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August 24, 2020

The Honorable Sonny Perdue  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington, D.C. 20250

Dear Secretary Perdue:

I am writing to express my concerns about U.S. Department of Agriculture's (Department or USDA) implementation of the Farmers to Families Food Box Program.

During these unprecedented times of a global pandemic, it is important that the Department is doing everything possible to get food quickly and effectively to those in need as well maintain our food supply chains to support producers. I am concerned, however, that the Department's approach to awarding these contracts may have resulted in vendors winning bids to perform contracts that they are too inexperienced and unqualified to do. Further, I am concerned that the program has not been designed to meet the needs of communities experiencing and responding to food insecurity. As a result, millions of Americans are left hungry at the same time that producers are forced to waste massive amounts of perishable foods due to the pandemic disrupting supply chains.

On April 17, 2020, the Department announced it would use the authority that it had been granted by Congress under the *Families First Coronavirus Response Act* (FFCRA)<sup>1</sup> to feed hungry children and their families to create and fund the Farmers to Families Food Box Program.<sup>2</sup> Within a week of contractors submitting their applications, the Department selected and announced the awardees for contracts totaling approximately \$1.2 billion. Recent news reports detail how several contractors with no experience in produce distribution, no Perishable Agricultural Commodities Act (PACA) license, and/or no proven capability to fulfill large

<sup>1</sup> P.L. 116-127, Div. A, Title I, § 1101.

<sup>2</sup> U.S. Dep't of Agric., USDA to Purchase Up to \$3 Billion in Agricultural Commodities, Issue Solicitations for Interested Participants (April 19, 2020), <https://www.ams.usda.gov/content/usda-purchase-3-billion-agricultural-commodities-issue-solicitations-interested-participants>.

orders, such as an event planning company, were awarded contracts for upwards of \$40 million.<sup>3</sup> This is extremely concerning as Congress authorized these funds to ensure needy children and families receive nutrition support during this crisis, and any failures by the awardees will not only leave children and families hungry but also hurt producers who are struggling to keep their businesses afloat.

Furthermore, I am concerned that the Department's plan to include letters from President Trump in food boxes may be in violation of the *Hatch Act*.<sup>4</sup> The letter to be included touts that he "prioritized sending nutritious food from our farmers to families in need throughout America" and then provides coronavirus prevention tips.<sup>5</sup> President Trump is actively seeking re-election; his signature on this letter is superfluous to both the food boxes as well as the coronavirus tips, but it serves as a prominent symbol that benefits his re-election by making it appear that he has alleviated the plight of families seeking food assistance. Although the President is exempt from most provisions of the *Hatch Act*, 18 U.S.C. § 610 prohibits even the President from commanding a federal employee to engage in political activity, including activity such as using his name in association with these food boxes to benefit his re-election campaign.

Therefore, I request that the Department provide the following information and documents related to the Farmers to Families Food Box Program:

1. A list of awardees that did not have a PACA license at the time their contracts were awarded. Please also indicate which of these awardees now have PACA licenses, when they applied for those licenses, and when those licenses were issued.
2. Copies of applications from and contracts with awardees who did not have a PACA license at the time their contracts were awarded (solicitation number: AG-12-3J14-20-R-0377).
3. A detailed explanation of how the Department evaluated bids. In particular, please state whether the Department evaluated the following considerations and provide a detailed explanation of why or why not:
  - a. Previous experience or lack of experience in produce distribution;
  - b. Whether the contractor had a PACA license at the time of bidding;
  - c. The size and logistical capabilities of the contractor; and,
  - d. Annual revenue of the contractor.

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<sup>3</sup> Isaac Arnsdorf, "Wedding Planner, Caterer, "Brand Builder": Trump's Food Aid Program Is Paying \$100+ Million to Unlicensed Dealers", ProPublica (May 19, 2020), <https://www.propublica.org/article/wedding-planner-caterer-brand-builder-trumps-food-aid-program-is-paying-100-million-to-unlicensed-dealers>; Helena Bottemiller Evich And Ryan Mccrimmon, "Multimillion-dollar food bank delivery contracts go to firms with little experience", Politico (May 13, 2020), <https://www.politico.com/news/2020/05/13/usda-food-bank-contracts-256452>.

<sup>4</sup> 18 U.S.C. § 610.

<sup>5</sup> John Roberts, Alex Pappas, "Trump to include letter on coronavirus guidelines in food delivery program for those in need", FOX NEWS (July 31, 2020), <https://www.foxnews.com/politics/trump-to-include-letter-on-coronavirus-guidelines-in-food-delivery-program-for-those-in-need>

4. A detailed explanation of the Department's planned oversight of contracts to ensure contractual obligations are being met. Please include details about whether each contract will be audited, and if not, how the Department will choose contracts to be audited.
  5. A detailed explanation of how the Department will address instances where contracts are not fulfilled. Please include explanation on how the Department plans to ensure that the food boxes in an unfulfilled contract will be fulfilled by another entity in a time sensitive manner.
  6. A detailed explanation of whether the Department took PACA disputes that were previously reported to the Department into consideration when it was awarding contracts to companies. If not, please explain why not.
  7. Data on the number of produce boxes delivered by state and locality (e.g., zip code, congressional district, etc.). If this data is unavailable, please explain how the Department determines which areas need produce boxes.
  8. A list of the non-profit organizations and school districts receiving the food box distributions by state and locality (e.g., zip code, congressional district, etc.), as well as a description of the population served by each such entity, including racial/ethnic and income demographic information.
  9. As of the present date, the number of stop-work orders that have been issued against awardees and the reasons for their issuance.
  10. As of the present date, the number of contracts that have been terminated for performance, the reasons for the terminations, the dates of termination, and whether new contractors have been selected to replace the terminated contractors.
  11. As of the present date, the number of contracts that the Department chose to not extend due to performance, the details of those performance concerns, and whether new contractors have been selected to replace the contractors who did not have their contracts extended.
  12. As of the present date, the number of contracts that the Department has extended and the criteria by which they were evaluated for extension.
  13. A detailed explanation whether the Department plans to update the solicitation and bid approval process for the next round of request for proposals, so contracts are not awarded to companies with little to no experience in produce distribution or companies without PACA licenses. If not, please explain why not.
  14. A detailed explanation of the Department's rationale for using authority under Sec. 1101 of the FFCRA, for the Farmers to Families Food Box Program, rather than other funding authorities available to the Department such as Sec. 32 of the *Food and Nutrition Act*.<sup>6</sup>
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15. A detailed explanation of how, if at all, the Department took into consideration the needs of emergency feeding programs in determining what foods would be allowed to be part of the Farmers to Families Food Box.
16. A detailed explanation of how contract amounts were determined, and to what degree local emergency feeding needs were taken into consideration.
17. A detailed explanation of what the Department is doing to ensure that organizations, including faith-based organizations, that are receiving food boxes for distribution are not discriminating against potential recipients of food boxes.<sup>7</sup>
18. A detailed explanation of why nonprofits such as emergency feeding organizations participating in existing USDA food distribution programs were not prioritized, and what steps the Department took to ensure that the targeted nonprofits, that do not traditionally receive commodities, were prepared to receive and distribute Farmers to Families Food Boxes. In a briefing for Hill staff on April 18, 2020, the Department stated its intention to prioritize getting food to nonprofits that do not generally have access to other Department commodity programs, such as The Emergency Food Assistance Program (TEFAP).
19. Copies of all communications between the White House and the Department regarding the inclusion of President Trump's letter in food boxes. Please include the date of each communication, as well as the sender's name and the recipient's name.

Please provide the requested documents and information by September 7, 2020. If you have any questions, please contact Janice Nsor at [Janice.Nsor@mail.house.gov](mailto:Janice.Nsor@mail.house.gov). Please direct all official correspondence to Tylease Alli, the House Education and Labor Committee's Chief Clerk, at [Tylease.Fitzgerald-Alli@mail.house.gov](mailto:Tylease.Fitzgerald-Alli@mail.house.gov). Thank you for your attention to this matter, and I look forward to your response.

Sincerely,



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**ROBERT C. "BOBBY" SCOTT**  
Chairman

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<sup>7</sup> On a stakeholder phone call on April 20, 2020, USDA Office of Partnerships and Public Engagement Director, Mike Beatty, indicated that the Farmers to Families Food Box Program would be a good opportunity for faith-based organizations to participate.