



U.S. Department of Labor
Employment and Training Administration

OMB Control No. 1205-0134
Expiration Date: November 30, 2012

Agricultural and Food Processing Clearance Order ETA Form 790
Pedido de Empleados para Agricultura y Procesamiento de Alimentos

1. Employer's Name and Address (Number, Street, City, State, and Zip Code)/
Nombre y Dirección del Empleador (Número, Calle, Ciudad, Estado y Código Postal)

Francis Guiliano d/b/a Guiliano Farm or Frans Farm
P.O. Box 2830
Orleans, Massachusetts 02653

*Add: 3038 Main Street (Rt6)
Brewster, MA 02631*

Telephone number/Teléfono: 508-255-7267 Fax: 508-240-6728

2. Location and Direction to Work Site/ Ubicación y Dirección al Lugar de Trabajo
The farm address is 3038-3044 Main Street (Route 6A), Brewster, Massachusetts

To locate the farm, take exit 12 from Route 6 in Cape Cod, Massachusetts. Drive 1 3/4 miles West on Route 6A to 3038-3044 Main Street, Brewster, Massachusetts. Look for Fran's Farm and Nursery Center on the left hand side of the road. Turn into the gated area to the 7 acre farm.

(If additional space is needed, use separate sheet of paper/ Si necesitas más espacio, utilices otra hoja de papel)

3. Location and Description of Housing / Dirección y Descripción de la Vivienda
The housing is the finished second floor of a farm house, with separate entrances for the first and second floor, inside the gated area at 3038-3044 Main Street, Brewster, Massachusetts. Has two bedrooms, living room, kitchen and bath with shower. Each bedroom has bed. Living room has pullout sofa. Cooking and eating utensils and equipment are supplied. Employer supplied utilities are gas, electricity and heat. Employer pays employer supplied utilities. Telephone and cable TV is available if worker desires. These utilities are paid by the worker. Housing will be clean and meet appropriate housing standards. Worker will be responsible for maintaining housing in a neat, clean manner.

(If additional space is needed, use separate sheet of paper / Si necesitas más espacio, utilices otra hoja de papel)

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|---|--|
| 4. Industry Code/Código Industrial <i>45-2092</i> | 5. Job Order No./Num. de Orden de Empleo <i>1263236</i> |
| 6. Occupational Title and Code /Título Ocupacional y Código <i>Farm Workers & Laborers, crop</i> | |
| 7. Clearance Order Issue Date / Fecha de Tramite <i>1/20/2012</i> | |
| 8. Job Order Expiration Date / Fecha de Expiración <i>7/15/2012</i> | |

9. Anticipated Period of Employment / Periodo Anticipado de Empleo

From/ Desde: 03/01/2012 To/Hasta: 11/30/2012

10. No. of Workers Requested / Num. de Trabajadores Solicitados
1

11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: 40

Sunday / Domingo _____ Monday / Lunes _____
Tuesday / Martes 8 Wednesday / Miércoles 8
Thursday / Jueves 8 Friday / Viernes 8
Saturday / Sábado 8

12. Collect Calls Accepted from/ Aceptan Llamadas por Cobrar de:

Employer / Empleador Yes/Si No
Local Office / Oficina Local Yes/Si No

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13. Board Arrangements / Arreglo de Alojamiento

Cooking facilities are in the home. Worker may prepare his/her own meals. Public buses outside the farm house to nearby grocery stores. If needed, employer may volunteer transportation for the worker to the local grocery store.

14. Referral Instructions / Instrucciones sobre cómo Referir Candidatos

Applicants referred for this job order must possess legal, suitable documents to complete the I-9 form as required by IRCA. In addition, an applicant needs ~~one~~ month experience as a farm worker.

All applicants are to be referred to the employer, Francis J. Guilliano, at 508-255-7267. Referrals can be effected Monday through Saturday, 8:00 a.m. to 5:00 p.m. Employer will interview each applicant by phone.

15. Job Specifications / Especificaciones del Trabajo

Employer owns and operates a seven acre vegetable, berry and apple farm. The farm labor work is that traditionally associated with production and harvesting of vegetables, berries and fruit. Thus, the farm laborer will plant, cultivate and harvest vegetables such as peas, lettuce, tomatoes, beans. Will thin, hoe and weed row crops, using hand implements. Will irrigate land to provide sufficient moisture for crop growth, using irrigation methods appropriate to crop and locality. May mix spray solutions and spray crops. May use farm implements such as plow, planter, fertilizer applicator. In terms of fruits and berries, the farm labor work involves the tilling of the soil, the planting of stock, pruning trees and bushes, removing runners and suckers from vines. Also involves fertilizer applications and applications of prescribed herbicides, fungicides, and pesticides to control diseases and insects. Will harvest fruits and berries, using appropriate aids such as ladders, buckets, canvas drop cloths. Will bag and box fruits and berries. May prepare cider from apples. Will clean all vegetables and harvested products. May load and unload vehicles. Other farm work will be incidental to the foregoing work and can include repair of trellises, fencing, and netting.

If more space is needed, summary of Material Job Specifications in ENGLISH can be included in separate document, and may also be included in SPANISH)

16. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)

| Crop Activities Cultivos | Hourly Wage Salario por Hora | Piece Rate / Unit(s) Pago por Pieza / Unidad(es) | Special Pay (bonus, etc.) Pagos Especiales (Bono, etc.) | Deductions Deducciones | Yes/Si | No | Pay Period Período de Pago |
|-----------------------------|---------------------------------|--|--|---------------------------------------|-------------------------------------|-------------------------------------|--|
| | | | | | <input type="checkbox"/> | <input type="checkbox"/> | |
| Berries | \$ 10.56 | \$ | | Social Security / Seguro Social | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Weekly / Semanal |
| Vegetables | \$ 10.56 | \$ | | Federal Tax Impuestos Federales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Apples | \$ 10.56 | \$ | | State Tax Impuestos Estatales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Bi-weekly / Quincenal |
| Other Work | \$ 10.56 | \$ | | Meals / Comidas | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | \$ | \$ | | Other (specify)/ Otro (especifica) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other / Otro <input type="checkbox"/> |

Review

More Details About the Pay / Mas Detalles Sobre el Pago

(If additional space is needed, use separate sheet of paper. / Si necesitas más espacio, utilice otra hoja de papel)

17. Transportation Arrangements / Arreglos de Transportación

When the worker arrives at the job site, the employer will reimburse the worker the reasonable costs of transportation and subsistence from the place from which the worker came to the place of work. Such reimbursement will be made no later than the employer's first paycheck to the worker. Upon completion of the work contract, the employer will pay reasonable costs of return transportation and subsistence to the place from which the worker came, except when the worker will not be returning to the place of recruitment due to subsequent employment with another employer who agrees to pay such cost, in which case the employer will pay only the cost of transportation to the next job. The amount of the transportation payments will be equal to the most economical and reasonably similar common carrier transportation charges for the distance involved. The subsistence allowance shall be no less than the allowable meal rate for 2012 of \$10.73/day and no more than the maximum per diem allowance for 2012 of \$46.00.

Substitute language from attachment A.

(If additional space is needed, use separate sheet of paper. / Si necesitas más espacio, utilices otra hoja de papel)

18. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, and/or pay workers for this (these) crop activity (ies)? ¿ Es la práctica habitual de usar Contratistas de Trabajo Agrícola para reclutar, supervisar, transportar, dar vivienda, y/o pagarle a los trabajadores para este(os) tipo(s) de cosecha(s)? Yes / Si No

If you have checked yes, what is the FLC wage for each activity? / Si contesto "Si," cual es el salario que le pagas al Contratista de Trabajo Agrícola por cada actividad?

19. Unemployment Insurance provided? Seguro de Desempleo? Yes/Si No

20. Workers' compensation insurance provided? Se le provee seguro de compensación/indemnización al trabajador: Yes/Si No

21. Are tools provided at no charge to the workers? / Se les proveen herramientas sin costo alguno a los trabajadores? Yes/Si No

22. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to workers. (If there are no such arrangements, enter "None") / Enumere todos los acuerdos o convenios hechos con los propietarios del establecimiento o sus agentes para el pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno")

None

23. List any strike, work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed.
(If there are no such incidents, enter "None") / Enumere toda huelga, paro o interrupción de operaciones de trabajo por parte de los empleados en el lugar de empleo. (Si no hay incidentes de este tipo, indique "Ninguno")
None

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina donde se radica la oferta (incluya el número de teléfono)
Division of Career Services
Attn: Central Programs--FLC--Agriculture
19 Standiford Street, 1st Floor, Boston, Ma. 02114

25. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (Incluya el número de teléfono de su línea directa)
Dolly Raja
617-626-5078

26. Employer's Certification: This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job.
Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones del empleo que se le ofrece, y contiene todos los términos y condiciones materiales ofrecidos.

Employer's Signature & Title/ Firma y Título del Empleador  Date: December 26, 2011

READ CAREFULLY, In view of the statutorily established basic function of the Employment Service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the One-Stop Career Center constitute a contractual job offer to which the One-Stop Career Center, ETA or a State agency is in any way a party.
LEA CON CUIDADO, En vista de la función básica del Servicio de Empleo establecida por ley, como una entidad de intercambio laboral sin comisiones, es decir, como un foro para reunir a los empleadores y los solicitantes de empleo, ni ETA ni las agencias del estado pueden garantizar la exactitud o veracidad de la información contenida en las órdenes de trabajo sometidas por los empleadores. Ni ninguna orden de trabajo aceptado o contratado en el Centro de Carreras (One-Stop Career Center) constituyen una oferta de trabajo contractuales a las que el One-Stop Career Center, ETA o un organismo estatal es de ninguna manera una de las partes.

Public Burden Statement
The public reporting burden for responding to ETA Form 790, which is required to obtain or retain benefits (44 USC 3501), is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. The public need not respond to this collection of information unless it displays a currently valid OMB Control Number. This is public information and there is no expectation of confidentiality. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Migrant and Seasonal Farmworker Program, Room S4209, 200 Constitution Avenue, NW, Washington, DC 20210.

Attachment A

New Language for Section 17 of ETA 790

After the worker has completed 15 days or 50% of the work, whichever comes first, the employer shall reimburse the worker for the cost of transportation and subsistence from the place from which the worker has come to work for the employer, except however any worker protected pursuant to the Fair Labor Standard Act will be paid in compliance with FLSA beginning in the first work week. Upon completion of the work contract employer will pay reasonable costs of return transportation and subsistence to the place from which the worker departed to work for the employer as required by 20 CFR 655.122 (h), except when the worker will not be returning to the place of recruitment, due to subsequent employment with another employer who agrees to pay such cost, in which case the employer will pay only the cost of transportation to the next job. The amount of the transportation payments will be equal to the most economical and reasonably similar common carrier transportation charges for the distance involved. The subsistence allowance shall be no less than the allowable meal rate for 2012 of \$10.73/day and no more than the maximum allowance for 2012 of \$46.00 per day for workers with documentation of actual expenses.

New Language for Contract Impossibility:

The work contract may be terminated before the end date of work specified in the work contract if the services of the workers are no longer required for reasons beyond the control of the employer due to fire, weather, or other Act of God that makes fulfillment of the contract impossible, as determined by the U.S. Department of Labor. In the event that the work contract is terminated, the employer assures that the three-fourths guarantee will be fulfilled for the time that has elapsed from the start date of work specified in the work contract to the date of termination. The employer also assures that it will make efforts to transfer the worker to other comparable employment acceptable to the worker and, where applicable, consistent with existing immigration laws.

In situations where a transfer is not affected, the employer will return the workers at the employer's expense to the place from which the worker, disregarding intervening employment, came to work for the employer or transport the worker to his/her next certified H-2A employer, whichever the worker prefers. The employer will also reimburse the worker the full amount of any deductions made by the employer from the worker's pay for transportation and subsistence expenses to the place of employment, and pay the worker for any transportation and subsistence expenses incurred by the worker to that employer's place of employment.

The amounts the employer will pay for subsistence expenses shall be a minimum of \$10.73 per day and a maximum of \$46.00 per day for workers with documentation of actual expenses. The amount of the transportation payment must not be less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved. The requirement will be nullified if the worker has contracted with a subsequent employer who has agreed to provide or pay for the worker's transportation and subsistence expenses from the present employer's worksite to the subsequent employer's worksite.

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FORM ETA 790 AND ETA 9142 ATTACHMENTS

Job Order Number _____

Item 3—Location and Description of Housing

Workers may be reached at the following address:

(Name of the worker)
% Francis Guiliano
P.O. Box 2830
Orleans, Massachusetts 02653

Employer requests conditional access into the Interstate and Intrastate Clearance System and assures that the worker housing will meet the applicable Federal Standards not later than January 30, 2012 which is more than 30 days in advance of the date of need reflected on the attached ETA 790.

Item 10—No of Workers Requested

The total number of workers (both H-2A and non-H-2A) the employer expects to hire is 1. This number is an estimate only as total workforce needs are dependent on weather, crop conditions, worker availability and other factors.

Item 16—Wage Rates, Special Pay Information and Deductions

Change to \$10.56
A. The employer will offer the highest of the Adverse Effect Wage Rate, the prevailing hourly wage or piece rate, the agree-upon collective bargaining wage, or the Federal or State minimum wage. At the time of submission of this order, the applicable wage is ~~\$10.16~~/hour. The rate is based on the Adverse Effect Wage Rate. If the Department of Labor publishes a new AEWR and the new AEWR is higher than the approved wage rate listed on the job order and/or the work contract, the employer will adjust the offered wage to the higher AEWR. Similarly, if an applicable prevailing wage is increased during the contract period and the Department notifies the employer of the increase and if the approved wage rate listed on the job order and/or the work contract is lower than the new prevailing wage, the employer will adjust to the higher prevailing wage rate.

B. The employer will make the following deductions where required by Federal or State law: FICA, Federal Income Tax Withholding, and State Income Tax Withholding. Federal law does not require FICA and Federal Income Tax Withholding for H-2A workers; thus, the employer will not make deductions for those items from the paychecks of its H-2A workers.

C. The employer will not pay a bonus at any time.

D. The employer guarantees to offer employment for a minimum of 3/4 of the workdays of the total specified period during which the work contract and all extensions thereof are in effect, beginning with the first work day after the worker's arrival at the place of employment and ending on the expiration date specified in the work contract or extension thereof. If employment is terminated by reason of contract impossibility, the 3/4 guarantee period ends on the date of termination. The worker is not required to work more than 8 hours per day except when otherwise stated in the job order or on the worker's Sabbath or Federal holidays to meet the guarantee period.

E. An 8 hour workday is normal. The worker may be requested but is not required to work 10 hours per day and/or on the Sabbath or Federal holidays depending on the conditions in the fields or orchards, weather and maturity of the vegetables or fruit. In addition, the employer may alter the actual days of work from Tuesday through Saturday to Monday through Friday or even Sunday through Thursday, again depending on conditions in the fields, orchards, weather and maturity of the vegetables or fruit.

F. The employer will furnish each worker on or before each pay day a written statement which complies with the requirements of 20 C.F.R. §655.122(j)-(m) which contains the following:

- (1) The employer's name and address;
- (2) The beginning and ending date of the pay period;
- (3) The worker's total earnings for the pay period;
- (4) The worker's hourly rate;
- (5) The hours of employment offered to the worker;
- (6) The hours of employment actually worked by the worker;
- (7) An itemization of all deductions made from the worker's wages.

Other Clarifications and Assurances

Production Standards

There are none.

Employer Furnished Tools and Equipment

The employer will furnish without cost, all tools, supplies or equipment required in the performance of the work.

U.S. Workers Compensation Policy

The employer assures Policy AWC7024508012011, set out in the certificate of insurance for Francis Guiliano, dba Guiliano Farm provides the required insurance for injuries out of and in

the course of employment. The employer provides assurance that, if the policy ends during the work contract period, the employer will obtain continued coverage without a lapse in coverage. The name and phone number of the person to be notified in the event of a claim is the following: Kathy Silvia, The Fair Insurance Agency. Inc., 619 Main Street, P.O. Box 430, Centerville, Massachusetts 02632. Phone Number 508-775-3131.

Terminations

The employer may terminate the worker if the worker (a) refuses without justified cause to perform work for which the worker was recruited and hired: (b) commits serious acts of misconduct: or (c) abandons the contract by failing to report for work for five consecutive work days without the employer's consent.

In the event of termination for medical reasons occurring after arrival on the job, or occurring as a result of employment, or in the event of termination resulting from Act of God, the employer will pay or provide reasonable costs of return transportation and subsistence to the place from which the worker came to the place of work. Additionally, if the employer has not already done so, the employer will pay the worker reasonable costs of transportation and subsistence from place from which the worker came to the place of work.

Contract Impossibility:

The employer will terminate the work contract of any worker whose services are no longer required for reasons beyond the control of the employer or an act of God. In the event of such termination, the employer will be bound by the three-fourths guarantee from the first workday after arrival to the date of termination.

Employer Obligation if Employment Extended:

No extension of employment beyond the period of employment specified in the job order shall relieve the employer from paying the wages already earned, or if specified in the job order as a term of employment, providing return transportation or paying return transportation expenses to the worker.

Outreach Workers

Outreach workers shall have reasonable access to the worker in the conduct of outreach activities pursuant to 20 C.F.R. §653.191 and .107.

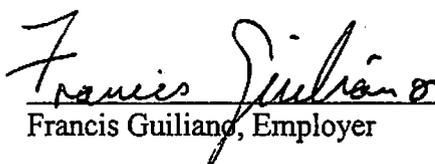
Contract

A copy of the work contract or the ETA 790 and 9142, with attachments, will be provided to the worker by the employer no later than when the worker is recruited or applies for the work visa.

Other

The employer agrees to abide by the regulations at 20 C.F.R. §655.122 (Contents of Job Offer), 20 C.F.R. §655.135 (Assurances and Obligations of H-2A Employers), 20 C.F.R. §653.501 (Requirements for Accepting and Processing Clearance Orders) and 20 C.F.R. §654.403 (Conditional Access to the Clearance System). The working conditions will comply with applicable Federal and State minimum wage, child labor, social security, health and safety, farm labor contractor registration and other employment related laws. The employer is an Equal Employment Opportunity employer and will offer U.S. workers at least the same opportunities, wages, benefits and working conditions as those which the employer offers or intends to offer non-immigrant workers.

Dated this 26th day of December, 2011.



Francis Guiliano, Employer