicated had violations to their name (74.1%). Many of the fines that labor contractors received were OSHA violations around field hygiene and migrant housing safety. Although most farms own migrant housing according to property records, labor contractors are the ones who receive the safety violations.

Farms claim ignorance

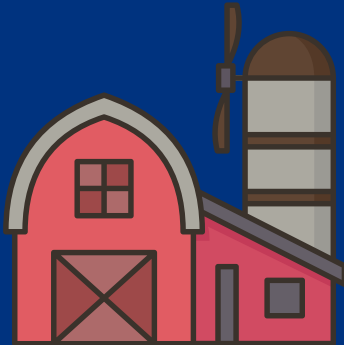
In their legal responses to lawsuits, farms have claimed that they have no relationship with their farm labor contractors, they do not have a relationship with all the farm labor contractors that workers cited, and/or they do not have the power and authority to supervise labor on their own farms.





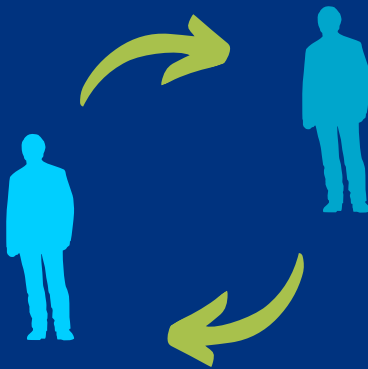
3 | FARMS SWAP CONTRACTORS

The network investigation for this case study revealed that farms used abusive labor contractors but escaped any responsibility when that labor contractor was fined or debarred. In this and other cases, farms then go on to choose another labor contractor - and sometimes that contractor gets debarred or fined by the DOL.



Debarment does not stop farms

In every case of this network study, the debarment of a farm's labor contractor has never resulted in a farm stopping its recruitment/usage of H-2A workers.



Farms swap contractors

In the majority of cases, once a farm's labor contractor is debarred, the farm finds another labor contractor to continue recruiting and employing workers.



New contractors also have violations

In this network study, almost all of the 'new' labor contractors that farms hired also had a history of labor violations. Furthermore, these 'new' labor contractors were later debarred for serious violations in at least two cases in this network.



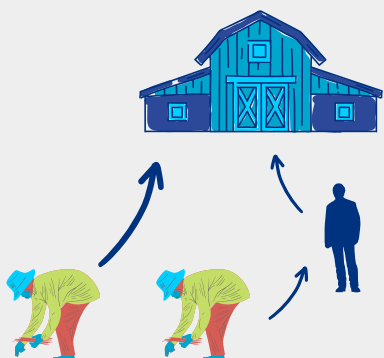
4 | FARMS USE DIFFERENT NAMES

Farms appear to be using a myriad of strategies to obscure how many workers they are receiving from the H-2A program. Due to the thousands of farms requesting workers each year, it is possible that the DOL cannot keep track of all the farms and close the loopholes they utilize. It is important to note the flexibility that farms currently have in reporting their own participation in the H-2A program by using contractors, multiple business names, and sometimes omitting their names altogether.



Multiple business names

Within the network, we found that a few farms requested workers under multiple business names. Only by sifting through business registration records did it become obvious that ultimately, the same entity was requesting workers through multiple companies.



Double dipping by using contractors

In a few instances, farms requested H-2A workers in their own names in addition to requesting farmworkers through a labor contractor. It is possible that this is done to obfuscate how many workers they are utilizing, though there is no official cap on the number of workers an employer can request. An employer may hide the true number of their workforce due to U.S. worker job requirements, housing requirements, or to avoid liability for any violations that occur.



Omitting farm name altogether

Some H-2A job orders do not list the names of the farm at all. Instead, they list the addresses of worksites. Lack of standardization of addresses, especially in rural areas, as well as layers of individual and corporate owners, make it difficult to determine which farms are using the H-2A program to find workers.



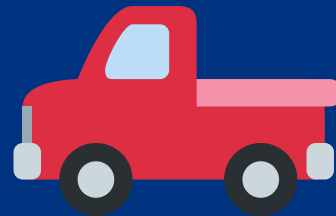
5 | LABOR CONTRACTORS MAY BE NETWORKED

In this case study, Polaris began by looking into one farm contractor and found that he was connected to over 20 other labor contractors in the area through property records, vehicle transactions, and H-2A job orders.



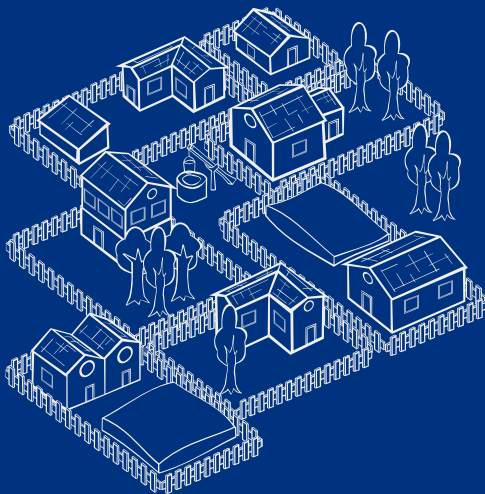
Property Records

In the labor network Polaris explored, many farm labor contractors have lived at shared addresses in the past. It is important to analyze and record all previous addresses of a labor contractor to find potential matches with other labor contractors. Polaris also found that labor contractors have sold their land/houses to other labor contractors. Credit reports and property ownership records are useful tools in tracking potential shared addresses and by extension, relationships.



Vehicle Transactions

Within this labor network, Polaris found that many labor contractors were connected through vehicle transactions. Vehicle transactions can be used to establish business relationships between contractors who otherwise seem unconnected.



Neighboring properties/same mobile home park

Having the exact same address as noted above is a clear connection. However, Polaris found that many labor contractors lived at or owned neighboring properties. Many of these neighboring properties were located in mobile home communities. When doing network analysis, it is helpful to map all addresses onto a mapping software to see how far suspected labor traffickers live from each other. In the network, a group of labor contractors were found to have lived next to each other in another state.



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happens
now.**

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