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**SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS**

**2157 RAYBURN HOUSE OFFICE BUILDING**

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<https://coronavirus.house.gov>

August 24, 2020

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

Dear Secretary Perdue:

The Select Subcommittee on the Coronavirus Crisis is examining the Farmers to Families Food Box Program, the U.S. Department of Agriculture (USDA) program intended to provide food assistance to Americans struggling to make ends meet during the coronavirus pandemic. Although Congress allocated billions of dollars to distribute food to Americans in need, I am concerned that the Trump Administration's management of this critical effort has been marred by questionable contracting practices, a lack of accountability, and a failure to deliver food to many communities that need it most.

The Families First Coronavirus Response Act (FFCRA) authorized USDA to use funds appropriated by Congress to buy food directly from producers and distribute it to Americans in need.<sup>1</sup> In May 2020, USDA announced contracts worth more than \$1.2 billion with 198 food providers through the Farmers to Families Food Box Program. These contracts covered delivery of food boxes across the country from May 15, 2020, through June 30, 2020.<sup>2</sup> On July 1, 2020, USDA announced a second round of contracts worth up to \$1.47 billion for food delivery from July 1, 2020, through August 31, 2020.<sup>3</sup> Among these awards, USDA extended the first-round

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<sup>1</sup> Department of Agriculture, *Press Release: USDA to Purchase up to \$3 Billion in Agricultural Commodities, Issue Solicitations for Interested Participants* (April 19, 2020) (online at [www.ams.usda.gov/content/usda-purchase-3-billion-agricultural-commodities-issue-solicitations-interested](http://www.ams.usda.gov/content/usda-purchase-3-billion-agricultural-commodities-issue-solicitations-interested)).

<sup>2</sup> Department of Agriculture, *Announcement of Contract Awards for the Farmers to Families Food Box Program* (May 8, 2020) (online at [www.ams.usda.gov/sites/default/files/media/AnnouncementofContractAwards.pdf](http://www.ams.usda.gov/sites/default/files/media/AnnouncementofContractAwards.pdf)).

<sup>3</sup> Department of Agriculture, *USDA Announces Additional Contracts for the Farmers to Families Food Box Program* (July 1, 2020) (online at [www.ams.usda.gov/content/usda-announces-additional-contracts-farmers-families-food-box-program](http://www.ams.usda.gov/content/usda-announces-additional-contracts-farmers-families-food-box-program)).

contracts awarded to 189 providers.<sup>4</sup> On July 24, 2020, USDA announced plans to issue a third round of contracts for food delivery from September 1, 2020, through October 31, 2020.<sup>5</sup>

Congress intended for USDA to use these funds to provide needed food assistance to American families and create a market for agricultural goods that food producers would otherwise dump due to decreased demand.<sup>6</sup> However, weaknesses in USDA's implementation of this program risk undermining these goals.

Under your leadership, USDA has granted large contracts to middlemen that lacked the ability to deliver food they agreed to provide. USDA reportedly awarded contracts to companies that "never knew about" a required food service industry license as well as companies that lacked industry networks needed to efficiently source and deliver food.<sup>7</sup> Media reports indicate that certain contractors did not have the size or experience to perform.<sup>8</sup> During a July 21, 2020, hearing before the House Agriculture Committee, Subcommittee on Nutrition, Oversight, and Department Operations, hunger relief organizations raised concerns about "program coordination, accountability, and communications,"<sup>9</sup> as well as "unevenness in the bidding and contracting process" that undermined "the equity and accountability" of the program."<sup>10</sup>

The Select Subcommittee also has concerns about the program's transparency. For example, during the first round of contract awards, USDA appears to have failed to disclose

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<sup>4</sup> Department of Agriculture, *Announcement of Contract Term Extension, Farmers to Families Food Box Program* (June 24, 2020) (online at [www.ams.usda.gov/sites/default/files/media/Round2AnnouncementContractTermExtension.pdf](http://www.ams.usda.gov/sites/default/files/media/Round2AnnouncementContractTermExtension.pdf)).

<sup>5</sup> Department of Agriculture, *Press Release: USDA Announced a Third Round of Farmers to Families Food Box Program Purchases* (July 24, 2020) (online at [www.usda.gov/media/press-releases/2020/07/24/usda-announces-third-round-farmers-families-food-box-program](http://www.usda.gov/media/press-releases/2020/07/24/usda-announces-third-round-farmers-families-food-box-program)).

<sup>6</sup> Committee on Agriculture, Subcommittee on Nutrition, Oversight, and Department Operations, Chair Fudge Opening Statement, *Hearing on An Overview of the Farmers to Families Food Box Program* (July 21, 2020) (online at <https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=1936>).

<sup>7</sup> *Wedding Planner, Caterer, "Brand Builder": Trump's Food Aid Program Is Paying \$100+ Million to Unlicensed Dealers*, ProPublica (May 19, 2020) (online at [www.propublica.org/article/wedding-planner-caterer-brand-builder-trumps-food-aid-program-is-paying-100-million-to-unlicensed-dealers](http://www.propublica.org/article/wedding-planner-caterer-brand-builder-trumps-food-aid-program-is-paying-100-million-to-unlicensed-dealers)).

<sup>8</sup> *USDA Terminates Avocado Grower's \$40MM Food Box Contract*, Blue Book Services (May 21, 2020) (online at [www.producebluebook.com/2020/05/21/usda-terminates-avocado-growers-40mm-food-box-contract/](http://www.producebluebook.com/2020/05/21/usda-terminates-avocado-growers-40mm-food-box-contract/)); *USDA Knocked for 'Unfathomable' \$39M Contract Awarded to San Antonio Event Planner*, San Antonio Express (May 14, 2020) (online at [www.expressnews.com/news/local/article/Federal-food-program-knocked-for-hiring-San-15270354.php](http://www.expressnews.com/news/local/article/Federal-food-program-knocked-for-hiring-San-15270354.php)).

<sup>9</sup> Committee on Agriculture, Subcommittee on Nutrition, Oversight, and Department Operations, Statement of Matt Habash, Chief Executive Officer, Mid-Ohio Food Collective, *Hearing on An Overview of the Farmers to Families Food Box Program* (July 21, 2020) (online at <https://docs.house.gov/meetings/AG/AG03/20200721/110913/HHRG-116-AG03-Wstate-HabashM-20200721.pdf>).

<sup>10</sup> Committee on Agriculture, Subcommittee on Nutrition, Oversight, and Department Operations, Statement of Eric Cooper, President and Chief Executive Officer, San Antonio Food Bank, *Hearing on An Overview of the Farmers to Families Food Box Program* (July 21, 2020) (online at <https://docs.house.gov/meetings/AG/AG03/20200721/110913/HHRG-116-AG03-Wstate-CooperE-20200721.pdf>).

recipients of over \$10 million in contracts; the Department publicly identified these contracts only after extending the contract terms more than a month later.<sup>11</sup>

USDA has conceded that the program has faced problems. During the July 21 hearing, Undersecretary for Marketing and Regulatory Programs Greg Ibach testified that only 70% of vendors were able to deliver 90% of their food box contracts. Undersecretary Ibach further recognized that the program “underserved” certain regions and that corrections would be needed to address the fact that “competitive bid wasn’t part of the consideration” in the contract awards.<sup>12</sup>

Rather than focusing on addressing these problems, the Administration appears to be seeking political benefits from the program, including by inserting a letter signed by President Trump in food boxes, stating that the recipients of the food are “cherished members of our great American family” and asserting, “We will support America’s recovery every step of the way.”<sup>13</sup>

The Select Subcommittee is investigating USDA’s contracting practices and administration of this critical program. Following an initial July 9, 2020 briefing on this program, Select Subcommittee staff repeatedly requested follow-up information from USDA, but USDA has not responded.

The Select Subcommittee requests that you provide the following information and documents by September 7, 2020, and a staff briefing by September 14, 2020. These requests are consistent with House Resolution 935, which established the Select Subcommittee on the Coronavirus Crisis “to conduct a full and complete investigation” of “issues related to the coronavirus crisis,” including the “efficiency, effectiveness, equity, and transparency of the use of taxpayer funds and relief programs to address the coronavirus crisis.”

1. All documents reflecting any bids or proposals to USDA in response to solicitation AG-12-3J14-20-R-0377 or AG-12-3J14-20-R-0588, including any and all follow-up submissions, communications, and analyses of these bids and proposals for each of the following companies:

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<sup>11</sup> Compare U.S. Department of Agriculture, *Announcement of Contract Awards for the Farmers to Families Food Box Program* (May 8, 2020) (online at [www.ams.usda.gov/sites/default/files/media/AnnouncementofContractAwards.pdf](http://www.ams.usda.gov/sites/default/files/media/AnnouncementofContractAwards.pdf)) with U.S. Department of Agriculture, *Announcement of Contract Term Extension, Farmers to Families Food Box Program* (June 24, 2020) (online at [www.ams.usda.gov/sites/default/files/media/Round2AnnouncementContractTermExtension.pdf](http://www.ams.usda.gov/sites/default/files/media/Round2AnnouncementContractTermExtension.pdf)) (stating that the Department had “extended the term” of certain contracts, including contracts with the following entities that had not previously been disclosed: Darigold, Inc.; East Coast Trading Import, Export and Logistics, Inc. dba East Coast Farm and Vegetable; LA Specialty Produce Co. dba Vesta Foodservice; and Tom Maceri and Son, Inc.).

<sup>12</sup> Committee on Agriculture, Subcommittee on Nutrition, Oversight, and Department Operations, *Hearing on An Overview of the Farmers to Families Food Box Program* (July 21, 2020) (online at <https://agriculture.house.gov/calendar/eventsingle.aspx?EventID=1934>).

<sup>13</sup> *Trump to Include Letter on Coronavirus Guidelines in Food Delivery Program for Those in Need*, Fox News (July 31, 2020) (online at [www.foxnews.com/politics/trump-to-include-letter-on-coronavirus-guidelines-in-food-delivery-program-for-those-in-need](http://www.foxnews.com/politics/trump-to-include-letter-on-coronavirus-guidelines-in-food-delivery-program-for-those-in-need)).

- a. Ben Holtz Consulting, Inc. dba California Avocados Direct;
  - b. CRE8AD8, LLC;
  - c. Yegg, Inc.;
  - d. SMH2 Manufacturing LLC;
  - e. Darigold, Inc.;
  - f. East Coast Trading Import, Export and Logistics, Inc. dba East Coast Farm and Vegetable;
  - g. LA Specialty Produce Co. dba Vesta Foodservice;
  - h. Tom Maceri and Son, Inc.;
  - i. Cargill, Incorporated;
  - j. Derstine's, Inc. dba Derstine's;
  - k. Pacific Produce Corporation dba PPC; and
  - l. Gumz Muck Farms, LLC;
2. For each company listed in Request 1, a list of each food bank, community or faith-based organization, or other non-profit organization for which they contracted to deliver food, and any direct feedback or communication received by USDA from any identified entity;
  3. For each company listed in Request 1, the complete contract files, including but not limited to all contracts, justifications for other than full and open competition, responsibility determinations, verification of price reasonableness, and payments from USDA to these companies;
  4. For each company listed in Request 1, all documents submitted to USDA regarding contract performance, including documents sufficient to show the destination, receiving organization, documentation of acceptance, volume, contents, cost, and actual or expected date of delivery for food boxes delivered through the USDA under the Farmers to Families Food Box Program;
  5. Documents sufficient to show the prices paid per unit as part of the Farmers to Families Food Box Program and the prices paid per unit for similar food items as part of the Supplemental Nutrition Assistance Program;
  6. The name and DUNS number of any Farmers to Families Food Box Program contractor whose contract was terminated, and the reason for the termination;
  7. The name and DUNS number of any Farmers to Families Food Box Program contractor unable to deliver 90% or more of its contract (in any phase of the program) and the percentage of contract volume delivered by each of these contractors. This response should include but not be limited to the 30% of program contractors unable to deliver 90% of their contract volume as identified by Undersecretary Ibach on July 21, 2020;<sup>14</sup>

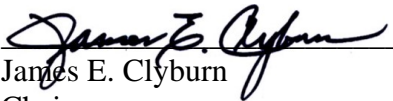
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<sup>14</sup> Committee on Agriculture, Subcommittee on Nutrition, Oversight, and Department Operations, *Hearing on An Overview of the Farmers to Families Food Box Program* (July 21, 2020) (online at

8. Copies of all audits performed in connection with the Farmers to Families Food Box Program.<sup>15</sup>

An attachment to this letter provides additional instructions for responding to these requests. If you have any questions about this request, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,

  
James E. Clyburn  
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

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<https://agriculture.house.gov/calendar/eventsingle.aspx?EventID=1934>).

<sup>15</sup> See *id.* (Undersecretary Ibach stated that USDA conducts “robust audits to ensure food safety plans are followed, that only domestic produce is provided, and that quality products are delivered, among other contract administration matters”).

## Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
  - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - b. Document numbers in the load file should match document Bates numbers and TIF file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:  
  
BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,  
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic



message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.