

APR 28 2010

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

U.S. Department of Labor
 Employment and Training Administration
 OMB. Approval No. 1205-0134, Expires 11/30/2012

1. Employer's Name and Address (Number, Street, City, State, Zip Code, and telephone number) / Nombre y Dirección del Empleador (Numero, calle, ciudad, código postal y teléfono) Zehr Farms, Inc. 6178 Jacques Rd. Lockport NY 14094 Personnel Manager: Ernest Zehr (716) 778-9872 Att #1	Numbers 4, 5, 6, 7 and 8 for State use only.	
	4. Industry Code/Código de Industria 112	5. Job Order #/No. Orden de Empleo NY 0940842
2. Location and Direction to Work Site/Dirección del lugar de trabajo Same as above. 2 & 1/2 miles north of intersection of routes 78 and 104. (If additional space is needed, use separate sheet of paper)	6. Occupational Title and Code / Título Ocupacional y Código Farmworker & Laborer, Crops 45-2092.02	
	7. Clearance Order Issue Date / Fecha de Tramite APR 29 2010	
	8. Job Order Expiration Date / Fecha de vencimiento 9/11/2010	
3. Location and Description of Housing / Dirección y Descripción de la Vivienda 6178 Jacques Road, Lockport NY, Niagara County, 2 & 1/2 miles north of intersections of routes 78 and 104. Cinder block barracks housing with municipal water, heat. Total occupancy of 25. Att #1	9. Anticipated Period of Employment / Periodo Anticipado de Empleo FROM: 07/05/2010 From/Desde: To/Hasta: 11/19/2010 ELZ 4/26/10	
	10. No. of Worker's Requested / No. de Trabajadores Pedidos 20	
	11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: 40 Sunday / Domingo 0 Monday / Lunes 8 Tuesday / Martes 8 Wednesday / Miércoles 8 Thursday / Jueves 8 Friday / Viernes 8 Saturday / Sábado 0 ELZ 4/26/10	
	12. Collect Calls Accepted from/Se Aceptan Llamadas a Cobrar de: TO: ERNEST ZEHR Employer / El Empleador Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Local Office / La Oficina Local Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> ELZ 4/26/10	

13. Board Arrangements / Arreglo de Alojamiento
 Workers must buy & prepare own food. Att # 1

14. Referral Instructions / Instrucciones para el Referimiento de Candidatos
 The applicant can contact any NY State DOL Local Office for disclosure of full contents of this Job Order. Ernest Zehr at (716) 778-9872
 Worker hired under this Job Order will be required to show evidence of right to work in the USA. Att: #1

15. Job Specifications / Descripción del Trabajo
 See Att. #1, Item 15.

(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	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions /	YES / SI	NO	Pay Period / Periodo de Pago
	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones			
General Field Work	\$ 10.16	\$ N/A	None	Social Security / Seguro Social	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Weekly / Semanal <input checked="" type="checkbox"/>
Packing Produce	\$ 10.16	\$ N/A	None	Federal Tax Impuestos Federales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Harvest Cabbage	\$ 10.16	\$ N/A	None	State Tax Impuestos Estatales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bi-weekly / cada 2 semanas <input type="checkbox"/>
Harvest Sweet Corn	\$ 10.16	\$ N/A	None	Meals / Comidas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Continued--			See Att. #2	Other (specify)/ Otro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Other / Otro <input type="checkbox"/>

More Details About the Pay / Mas Detalles Sobre el Pago
Other Deductions: Voluntary assignments evidenced by written authorization signed by the worker. Att. #2
 (If additional space is needed, use separate sheet of paper. / Si necesita más espacio, utilice documento adicional.)

17. Transportation Arrangements / Arreglos de Transportación

See Att. #3 & 4.

(If additional space is needed, use separate sheet of paper. / Si necesita más espacio, utilice documento adicional.)

18. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, or pay workers for this (these) crop activity(ies)? Es la costumbre en el área de usar Contratistas Agrícolas para reclutar, supervisar, transportar, dar vivienda, o pagarle a los trabajadores en estos tipos 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 paga al Contratista Agrícola por cada actividad? N/A

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

20. Workers' compensation insurance provided? Indemnización por accidente de trabajo: Yes No

21. Are tools provided at no charge to the workers? / Se le proveen las herramientas de trabajo a los trabajadores sin cargo alguno? Yes 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") / Indique todo acuerdo o convenio con los propietarios del establecimiento o sus representantes con respecto al 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 las operaciones por parte de los empleados en el lugar de empleo. (Si no hay, indique "Ninguno") NONE

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina: NYS New York State Department of Labor One Stop Office nearest to you

25. Name of Local Office Representative (include direct dial telephone cluya): New York State Department of Labor One Stop Office nearest to you

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 de trabajo, y contiene todos los materiales, términos, y condiciones ofrecidos.

Employer's Signature & Title/ Firma y Título del Empleador: Ernest Zehr Title: Owner/Personnel Manager

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.

Public Burden Statement

Public reporting burden for the ETA Form 790 is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. Respondents' obligation to reply to these requirements is obligatory by 20 CFR 653.500 and 44 U.S.C. 3501. Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Public reporting burden for this collection is estimated to average 8 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. 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.

JOB ORDER NUMBER: _____

A. CLARIFICATIONS OF ITEMS ON FORM ETA 790

Item 1: E-mail address or Fax: (716) 778-0502 FAX NUMBER

Item 3: Housing

- a. Housing and utilities are provided at no cost to workers who are unable to return to their place of residence the same day.
- b. Housing beds, bedding and mattresses will be furnished at no cost to the worker.
- c. Housing will be clean and meet the applicable Federal and State housing standards.
- d. Workers will be responsible for maintaining housing and surrounding areas in a neat, clean manner.

Item 13: Board Arrangements

- a. Employer **will not** provide three meals per day. Workers must buy and prepare own food.
- b. Employer **will** furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.
- c. Amount of any meal charges will be consistent with 20 CFR 355.173.

Item 14: Referral Instructions

Workers hired under this Job Order will be required to show evidence of right to work in the United States of America.

Item 15: Job Specifications

During the anticipated period of employment, the primary activity on this farm is the hand harvesting of vegetables. Workers must be physically able to plant, hand cultivate, and harvest vegetables. Picked vegetables are placed in a variety of appropriate containers, as directed by field supervisor. Workers may be instructed to selectively harvest mature vegetables according to size, color, and other USDA grade standard factors. Requires heavy lifting.

Durante el período previsto de empleo, la actividad principal en esta finca es la mano la recolección de hortalizas. Los trabajadores deben estar en condiciones físicas de la planta, la mano de cultivar y cosecha de legumbres. Recogió las verduras se colocan en una variedad de un envase adecuado, según lo indicado por el supervisor de campo. Los trabajadores podrán encargarse de la cosecha de hortalizas maduras de forma selectiva según el tamaño, color y otros factores USDA norma de grado. Requiere levantar cosas pesadas.

- a. Workers must be able to demonstrate that they are physically able to perform the work as described.
- b. Employer may terminate worker with notification to New York State Department of Labor, if the worker:
 1. Refuses, without just cause, to perform work for which the worker was recruited and hired; or
 2. Commits serious act of misconduct or breach of discipline; or
 3. Fails, after completing any training or break-in period, to reach production standards.
- c. The employer will provide _____ days of training and/or allow _____ days of work for worker to reach production standards, if applicable. N/A

(1)

d. Production Standards (if applicable). After completion of training or break-in period, employer will expect worker to: N/A

Item 16: Wage Rates, Special Pay Information and Deductions

Wage Rates: Continued

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.)
Harvest Cucumbers	\$10.16	\$0.00 N/A	NONE
Harvest Bell Peppers	\$10.16	\$0.00 N/A	NONE
Harvest Tomatoes	\$10.16	\$0.00 N/A	NONE

The worker may also perform any combination of tasks involved in planting, cultivating, and harvesting. Alternative/additional work: **Plant; cultivate; harvest; trimming & packing of produce. General Field Work consisting of pulling plants for transplanting; transplanting; field hoeing; weeding; setting & moving irrigation pipe; some equipment operation; hand loading and unloading wagons and trucks.**

*****IN THE EVENT THE DOL PROMULGATES A NEW AEWR DURING THE RECRUITMENT OR WORK CONTRACT PERIOD WHICH IS LOWER THAN THE CURRENT AEWR AT THE TIME OF APPLICATION, THIS LOWER AEWR WILL BECOME THE GUARANTEED MINIMUM.*****

a. If piece-rate earnings for total hours of work at a piece-rate during a pay period do not result in average hourly earnings equal to guaranteed minimum hourly rate, the worker will receive make-up pay to the guaranteed minimum wage rate.

- b. In New York State, the only deductions that can be taken from workers pay are:
1. Those required by law, such as social security, income tax, and garnishment of wages,
 2. Those that benefit workers and are authorized in writing, such as life insurance or a savings account.

Any other deduction is illegal. This includes deductions:

- (or deposits) for tools, boots, raincoats, or uniforms necessary for the job;
- As fines or penalties for being late, misconduct, or quitting without giving notice;
- For cash shortages;
- For spoilage or breakage; or
- For damages or losses of any kind.

c. The employer guarantees to offer employment for a minimum of ¾ of the hours in the workdays during the period of the contract, and all extensions thereof. This guarantee begins with the first workday after the worker's arrival at the place of employment and ends on the date specified on the job order or extension thereof. In Act of God terminations, the ¾ guarantee period ends on the date of termination. Workers will not be required to work more than the number of hours specified in the job order for a workday or on their Sabbath or Federal holidays to meet this guarantee. The worker's average hourly earnings will be used under this guarantee where wages are paid on a piece rate basis. Workers who are terminated for cause or who voluntary abandon their job are not entitled to this guarantee.

d. Workers with school age children who migrate with such children and depart in time to return home for the beginning of the school year shall be paid, in addition to the basic wages, any bonus or other incentive payments or other expenses to which they would be entitled had they stayed the entire job order period.

e. The employer will provide workers referred through the interstate clearance system 40 hours of work for the week beginning with the anticipated date of need, unless employer has amended the date of need by notifying the local office no later than 10 business days before the date of need. If the employer fails to notify the order-holding office, then employer shall pay an eligible worker referred through the clearance system \$406.40 Gross for the first week starting with the originally anticipated date of need. If worker referred fails to notify the NYS Department of Labor (preferably the order-holding office) of continued interest in the job at least 5 days before date of need, worker will be disqualified from this assurance. Employer will require worker to perform alternative work if the guarantee cited in this section is invoked.

Alternative/additional work: Plant; cultivate; harvest; trimming & packing of produce. General Field Work consisting of pulling plants for transplanting; transplanting; field hoeing; weeding; setting & moving irrigation pipe; some equipment operation; hand loading and unloading wagons and trucks.

f. Employer will maintain adequate payroll records. Workers will be paid weekly on FRIDAY for work through the previous WEDNESDAY.

Item 17: Transportation

(a) Employer agrees to reimburse inbound transportation and subsistence expenses to each worker, or any person, government agency or private organization which, on behalf of the worker, has paid or advanced such transportation and subsistence expenses, from the residence, place of last employment, or place of recruitment to the job site after the worker has completed 15 consecutive calendar days of employment or 50% of the stipulated period of employment, which ever is shorter, from initial date of need or from the day after actual date of arrival of worker if later than the stated date to report.

(b) Employer will provide or pay the cost of return transportation and subsistence to each worker who completes employment period, or who is terminated for medical reasons, or as a result of an Act of God, from place of employment to place of recruitment, except when the worker is not returning to his place of recruitment and has subsequent employment with an employer who will bear transportation expenses, in which case this employer only pays for the transportation to the next job.

(c) Employer will not be responsible for providing return cost of transportation and subsistence enroute from place of employment to place of recruitment if the worker voluntarily abandons the job or is terminated for cause and the employer provides timely notification to the NPC and DHS.

(d) The amount of transportation payment will be equal to the most economical and reasonable similar common carrier charges for the distance involved. All transportation provided by the employer will be by common carrier or other transportation facilities which conform to applicable regulations of the Inter-state Commerce Commission or the Department of Labor. If requested by the worker, the employer will assist in making transportation arrangements. The amount of daily subsistence will be in accordance with current rates published in the Federal Register (for workers with and without receipts).

(3)

(e) Employer will provide transportation, at no cost to the worker, from the employer provided housing to the actual work site and return at the end of the day.

Item 20: Workers' Compensation

Employer's proof of Workers' Compensation Insurance coverage will be provided to the Chicago Processing Center before certification is granted and to the worker upon arrival at point of hire.

Item 21: Tools and Equipment

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

B. OTHER CLARIFICATIONS AND ASSURANCES

1. The employer agrees to abide by the regulations at 20 CFR 653.501 and 20 CFR 655.103.
2. The employer will expeditiously notify the order-holding office or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over-recruitment, or other factors have changed the terms and conditions of employment.
3. Outreach workers shall have reasonable access to the worker in the conduct of outreach activities pursuant to 20 CFR 653.501(xvi)
4. Where appropriate, the employer is certified in the use and application of pesticides per Federal Environmental Protection Agency and State Department of Environmental Conservation requirements. The employee assures that workers hired under this order who will be handling pesticides will be provided appropriate training.
5. A copy of the contract or this Job Clearance Order will be provided to the worker by the employer no later than on the day the work commences.
6. The employer assures that if acting as a farm labor contractor (FLC) or farm labor contractor employee (FLCE) on the order, he has a valid federal FLC certificate or FLCE identification.
7. The applicant also assures that he/she complies with NYS registration requirements. Farm labor contractors anticipating employment contracting with growers or processors in New York State, growers or processors in New York State who use the services of a farm labor contractor, and growers or processors in New York State who, without using the services of a farm labor contractor, are responsible for bringing into the state five or more out-of-state migrant farm or food processing workers, including H-2A workers, are required to register with the New York State Department of Labor and pay a registration fee in addition to any other fees that may be applicable.