

USDA Equity Commission

Public Meeting #1: Written Comments

This document is a compilation of written comments submitted February 14 through March 15, 2022 for Equity Commission members to review. Comments received before February 22nd were provided to Equity Commission members prior to the first public meeting held on February 28, 2022. The comments have been categorized into four groups: Questions, Comments, Resources, Other. Within each group, comments are sorted first by date and then alphabetically by last name.

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Questions

1. Kelly Jackson

Submitted via website registration form: 2/14/22

Is there a meeting agenda? This would help to better prepare for comments

2. David Beck

Submitted via website registration form: 2/15/22

What is Farm Credit System's role on the equity commission and historically in addressing equity?

3. Devon Brown

Submitted via website registration form: 2/15/22

What is the BEST marker to know when the work being done to increase equity is working?

4. Aisha Hernandez-Ramos

Submitted via website registration form: 2/15/22

Which are the strategies to downsize bias in the workplace and recruitment of Minorities Groups?

5. Kathleen Liang

Submitted via website registration form: 2/15/22

What is the plan to maintain the dignity and longevity of this commission?

6. Jasmine Green

Submitted via website registration form: 2/18/22

What race and genders are in-scope and out-of-scope for the relief bill? Are black female farm owners in-scope?

7. Joe James

Submitted via website registration form: 2/18/22

While I commend the Biden Administration for creating the Commission, how can an impacted black person get immediate help?

8. Herman Strumpf

Submitted via website registration form: 2/20/22

Will GLBTQ+ Farmers be eligible NRCS EQUIP scoring? We should be.

9. Dr. Michael Huff

Principal, Huff Innovative Technologies Company

Email submitted on: 2/21/22

QUESTION:

Black farmers have seen their ranks fall from more than a million to fewer than 40,000 in the last century (due to systemic racist barriers, industry consolidation and onerous loan terms). Black farmers want/need to see results!

What can the U.S. Department of Agriculture's Equity Commission do to facilitate implementation, action and bring resources to farms (specifics please; no more research or listening sessions)?

10. Margaret Krome-Lukens

Policy Director, Rural Advancement Foundation International – USA

Email submitted on: 2/21/22

Hello,

I just registered for Friday's Equity Commission meeting and wanted to submit questions but couldn't even fit my first question in the text box provided, so am submitting them here. **Could there be a more expansive opportunity for submitting questions and comments in the future?**

Our questions for the Commission include:

1. How will the Equity Commission ensure that it is taking into account the needs of predominantly POC farmers and communities in non-contiguous areas of US including territories?
2. Will the Equity Commission have the scope/power to address injustices against BIPOC farmers committed by agency staff (and to take measures to restore justice), where the staff have already retired?
3. Access to credit and to supportive and fair loan servicing is a giant issue for BIPOC farmers. Will there be a subcommittee, or significant time given to the discussion of equity issues in agricultural lending?
4. What is the overlap between the Equity Commission and the Advisory Committee on Minority Farmers? How will those two groups coordinate?

Thank you very much, looking forward to the meeting Friday.

11. Linda Daniels-Fortenberry

Executive Director, Circle of Faith CDC

Email submitted on: 2/23/22

Why has this Committee chicken to not look at rural farmers, at this time when that population suffers the most. The Minority Farmers and Ranchers Committee has a report that substantiates this. When will their report be published? When will they convene their meetings? Exactly what is the Committee going to address than wasn't being previously addressed? Aren't we being redundant and spending taxpayers' dollars frivolously?

12. V. James

Submitted via website registration form: 2/23/22

Why were certain Farmers, Ranchers, Producers, and Minority Organizations excluded from participation? Why are time limits placed?

13. Ikhana Makina

Submitted via website registration form: 2/23/22

How will this commission create meaningful access to land and resources for indigenous Americans?

14. Dr. Gracie B. Kearsse-McCastler

Submitted via website registration form: 2/24/22

Systemic racism is very problematic for many entities. Will there be a comprehensive plan developed to alleviate it in the USDA?

15. Constance Folsom

Submitted via website registration form: 2/25/22

USDA initially proclaimed to give African American farmers 8 billion to develop their farms. What happened?

16. Rishma Lucknauth

Submitted via website registration form: 2/25/22

How does the USDA plan to uphold social equity in cannabis cultivation, both in the current market and emerging markets?

17. Carol White

Submitted via website registration form: 2/25/22

What resources are available to applicants who need assistance filling out applications and or understanding content that is available?

18. Rudy Arredondo

Submitted via website registration form: 2/28/22

Will the Commission be holding regional meetings/hearings?

19. Omar Garza

Submitted via website registration form: 2/28/22

Has USDA had improvements to equine issues since the last farm commission committee, and if so what?

20. Deborah Hendrix

Submitted via website registration form: 2/28/22

I would like to request a one-on-one meeting. Please contact me at (512) 963-1722 or email at:

D.hendrix@ac.com

21. Lori Faeth

Senior Director of Government Relations/Land Trust Alliance

Email submitted on: 3/15/22

What are the barriers to applying for loan and grant programs? How can USDA make loan and grant processes easier to understand and more accessible to underserved groups?

- In many instances, underserved groups are not aware of USDA loan or grant programs. We encourage the Department to develop new outreach and education materials with a special focus on ensuring underserved groups have clear and actionable information about the

programs that are available to help them conserve land.

- Even when underserved groups are aware of USDA programs, a documented and longstanding lack of trust in the USDA and the federal government is a significant barrier to participation in these programs. From our ongoing experience, developing equitable practices both internally and externally requires the commitment of time and resources. We applaud the USDA's establishment of the Commission and the allocation of dedicated staff to support the Commission's efforts. We encourage ongoing engagement of underserved communities and stakeholders, not only through the quarterly Commission meetings but through multiple forums, including online and in-person platforms and community-based meetings, to improve access and make space for hearing concerns and potential solutions.
- Many underserved communities lack the resources or relationships to hire experts to complete grant applications. We encourage the USDA to provide free technical assistance and training to help overcome this hurdle. General Questions

Are there USDA policies, practices or programs that perpetuate systemic barriers to opportunities and benefits for people of color or other underserved groups? How can those programs be modified, expanded, or made less complicated or streamlined, to deliver resources and benefits more equitably?

- The process to apply for USDA conservation programs, such as the Agricultural Conservation Easement Program, is very complex and cumbersome. In addition, many underserved communities do not have the technology or resources needed to submit applications online. To reduce the complexity of the applications, the USDA should engage representatives of underserved communities in undertaking a complete review and revision of its applications for voluntary conservation programs. In addition, the Department should provide free technical assistance to aid landowners with the application process. Finally, the USDA should identify ways to overcome technology challenges.
- In many instances, underserved landowners own relatively small but important parcels of farm and rangeland, making it hard to compete against landowners with larger parcels for limited program resources. The USDA should increase or establish a percentage of funds dedicated to underserved landowners and communities in Farm Bill conservation programs. Another solution for consideration should be creating a separate unit focused on the unique needs of smaller operations & farmers, such as more USDA-approved mobile slaughter facilities, broadband expansion, and health insurance.
- Matching funds create another barrier for underserved landowners to access these programs. The USDA should reduce cost-share requirements for underserved landowners in Farm Bill conservation programs.
- USDA disaster recovery programs should be open to all individuals who can document that they farm so as not to exclude those farmers in an heirs' property situation.
- The county committee structure of the Farm Service Agency perpetuates practices that exclude people of color and other underserved groups. Consider revamping the structure to include

more people of color and individuals representing underserved communities on county committees.

- Farmers dealing with heirs' property issues can easily spend \$100,000 to resolve a title issue. While it is admirable that the USDA wishes to help these farmers, structuring assistance as a loan is problematic for smaller operation farmers who may fear taking on such debt, which could lead to financial hardship or foreclosure. We encourage the USDA to develop and expand equitable solutions for heirs' property issues through the engagement of affected communities and experts who are already leading in addressing and resolving these issues.

Please describe USDA programs or interactions that have worked well for underserved communities. What successful approaches to advancing justice and equity have been undertaken at USDA that you recommend be used as a model for other programs or areas?

Programs such as the Urban and Community Forest Program, which currently serves 200 million Americans in both underserved rural and urban communities, include diversity, equity and inclusion components. Other examples include the Conservation Stewardship Program and the Environmental Quality Incentives Program which both have special provisions for socially disadvantaged landowners. We encourage the USDA to increase funding for program models that provide realistic and equitable pathways for historically underserved landowners and communities to successfully apply and participate.

Attachments: 7. [Land Trust Alliance_Written Comments_USDA Equity Commission]

Comments

22. Marguerite Pridgen

Submitted via website registration form: 2/14/22

USDA should set aside \$ and secure ALEs for community gardens used to address food access/equity in BIPOC communities.

23. Jean Public

Email submitted on: 2/14/22

I do not support this senile Biden push in this deception of America. this policy has zero support in America at this time. This president has been offensive on his push of this unamerican idea on to the American people. this policy needs shut down. it is equality that is in the U.S. constitution, not equity. this comment is for the public record. please receipt. jean publicee jeanpublic1@yahoo.com

24. Cayla Lawe

Submitted via website registration form: 2/15/22

Rural farmers need a plan of action NOW! The wicked deed of leaving behind those these programs are for is OVER!!!

25. Tambra Stevenson

Submitted via website registration form: 2/15/22

I would like to see equity recommendations that can improve dietary guidelines, consumer nutrition information and program.

26. John Hussman

Submitted via website registration form: 2/17/22

The foundation for all racial practices within the local USDA Field Office is the Board of Directors.

27. Kate Falkenhardt

Submitted via website registration form: 2/18/22

The USDA has a long way to go to address acute and systemic issues of food equity.

28. John Jamerson

Submitted via website registration form: 2/18/22

To fully address equity the BIPOC farmers must have lobbyist, committee, legislative office, judicial system, and funds setup in

29. Emily Pickron

USDA FPAC-NRCS

Email submitted on: 2/18/22

Hello,

In Spring of 2021, I was working as a Soil Conservationist, I had a Farm Bill Program applicant for our Environmental Quality Incentive Program (EQIP). He had aged out of the beginning farmer program and requested to be in the Socially Disadvantaged category in Washington State. He had marked the box on

the application for EQIP (NRCS-CPA-1200) because he was 50% Native American. I was proceeding with the application and received a message from our Programs Assistant that the FSA system was not marking his application as a Historically Underserved (HU) participant under the Socially Disadvantaged (SD) portion.

Long story short, FSA had not had him complete the proper forms or checked the correct boxes to document his HU-SD status. I did some research on our websites at the time and our two websites sent me in circles referring back to one another. Neither one had the name or form number needed and this made it difficult for me to take the correct action to assist my farmer to document his SD status. FSA did not know how to document the SD status either, as we do not have a lot of minority farmers in our area.

Our county FSA reached out to an FSA Loan Manager, and he responded with this: "He is identified as an American Indian in SCIMS from his direct and guarantee loan application that he completed the demographic information. He can complete an AD-2047 and submit it to the local county office for reaffirmation." I was able to find this form and had my participant complete the form, I took it to FSA for them to load in their system to rectify the error. This form corrected the problem, and I was able to offer this applicant the correct cost share rates for his continued HU status.

The only reason I am writing about this experience is because I would like for our public websites to assist our HU producers to become eligible for what USDA is lawfully supposed to provide. This should not be difficult for the participant or for any USDA employee assisting that applicant. This problem took hours to find the information between five different USDA employees. As a taxpayer and customer service oriented public servant, I know we are obligated to serve everyone. I'm making a recommendation that the website should be improved to provide both USDA employees and the potential participants an easier path forward in the future. The multiple USDA HU related websites should include the following information.

1. Name of the appropriate form
2. Number of the form
3. Direct link of the appropriate pdf that they could fill out on their computer or print and complete by hand

Thank you for your consideration. Feel free to contact me on Microsoft Teams or by e-mail.

East Area Programs Specialist

Emily Pickron

[30. Abbie Chaddick](#)

Submitted via website registration form: 2/21/22

Please consider reducing the non-federal match requirement for USDA grants. It is restrictive for smaller, community-based orgs.

[31. Lorette Picciano on behalf of The Rural Coalition](#)

Executive Director, Rural Coalition

Email submitted on: 2/21/22

Greetings,

We were unable to find the correct link to submit comments to the equity commission in advance of its first meeting.

We submit the following previous documents and comments, which cover some of our over 4 decades of work dedicated to equity in agriculture. These include extensive references that may be useful to the commission, including our comments submitted last August.

We further endorse the recommendations of the National Young Farmers Commission in their August 13, 2021, USDA comments on Equity.

We also include our recent comments to the Consumer Finance Protection Bureau related to data collection relevant to the enforcement of the Equal Credit Opportunity Act.

In the short term, we believe the Commission should monitor the impact and address how to ensure the continuation of current USDA implementation of the Justice 40 Initiative of the White House which has already made significant investments in the programs and the partners who can best help USDA advance equity. We particularly highlight the necessity of engagement of and resources to sustain the work of the Community Based Organization and Tribal Partners who provide the technical assistance to end users that is essential to the success of these efforts.

We further urge the Commission to develop strategies to assure the investments of critical resources at the level of 40% as outlined in the Justice 40 initiative be encoded in such a manner as to continue this level of investment into the future. This would require attention to carefully constructing the new generation of definitions of equity and discrimination that will provide a clear and solid legal basis for such investments in the face of widespread litigation rooted in the denial of the very inequities the Commission is established to address.

The attached comments further address the need to assure transparency and accountability in the transformation of systems towards equity. We have provided special focus with regard to the issue of equal credit opportunity. We urge the Commission and its Agriculture Subcommittee to in particular review our attached comments to the Consumer Finance Protection Bureau which address the need for expanded data collection and analysis. They further address specific issues of equity and discrimination in Agriculture lending that require policy or service modifications.

While we hope for the opportunity to address additional specific issues as the Commission and its Agriculture Subcommittee move toward specific recommendations, we also call for the Commission to take a broader view and outline a broader vision of why investments in equity will pay dividends many times over in improving the economic, ecological and societal outcomes in the future of agriculture and rural communities.

The idea of transition agriculture lending to much broader investments in a more equitable and resilient food and agriculture system has received strong affirmative response from our diverse members. Our members also strongly support real initiatives to restore and build the connection of the historic land-based peoples of this continent to their essential roles in agriculture and food systems. And we urge the Commission to assure the equity is woven into the fabric of every investment in agriculture and food. This includes recognizing that many farmworkers are farmers with a deep desire to farm and deserve this opportunity.

We appreciate your attention to these comments, and we wish you all good things in the important work you do.

The Rural Coalition

[Attachments: "RC Equity Comments 08142021 copy," "Young Farmers – Racial Equity Comments – Final," "RuralCoalitionCommentstoCFPB_AgDataCollection_Comments,"]

32. Hvishi Opa

Submitted via website registration form: 2/23/22

There should be more interchangeable goals between the USDA and non-federal recognized Tribes and Nations.

33. Rachel Owen

Alliance of Crop, Soil and Environmental Science Societies

Email Submitted: 2/23/22

Please find attached written comments from the American Society of Agronomy, Crop Science Society of America, and Soil Science Society of America to be considered by the Equity Commission. Please let me know if you have any questions. We look forward to supporting the Equity Commission in whatever way we can to promote equity in agriculture.

[Attachments: "2022.02.22_USDAEquityCommissionRecommendation"]

34. Karen Ashikeh

Submitted via website registration form: 2/24/22

DOA and DOI policy should allow indigenous agriculture/water/grazing managed by indigenous experts who know these Federal lands.

35. Mama Lynne Tillman

Submitted via website registration form: 2/24/22

Personal statement in support of "The Congressional Mandated Advisory Committee on Minority Farmers and Ranchers. February 21/2

36. Nadine Chatman

Submitted via website registration form: 2/26/22

OASCR staff in the Program Division should be removed; the SOPs reviewed, and an appeal mechanism set up!

37. Geri Henchy

Director Nutrition Policy and Early Childhood Programs

Email Submitted: 2/26/22

In response to the Equity Commission's request for comments made during the White House/USDA Equity Commission Briefing, the Food Research & Action Center appreciates the opportunity to share our recommendations for improving equity submitted for USDA's request for information: "Identifying

Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA.” These recommendations are relevant to the Equity Commission’s mission. If you have any questions, please feel free to contact us.

[Attachments: FRAC_USDA RFI_Advancing Racial Justice and Equity”]

38. Dr. Michael Huff

Principal, Huff Innovative Technologies Company

Email submitted on: 2/26/22

PROBLEM: The courts have stymied the legislation which included \$4 billion of debt forgiveness for Black and other “socially disadvantaged” farmers,

SOLUTION: Consider providing the debt forgiveness to descendants of American chattel slavery – that distinction would NOT exclude any racial group (interracial marriage has occurred); consequently, the targeted group would include ALL Americans (Black, White, Asian, Latinx and Native American) who can demonstrate lineage via blood/DNA test. NOTE: history records the centuries of injury to American chattel slaves.

Dr. Huff ASK: please run this recommendation by your attorneys/legal counsel.

39. Ashley Stallworth

Submitted via website registration form: 2/26/22

Best access to machinery Capital, carbon credits, operation allowance.

40. Charles Smith

Submitted via website registration form: 2/27/22

The OASCR warrants serious review, reorganization, and new senior managers to replace current managers of 13 plus years.

41. Jose Barajas

Submitted via website registration form: 2/28/22

I feel my current FSA officer does not give me proper consideration. She does not offer solutions or suggestions

42. Stewart Fried

Submitted via website registration form: 2/28/22

The Equity Commission should investigate FNS’s SNAP retailer administrative system and its disparate impacts on minorities.

43. Lisa Sundberg

Submitted via website registration form: 2/28/22

Looking for funding sources to build the supply chain for hempcrete housing & increase a circular economy & reduce carbon

44. Dr. Tammy Gray-Steele

National Women in AG Association

Email submitted on: 3/7/22

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant;
3. the Rural Business Enterprise Grant;
4. the Socially Disadvantaged Producers Grant; and
5. Public, Private, Partnerships through Cooperative Agreements per 7 USC 22046(6)(4).

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

[Attachment: "Rural Community and Economic Development"]

45. Lloyd Lindley

Email submitted on: 3/9/22

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5. Public, Private, Partnerships through Cooperative Agreements per 7 USC 2204b(b)(4).

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

46. James Sydnor

Email submitted on: 3/10/22

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

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47. Michael Camacho

Email submitted on: 3/10/22

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48. LaTosha Davis Johnson

Email submitted on: 3/11/22

TO: Chairman David Scott, House Agriculture Committee
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission
Rural Community and Economic Development Committee
1400 Independence Ave., SW, Stop 0601
Washington, DC 20250-9821

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

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These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant;
3. the Rural Business Enterprise Grant
4. the Socially Disadvantaged Producers Grant; and
5. Public, Private, Partnerships through Cooperative Agreements per 7 USC 2204b(b)(4).

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

49. Kwame Mboya

Email submitted on: 3/11/22

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

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BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

50. Neville Anderson

Email submitted on: 3/11/22

PLEASE FORWARD THE ATTACHED LETTER IN SUPPORT OF RENEWED FUNDING FOR THE FOOD, CONSERVATION AND ENERGY ACT OF 2008 TO THE COMMITTEE CHAIRS.

[Attachment: Support For The Food, Conservation, and Energy Act of 2008]

51. Chris McHenry

Email submitted on: 3/15/22

Follow Up

[Attachment: "UMOS 14218 Support Letter"; "Tierra Del Sol & Colorado Rural Housing 14218 Support Letter"; "Support For The Food, Conservation, and Energy Act of 2008 (1)"]

52. David Lipsetz

President & CEO, Housing Assistance Council

Email submitted on: 3/14/22

We are recommending that the Commission form a Rural Housing Subcommittee in order to focus in on improvements to the Rural Housing Service (RHS) programs within Rural Development. This is especially needed given the disproportionate impact of the pandemic on housing security for people of color, especially those in rural communities. Even prior to the pandemic, racial and ethnic disparities existed in who is served by Rural Development's housing programs. For example:

- Eligible immigrant families have been excluded from affordable rental housing located in rural communities throughout the country.
- Racial disparities persist in the 502 Guaranteed Loan Program, which serves a much lower percentage of people of color than are served by the 502 direct loan program.
- RHS programs have been used minimally in Native American communities, often because of insufficient outreach efforts or an inadequate understanding of the available program resources. In FY 2019, for example, only six of the 6,194 Section 502 direct loans made nationally by Rural Development were to Native Americans for homes on tribal land.

The RHS programs are critically important to rural communities, and have struggled under program funding cuts, lack of adequate staffing levels, and outdated technology systems. Improving and growing these programs is of the utmost importance and requires that they be examined with a lens to racial equity. As the Commission considers the need for additional Subcommittees, we would encourage the formation of a Rural Housing Subcommittee to address these opportunities for improvement. Should resources for additional Subcommittees be limited, then we would encourage robust housing expertise and consideration in the planned Rural Development Subcommittee.

[Attachments: HAC NHLP USDA Equity Commission Comments 3.15"]

53. Eloris Speight

SDFR Policy Research Center

Email submitted on: 3/14/22

The SDFR Policy Research Center (the Policy Center) located at Alcorn State University submits the attached recommendations to the Equity Commission, for consideration.

In June 2021, the Policy Center responded to The Office of Management and Budget's Request for Information (RFI) on Methods and Leading Practices for Advancing Equity and Support for Underserved Communities Through Government.

In July 2021, the Policy Center responded to The Department of Agriculture's Request for Information (RFI) on Identifying Barriers in USDA Programs and Services, Advancing Racial Justice and Equity and Support for Underserved Communities at USDA.

In late 2015, USDA awarded a grant, which stemmed from the Agricultural Act of 2014 (Farm Bill 2014) to Alcorn State University to establish the Socially Disadvantaged Farmers and Ranchers (SDFR) Policy Research Center (Policy Center) in collaboration with members of the 1890 land grant community and other agricultural leaders. The SDFR Policy Center was established to contribute toward better connecting SDFR in meaningful ways to federal policy construction, interpretation, and implementation.

The SDFR Policy Center at Alcorn State University is a national center focused in the 18 states with 1890 universities because of the large concentration of SDFR in these states. The mission of the Policy Center is to conduct research, analyze policy and make recommendations seeking to achieve equitable and economic integration of USDA programs and policies for socially disadvantaged farmers, ranchers, communities, and rural landowners. The Policy Center's mission is being accomplished through a transparent management structure focused in four areas: active research, policy development, stakeholder engagement, and strategic outreach. Through these areas, the Policy Center makes intellectual contributions that strengthen public policy debates concerning investments in future Agriculture Bills. The vision of the Policy Center is to be the premiere authority for information on the history, current conditions, trends and future projections of socially disadvantaged farmers, ranchers (SDFR) and communities.

The Policy Center is operational and fully staffed with an executive director, program assistant, policy analyst, and research analyst. The Policy Center is located in the Biotechnology building on the Lorman campus of Alcorn State University.

Stakeholder Engagement reflects ongoing dialogue between the academic community and stakeholders through the use of surveys, focus groups addressing research findings, and an Advisory Board. The Policy Center Advisory Board, which is chaired by the President of Alcorn State University, Dr. Felecia M. Nave and includes 24 members representing other 1890 universities (4), 1862 universities (3), Community-Based Organizations (CBOs-4), SDFR-at-large (6), executive directors over extension and research for 1890 universities (2), agribusiness (2-John Deere and Corteva)) and national agricultural leaders (3) with reputations for working with SDFR.

Research consists of literature reviews on agricultural policies and programs, data collection of issues, concerns, and proposed solutions, and analysis of legislation and results of data collected impacting SDFR. Since inception, 15 research studies have been completed in the priority areas under the guidance of the Policy Center. The Policy Center currently has the following six priority areas:

1. Review and analysis of current agriculture policy and implications of agriculture policy for SDFRs.
2. Determination of factors that support or hinder participation by SDFRs in USDA programs and practices.
3. Analysis of land loss by Black Farmers and decline in numbers of Black Farmers.
4. Access to and use of technology by SDFRs.
5. Ways to increase the number of minority youth in agriculture
6. Challenges in community and urban agriculture.

Policy Development includes the identification of opportunities, issues and concerns for socially disadvantaged farmers and ranchers and development of recommendations for inclusion in future Farm

Bills. The Policy Center worked with over 60 Community Based Organizations (CBOs) representing SDFR and the land-grant community in developing policy recommendations for the last Farm Bill. Policy recommendations were channeled through the Congressional Black Caucus (CBC). The Policy Center also worked with attorneys from The Harvard Law School Food and Policy Clinic, who evaluated the relationship that exists between the Office of General Counsel (OGC) and The Office of the Assistant Secretary of Civil Rights (OASCR) in the civil rights complaint processing at USDA. The relationship between the two offices was found to be a barrier to racial equity. The Harvard Law School Food and Policy Clinic documented the problems in an article Supporting Civil Rights at USDA: Opportunities to Reform the USDA Office of the Assistant Secretary for Civil Rights in April 2021. We concur with these findings. Whether than repeat what had already been documented, with their permission, we incorporated the findings by including the link to the article. Article link -- [https://urldefense.com/v3/__https://www.chlpi.org/wp-content/uploads/2013/12/FLPC_OASCR-Issue-Brief.pdf__;!!Fnk_VKP-sWj72ig!-nCnVmDrK_B5qyfc8w4sJCgilFgBZgXPh5AYo15ZcZ-V9XZ2B7mQ-aVkufSm5TfbKQ\\$](https://urldefense.com/v3/__https://www.chlpi.org/wp-content/uploads/2013/12/FLPC_OASCR-Issue-Brief.pdf__;!!Fnk_VKP-sWj72ig!-nCnVmDrK_B5qyfc8w4sJCgilFgBZgXPh5AYo15ZcZ-V9XZ2B7mQ-aVkufSm5TfbKQ$)

Strategic Outreach includes publications, development of educational materials and training, creation of reading/resource rooms, and presenting at national conferences and state meetings. The Policy Center participated in outreach sessions to increase awareness of the Policy Center and its mission in order to facilitate cooperation from farmers during data collection for Policy Center sponsored research, to share Farm Bill Recommendations developed by the Policy Center and to highlight Farm Bill sections impacting SDFR.

The Policy Center keeps the SDFR community informed via the Policy Center webpage, which can be accessed from the Alcorn State University website under Discover Alcorn (www.alcorn.edu/policycenter). The webpage includes sections for each of the four focus areas.

[Attachment: "Policy Center_E.O. Project Recommendations"; "Policy Center_E.O. Project Recommendations_Matrix"]

54. Charles

Email submitted on: 3/15/22

Dear Equity Commission Members:

If the work of the Equity Commission will empower USDA to objectively confront the hard reality of past discrimination and its lingering harm; help USDA build back better, and serve customers more fairly and equitably, the Equity Commission should consider undertaking a critical review and analysis of the contributions the Office of the Assistant Secretary for Civil Rights (OASCR) has and continues to have regarding its discriminatory practices in both employment and programs. Employees within OASCR are aware of how OASCR managers have with impunity abused authority for many years, during democratic and republican administrations. Employment complaints, in conjunction with the Office of General Counsel (OGC), are consistently processed at every level with disdain for employees, while OASCR managers and OGC attorneys collaboratively conspire to perjure against employees and their claims of harassment and discrimination. Thereby, falsely damaging or outright killing employment discrimination complaints. The program division of OASCR is equally abhorrent. The program managers, with full support from senior managers and OGC, consistently thwart the efforts of farmers and other program participants to negate their claims of discrimination and harassment. Unbelievably, a farmer who files a

discrimination complaint is systematically denied a legitimate investigation and is not given a copy of the report of investigation. The program side is its own incorrigible syndicate. It also operates with impunity. The farmers and other participants are really disadvantaged when dealing with the program side of OASCR because it is its own judge and jury. A farmer receiving a pejorative decision from the program division is left with no recourse—no appeal or other remedial remedy. Finally, the fiscal administration within OASCR is disastrous. Cooperative agreements have been used to transfer monies to organizations with no correlation to USDA programs and services. Additionally, contracts to provide contract workers and services to OASCR are questionable in terms of work credited to the contract and payments to contractors for work done by OASCR employees. The perception of fraud is obvious. Although documentation of fraud has been provided to OASCR managers, no one has been held accountable. Furthermore, it appears the Office of Inspector Counsel is complicit in this matter and has been for many years. Consequently, the Equity Commission should consider recommending a major reorganization and staff changes within OASCR, which Secretary Vilsack can make happen.

Please feel free to contact me regarding my comments and for any other interests you might have regarding the inner workings of OASCR.

55. C.K Johnson

Email submitted on: 3/15/22

Peace

[Attachment: "RURAL COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE (2)"]

56. Dreu VanHoose

Email submitted on: 3/15/22

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within the Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

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4. the Socially Disadvantaged Producers Grant; and
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Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

57. Francine Miller

Senior Staff Attorney/Adjunct Faculty

[Center for Agriculture and Food Systems](#), Vermont Law School

Email submitted on: 3/15/22

In order to be accountable and begin to undo the damaging effects of decades of racial discrimination against communities of color, USDA must prioritize advancing racial equity in access to credit, agricultural land, technical support, and all other USDA programs and services.

The Equity Commission and its Subcommittee on Agriculture can play a vital role in addressing these issues by advising the Secretary of Agriculture and providing a thorough analysis of how to dismantle the USDA programs, policies, systems, and practices that perpetuate disparities and contribute to systemic racial discrimination. The Commission's charge is to provide *actionable* recommendations to ameliorate the barriers to inclusion and access. As expressed in the Equity Commission's Charter, the recommendations should "center on the systems change necessary for USDA to effectively advance racial justice and equity for underserved communities."¹¹ At a minimum, the Equity Commission should:

1. Establish program accessibility and data collection directives for USDA;
2. Make a recommendation that the Secretary of Agriculture establish coordination between the Equity Commission and the Advisory Committee on Agricultural Statistics on the design and execution of the Census of Agriculture;
3. Develop strategies to embed meaningful coordination between USDA and diverse groups to solicit input on all aspects of USDA program design and implementation;
4. Make recommendations regarding the work of the Office of Budget Program Analysis;
5. Obtain and incorporate a formal response by USDA to the Equity Commission's recommendations into the Equity Commission's report;
6. Recommend that USDA incorporate a specific goal regarding equity into its 2022-2026 strategic plan;
7. Review and make recommendations regarding the civil rights complaint processes at USDA.

[Attachments: "FBLE Equity Commission comment 3.15.22"]

58. Henry Searchy

Email submitted on: 3/15/22

[Attachments: "Oklahoma Black Historical – LOS"; "Mayor Jones – LOS"; "North South Institute – LOS"; Julian Samora Research Institute-LOS"]

59. Joseph J. James

Email submitted on: 3/15/22

Accordingly, I recommend that the Equity Commission do the following, to help all who have been harmed by the USDA:

- 1) Create a sense of urgency, within USDA, so that farmers and entrepreneurs of color, adversely impacted by the USDA don't go out of business, or die, before their matters are resolved.
- 2) Develop a listing of all unresolved claims against the USDA, including mine.
- 3) Host Quarterly Hearings, where aggrieved parties, like myself, might bring violations to your attention
- 4) Require the USDA to hold Official Hearings, where parties involved, under oath, testify and when violations are found, aggrieved parties are reasonably compensated, even if the Statute of Limitations may have expired.
- 5) Consider other strategies to provide equity

Lastly, as I mentioned, during my remarks, I am sending this email, to Commission Members, thru the USDA staff who arranged your inaugural meeting, with this more detailed version of my statement, a copy of the CRADA, and other relevant information.

Thanks for your attention then and your hoped-for help, in the future.

Attachments:

- 10 [ARS Agri-Tech CRADA executed]
- 11 [USDA WRRRC CRADA Signature Page]
- 12 [SC Black Farmers Coalition_ATP's CRBBP Process]

60. Maleeka Manurasade

HEAL Food Alliance

Email submitted on: 3/15/22

HEAL is a national multi-sector, multi-racial coalition led by Black, Indigenous and People of Color (BIPOC) that is building collective power to transform our food and farm systems for the health of our communities and the planet. Our 50+ member organizations represent over 2 million rural and urban farmers, ranchers, fishers, public health advocates, farm, and food chain workers, Indigenous groups, scientists, policy experts, community organizers, and activists.

In the wake of food systems built with slavery, colonization, land theft, exploitation, and other structural and institutional racism perpetuated by government agencies including the USDA, it is long overdue that the USDA acknowledge, understand, and repair past and present harm done to Black, Indigenous, and other people of color (BIPOC).

While the Equity Commission is an important step towards doing so, and we are hopeful for what's possible, the USDA will need to make sweeping transformations to build trust with our communities.

As an important first step, we urge the Equity Commission to review and incorporate into their recommendations for the USDA the solutions identified in the [HEAL Platform for Real Food](#) and [Leveling the Fields, Creating Farming Opportunities for Black People, Indigenous People, and Other People of Color](#).

The HEAL Platform for Real Food

Crafted by 50 organizations representing rural and urban farmers, fisherfolk, farm and food chain workers, rural and urban communities, scientists, public health advocates, environmentalists, and indigenous groups, the HEAL Platform for Real Food serves as a call to action and a political compass for transformation.

Key highlights from the HEAL Food Platform are shared below, but we urge you to also read the explanations and policy solutions identified in the platform.

The HEAL Platform for Real Food identifies two root causes of the problems that plague our food systems:

- Concentration of market and political power in the hands of a few agri-food companies.
- The legacy and current reality of racism.

The HEAL Platform includes 10 solutions to create food systems that truly nourish our health, our economies, our communities, and our environment:

1. Secure Dignity and Fairness for Food Chain Workers and their Families
2. Provide Opportunity for All Producers
3. Ensure Fair and Competitive Markets
4. Build Resilient Regional Economies
5. Dump the Junk: Curb Junk Food Marketing
6. Increase “Food Literacy” and Transparency: Increase knowledge of, connection to, and transparency around food sources
7. Real Food in Every Hood: Making affordable, fair, sustainable, and culturally appropriate food the norm in every neighborhood
8. Phase Out Factory Farming
9. Promote Sustainable Farming, Fishing, and Ranching
10. Close the Loop on Waste, Runoff, and Energy

We encourage you to familiarize yourself with the policy solutions identified in each plank.

Leveling the Fields, Creating Farming Opportunities for Black People, Indigenous People, and Other People of Color

We also suggest the Equity Commission read and integrate the policy solutions identified in [Leveling the Fields, Creating Farming Opportunities for Black People, Indigenous People, and Other People of Color](#), a policy brief co-authored by HEAL Food Alliance and the Union of Concerned Scientists.

Leveling the Fields provides specific recommendations for the following key strategies to

advancing more equitable food systems:

- Building land accessibility and security
- Improving access to financial resources
- Advancing the quality and equity of infrastructure and information
- Securing representation and leadership across food systems
- Addressing injustice and increasing food system resilience go hand in hand

Again, we urge you to familiarize yourself with the specific policy recommendations within this policy brief.

Conclusion

For a long time, the United States has built a food system that harms and exploits, so much so that [scientists now warn of an uninhabitable planet](#) in the coming decades that will disproportionately endanger those who have contributed the least to the problem—low-income communities of color.

In order to reverse course, and to create a food system that works for our communities, our health, and our planet, we need the USDA and Equity Commission to recognize that it is not reform we need, but transformation.

Attachments: “HEAL Equity Commission Comment Letter - 03.15.22”

61. Myriam Foster

Email submitted on: 3/15/22

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Thank you

62. Nicole Lee Ndumele

Senior Vice President for Rights and Justice, Center for American Progress

Email submitted on: 3/15/22

Recommendations: The USDA Equity Commission Agriculture Subcommittee is tasked with developing recommendations to the Commission and the Secretary on policy and program changes within USDA to provide current and prospective farmers, ranchers, and farmworkers with an equal chance of success and prosperity. In the initial convening, a list of eleven initiatives were provided to Subcommittee members with the goal of prioritizing which are most critical for the Commission to improve to achieve its stated goals. In these comments, CAP provides a slate of important but non-exhaustive policy recommendations that would advance racial equity throughout USDA.

1. Improving access to capital a. Conduct a feasibility study on the creation of a federally chartered bank to provide disadvantaged farmers, including farmers of color, with loan and financial assistance b. Prioritize disadvantaged communities by holding stakeholder engagement meetings and outreach related to USDA financing programs
2. Improving access to programs and services related to agriculture and land use a. Conduct further research and outreach dedicated to identifying challenges unique to disadvantaged minority farmers in accessing agricultural and land programs and services. Establish a public land trust for beginning disadvantaged farmers, including those of color, to improve pathways to securing land c. Direct the Economic Research Service (ERS) to include minority farmworkers and farmers more prominently in their research, to better understand the challenges and barriers faced by farmers of color

3. Implementing programs and services to mitigate effects of climate change
 - a. Create new training programs for disadvantaged farmers, including those of color, on organic and sustainable farming practices which mitigate effects of climate change, and which are on average more profitable farming enterprises than traditional farming
4. Addressing access to land, including financing programs and addressing unique issues related to heirs' property
 - a. Create a task force dedicated to estate planning for socially disadvantaged farmers who have no living will, ensuring that the next generation has an opportunity to carry on the family enterprise
 - b. Conduct a study of the feasibility of a federal land trust that would purchase land from retiring farmers or their heirs at fair market value and set it aside for purchase by disadvantaged farmers at a subsidized price
 - c. Establish offices to provide legal assistance services to farmers of heirs' property to support farmers, and in particular those of color less likely to have legal title, in properly transferring property
 - d. Create protections that prevent inherited land or heirs' property from forced sales to guard against loss of property for disadvantaged farmers
5. Reviewing supporting functions such as county committees, conservation districts, and advisory boards
 - a. Conduct proactive outreach and engagement to disadvantaged farmers to educate local leaders about funding opportunities and provide technical assistance in the application process as needed
 - b. Improve the guidelines that county committees use to determine eligibility for federal programming to lower barriers to participation by historically disadvantaged farmers, including farmers of color
 - c. Establish an independent civil rights oversight board to supervise the Office of Civil Rights' handling of complaints and investigate reports of discrimination within the department and at FSA county committees
6. Improving USDA performance measurement and program evaluation so that implemented recommendations can be monitored, tracked, and reported with real outcomes
 - a. Establish a policy that pauses the statute of limitations at the moment a complaint is filed with the Office of Assistant Secretary for Civil Rights (OASCR), requires that the agency reach a final agency determination within 180 days, and places a moratorium on foreclosures during civil rights investigations
7. Improving use of data and technology both to ensure access and to increase accountability

- a. Create an online civil rights complaint database jointly monitored by the Government Accountability Office (GAO) and periodically publish statistics about the speed at which the complaints are processed, the number of complaints found to have merit, and the number of pending complaints
- b. Simplify the civil rights violation reporting process and collect mandated complaints data by race, gender, and age and periodically review and report on data to understand volume, time-to-complete, and outcomes across groups
- c. Institute protections and develop reporting mechanisms for USDA employees to speak out against discrimination and hold USDA programs accountable

Recommendations:

Economic Development:

- Establish additional Rural Development offices in historically disadvantaged communities to provide needed support in communities that are least developed
- Streamline the application process for competitive grants and loans by requiring just one application for programs.
- Create an asset-based approach program such as participatory grant making, where community members can provide feedback on how to use a portion of local city or county's budget through a public forum.
- Provide funding streams for public services
- Develop training programs and assistance to rural and historically disadvantaged communities to provide access to jobs funded by the Infrastructure Investment and Jobs Act (IIJA)

Broadband:

- Review program applications for the ReConnect Program and Rural Broadband Program to ensure that grantees center the needs of disadvantaged communities to close the broadband gap
- Ensure cooperatives and other entities are able to bid on broadband programs in areas where private entities fail to invest in communities
- Develop assessment capabilities before implementing the IIJA programs to evaluate its impact on disadvantaged communities, including those of color, pre- and postimplementation
- Use assessment and evaluation metrics from broadband grants to adapt future grants to communities that remain unserved by broadband implementation

Housing:

- Resume new construction of multifamily rental properties and invest in the preservation of existing Section 515 properties
- Boost the Section 504 Single Family Housing Repair Grant program, in order to better assist very low-income homeowners improve their homes and remove health and safety hazards
- Update its housing inspection protocols to ensure USDA affordable housing units are safe and necessary improvements are made to create healthy living conditions
- Provide residents of USDA public housing units with information about properties' physical conditions and USDA standards to ensure they can properly report when they are not met

- Establish mandatory inspection and enforcement periods when reports of housing in violation of agency standards are received
- Provide low-income tenants opportunities to continue to receive rental assistance when the property's mortgage matures to prevent evictions from rent hikes

Attachments: 15 "Center For American Progress Response to USDA Equity Commission"

63. Rudy Aredondo

National Latino Farmers & Ranchers

Email submitted on: 3/15/22

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These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the section 514/516 Farm labor Housing Program;
2. the Farmworker Housing Technical Assistance Grant;
3. the Emergency Farmworker Program;
4. the Processing Worker Grant;
5. the Farm Workers Training Grant Program;
6. the Rural Microentrepreneur Assistance Program;
7. the Value-Added Producer Grant;
8. the Rural Business Enterprise Grant; and
9. the Socially Disadvantaged Producers Grant.

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

[Attachment: "RURAL COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE (1)"]

64. Rishem Muhammad

Email submitted on: 3/15/22

Greetings to Chairman David Scott , House Agriculture Committee
& Co-Chair Arturo Rodriguez USDA Equity Committee

Hello, I am Risheem Muhammad the founder of Retrain America EDS. We would like the opportunity to discuss our economic development plans for rural small towns.

Note:

Our goals support agri-economic and telecommunication as an economic platform needed in these target areas.

[Attachments: "scanUSDA Equity Com"]

65. Sadiki Rush

Email submitted on: 3/15/22

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant
3. the Rural Business Enterprise Grant;
4. the Socially Disadvantaged Producers Grant; and
5. Public, Private, Partnerships through Cooperative Agreements per 7 USC 2204b(b)(4).

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically

underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

[Attachments: RURAL COMMUNITY AND ECONOMIC DEVELOPMENTCOMMITTEE (1)]

66. Robin Ferruggia

Email submitted on: 3/16/22

I am a disabled senior in USDA Rural Development's Section 502 Direct Loan program and am sending this email to the only members of the Equity Commission I was able to find emails for. I would like you to share it with the entire Commission. Although I am aware you do not have the authority to make decisions on specific cases, I would like to tell you how disabled persons are treated by USDA Rural Development and USDA OASCR. I think the information I can provide will help you understand the problems, and potential solutions, with discrimination in the USDA. I will give you an overview of 30 years of abuse and discrimination from the USDA and follow with how I am being treated currently.

I would like to set up a Zoom meeting with members of the Ethics Commission to discuss all of this in more detail, if you are willing. I have doctors who also would like to talk with you, and an enormous amount of verifiable evidence to support every word of this. I applied to get into the Section 502 Direct Loan program in 1992 when Rural Development was known as the Farmers Home Administration. The reason was I wanted to get a house in the country because I have severe PTSD and am highly noise sensitive as a result. I was unable to cope with living in apartments with my Section 8 voucher, and the stress was beginning to affect my heart. The Larimer County Supervisor for FmHA, Pete Peters, a nationally known white supremacist and head of the LaPorte Church of Christ in LaPorte, CO, had recently been imprisoned after telling his congregation, "Let's go out and kill some blacks!" He was replaced by Robert A. Miller.

After I was accepted into the program, the first thing Mr. Miller told me was that the only place in the county he would allow me to get a house was Wellington, a town known for drug and gang problems. I eventually discovered that I could get a home in many other communities in the county that were designated rural, but I guess Mr. Miller thought the disabled people should only be allowed access to the most undesirable and dangerous places. However, as I searched for a home that was not in Wellington, Mr. Miller had an excuse for finding fault with every one of them. The few he was willing to allow were closer to the neighbors the way the house was situated on the lot than I could handle emotionally.

Consequently, a psychiatrist made a disability accommodation request for FmHA to allow me to have a lot larger than the standard one acre. This request was approved by Mr. Miller's supervisor, Marvin Wirth. But Mr. Miller did not like it, and according to Chris Smith, the caseworker for Disabled Resource Services, Mr. Miller barged into his office without an appointment and told him he was not going to allow me the larger parcel regardless of what his supervisor had agreed to. Mr. Smith informed Mr. Miller that if he did not, he could be sued for civil rights violations. Then Mr. Smith warned me that Mr. Miller was going to hurt me and to be careful. Mr. Miller proceeded to find fault with every house I found. Eventually I gave up looking for a house and suggested building one instead. Mr. Miller said OK and then proceeded to find fault with every lot I found. For example, Mr. Miller, with staff attorney Tom Japhet, decided I could not buy a lot where the community had a volunteer fire dept. Mr. Japhet stated

that " a volunteer fire dept does not constitute a public body" as the reason. Given that most rural communities do have volunteer fire depts, that pretty much wiped out all possibilities.

Eventually Mr. Miller decided to allow me to buy a lot in a community, where I now live, even though they had a volunteer fire dept, maybe because he realized that was normal in rural communities. We signed the contract and Mr. Miller managed to run out of money twice so we had to renew the contract and pay more money for the lot. Then Mr. Miller managed to dissuade every potential contractor that was interested in putting an FmHA-approved modular on the lot for me from doing so. Finally, a realtor suggested Brian Donahue to me. Donahue was out of work and desperate for a job. Eventually we found out why. Mr. Miller failed, in violation of FmHA regulations, to vet Mr. Donahue, who turned out to be unlicensed, had a history of lawsuits so extensive he could not afford builder's risk insurance (Mr. Miller made me put his insurance in my name so he could afford it), and had never built a house before.

Donahue turned out to be the slickest manipulator I ever met. He and his wife, Rosemary, controlled FmHA with constant threats of lawsuits if they had to abide by the agency regulations, they threatened me, they threatened others involved in the construction, and when I wanted to fire Donahue, Mr. Miller said he refused to let me because Donahue was going to sue FmHA if he got fired. Donahue used the loan money to purchase new windows and other things for his rental house in the mountains and put used and defective stuff, including his 10- and 11-year-old windows, in my new construction. He built the house in bog and falsified the engineering reports and changed the plans and specs as he pleased without my knowledge or consent, resulting in structural defects serious enough that RDs state architect warned them and my structural engineer warned them, this house is going to collapse in a few years if not fixed asap.

RD chose to ignore the warnings and wrote in their records they were ignoring my concerns because I had a mental health disability. I got an attorney and we told them they could not pay Donahue another cent. The state director ignored us and ordered the bank to pay off Donahue.

I then sued RD and Donahues in Federal District Court in Denver, CO. Chief Justice Lewis T. Babcock said that RD was responsible for the construction defects because the contract, which RD had told me was between me and Donahue, wasn't - Justice Babcock said it was between RD and Donahue. Tom Japhet then said RD would pay for the repairs of the construction defects. They didn't keep their word.

U.S. Congresswoman Marilyn Musgrave asked them to help and they told her that there was nothing they could do. A FOIA request eventually revealed that Don Pierce, housing director for the state office of RD told Tom Japhet and state architect Dave Rigorizzi that I was not to get any help so I would leave the program.

RD never mentioned that they had a construction defects grant. Congresswoman Musgrave then asked the Housing Authority for help. They had a repair program loan, so even though RD was found responsible for approving faulty construction by the Court, I had to pay for the repairs because they didn't keep their word. During the repairs an environmental disaster occurred making the house unlivable. The Housing Authority had a contract with the contractor responsible and were supposed to prosecute him for breach of contract but did not want to because of the cost. So, they did not honor their contract and that was OK with RD.

I ended up being dragged through the courts for 4 years by State Farm to get the money to pay an industrial hygienist and his environmental clean-up crew. In situations like this RD regulations say the agency should provide a repair loan or a protective advance, which would have solved the problem and

could have been paid back in full without having to go through the courts to get the money to fix the house. But Mr. Japhet, for no reason whatsoever, refused to allow me the help. My loan officer, Jeremy Anderson, then put me on a moratorium without my consent and without telling me the consequences for my mortgage, which would no longer be affordable once I got off it. He also violated all the regulations for a moratorium, but I didn't know that at the time. I was devastated by what happened, my cat was killed and most of my property was destroyed by what happened. This severely exacerbated my disability. My loan officer took over and I have no idea what he was doing but I trusted him and I was unable to handle things for myself so he handled everything. Actually, I ended up in intensive outpatient care at the hospital as a result of it all.

The result of all this was the method they used to calculate subsidy was taken from me because when my loan officer sent them the renewal documents, for whatever reason they did not get to the right department. They also re-amortized my loan without my consent, which is illegal. They admitted they did not have a re-amortization agreement to OASCR, but even though you can't charge late fees and claim delinquencies without an instrument on which to base your claims, RD doesn't care, and my bill goes up with every payment I make. However, it appears that the adjudicator with OASCR did not understand, or did not care, that you cannot accuse someone of not paying according to agreement when you state under oath in an affidavit that there was no agreement. Apparently, RD hasn't accepted that yet either.

Eventually a complaint was made to OASCR because my doctor sent the Rural Housing Administrator a disability accommodation request asking him to correct the errors caused by CSC and Mr. Anderson and explaining how critical it was for me to be able to stay in my home, and about the disability accommodation FmHA had given me, which actually had resulted in significant improvement until my house got wrecked. He acknowledged receipt but failed to respond otherwise. OASCR allowed mediation with Mr. Jeff Knishkowy, the best mediator they have. Mr. Knishkowy was concerned that RD was uncooperative and had initially told him they would work with him to fix my account but after they found out it was me, they changed their tune and said nothing could be done. He told me and my doctor the animosity of RD officials was in the way of mediation. RD officials were - and remain - upset with me because I said the judge said they were responsible for the construction defects and I did not think they had a right to make me pay for the repairs of the damages they caused by approving faulty construction.

My doctor also filed reasonable accommodation requests with RD officials for them to provide "clear and consistent" communication due to the nature of my disability. They did not seem to understand what that meant and attempts to explain it to the investigator from OASCR were futile.

OASCR abruptly and without giving any cause terminated the mediation and put it in investigations. My doctor and I met with the investigator. The investigator took no notes when she was told how all the evidence fit together, and in fact, took no notes at all. When I expressed concern, she would forget she said she was going to write up the report the next day. We did not hear from her for another year, at which time she contacted my doctor to inform her that she could not open the files and told her to send all the evidence in a different format.

The investigator also refused to allow the doctors or any other witnesses (my former loan officer and a long-time RD employee who was retired but who knew the whole history) to provide any testimony in the matter. OASCR consequently did not understand anything, including the disability that the whole

complaint revolved around, and the adjudicator made findings based on assumptions, including that the symptoms of the disability were really character flaws, that were supported by zero evidence. The finding of the adjudicator was that the failure of the RHS administrator to respond to the disability accommodation request was "not discrimination because he probably just forgot about it." An appeal was filed and D. Leon King, who is head of civil rights enforcement for OASCR, said that he had found a letter my doctor had written stating that I had "an anxiety disorder." He ruled that an anxiety disorder is mild and making a disability accommodation request for a mild disorder was unwarranted. He also stated it was acceptable for the investigator to refuse to allow the witnesses to say anything because "she's an investigator." My doctor objected to this because he didn't know what he was talking about. Severe PTSD is an anxiety disorder. And civil rights laws do not restrict disability accommodation requests based on how severe the disability is. Why doesn't the head of civil rights enforcement at OASCR know that?

After Naomi Earp testified before the House Ag committee in Nov 2019 that anyone who is dissatisfied with how their complaint was handled can file a complaint against her and senior staff and they will address it, my doctor and I did just that. Monica Rainge is refusing to allow that complaint to be processed because we "criticized" OASCR.

I had another complaint with OASCR. This one was because I asked the housing director at the state office of RD to talk to my doctor about my disability accommodation needs because there was a problem with a staff member not understanding that resulted in my not being able to benefit from the senior repair grant program. He refused to do so. He told me if my doctor contacted him, he would not respond to her. Then he chastised me for making the request. He said it was inappropriate to make a request like that and that I should just think of RD like a bank. A complaint was filed with OASCR, and Mr. Knishkowy told me and my doctor this would be easy to resolve and that it was "prima facie discrimination." But the OASCR adjudicator said it was all my fault (everything always is because RD will take responsibility for nothing they do), and that since I had filed a similar complaint which was found to be not discrimination, this was just a duplicate of that complaint, and they already decided my complaint had no merit. So, the state office was informed that they did not have to pay any attention to any more disability accommodation requests from my doctors.

Currently I am trying to get my loan refinanced to get away from RD. But RD will not correct my account and RD will not provide a payment history. RD continues to allege that everything was already resolved but will not respond to requests for a decision of what specifically are they talking about, what do they have to support that insinuation with, and my notice of appeal rights. In fact, RD does not give me administrative decisions, explanations for anything or any appeal rights, and they certainly don't make any effort to provide "clear and consistent information," they just ignore me. Sharese Paylor of RD-CR told me and my doctor in an email that she was "going to tell everybody in the USDA to ignore you." Apparently, she did. Not the best way to resolve conflict. The one time when I did get a notice of appeal rights, which was with the most recent subsidy renewal, I chose mediation. Mediation is required when part of appeal rights. But the acting state director, Irene Etsitty, said that her "contact at CSC" said I was getting the maximum subsidy, so I can't have an appeal. I explained to her why that is not true and was ignored. We now have a state director, Armando Valdez, who I told, and he ignores me too.

In the meantime, interest rates are going up and I won't be able to refinance anyway because RD won't help me and won't let anyone else help me either. So this, folks, is how disabled people are treated by the USDA. While our lives are being thrown under the bus, Secretary Vilsack is talking about the

commitment the USDA has to civil rights and racial equity (which, according to President Biden's executive order, includes disabled people).

Resources

67. Mark Nicholson

Submitted via website registration form: 2/16/22

<https://www.regulations.gov/comment/USDA-2021-0006-0367>

68. Rachel Owen

Submitted via website registration form: 2/22/22

<https://www.agronomy.org/files/science-policy/letters/2022.02.22-usdaequitycommissionrecommendations.pdf>

Other

69. Elsa Moody

Submitted via website registration form: 2/14/22

Nebraska Latino and minority farmers

70. Jacklyn Janeksela

Submitted via website registration form: 2/17/22

"Persons with disabilities that require alternative means for communication should contact the U.S. Department of Agriculture

71. Julia Koprak

Submitted via website registration form: 2/28/22

Will send short comment over email--not able to submit here.

ATTACHMENTS

The following attachments were provided by members as a part of written comments.

1. "RC Equity Comments 08142021 copy" (Provided by Lorette Picciano)
2. "Young Farmers – Racial Equity Comments – Final" (Provided by Lorette Picciano)
3. "RuralCoalitionCommentstoCFPB_AgDataCollection_Comments"] (Provided by Lorette Picciano)
4. "2022.02.22_USDAEquityCommissionRecommendation" (Provided by Rachel Owen)
5. "FRAC _USDA RFI_Advancing Racial Justice and Equity" (Provided by Geri Henchy)
6. "Rural Community and Economic Development" (Provided by Dr. Tammy Gray-Steele)
7. "Land Trust Alliance_Written Comments_USDA Equity Commission" (Provided by Lori Faeth)
8. "Policy Center_E.O. Project Recommendations" (Provided by Eloris Speight)
9. "Policy Center_E.O. Project Recommendations_Matrix" (Provided by Eloris Speight)
10. "RURAL COMMUNITY AND ECONOMIC DEVELOPMENTCOMMITTEE (1)" (Provided by Rudy Aredondo)
11. "ARS Agri-Tech CRADA executed" (Provided by Joe James)
12. "USDA WRRRC CRADA Signature Page" (Provided by Joe James)
13. "SC Black Farmers Coalition_ATP's CRBBP Process" (Provided by Joe James)
14. "RURAL COMMUNITY AND ECONOMIC DEVELOPMENTCOMMITTEE (2)"(Provided by CK Johnson)
15. "Support For The Food, Conservation, and Energy Act of 2008" (Provided by Neville Anderson)
16. "Center For American Progress Response to USDA Equity Commission" (Provided by Nicole Lee Ndumele)
17. "Oklahoma Black Historical – LOS" (Provided by Henry Searchy)
18. "Mayor Jones – LOS" (Provided by Henry Searchy)
19. "North South Institute – LOS" (Provided by Henry Searchy)
20. "Julian Samora Research Institute-LOS" (Provided by Henry Searchy)
21. "HEAL Equity Commission Comment Letter - 03.15.22" (Provided Maleeka Manurasada)
22. "scanUSDA Eqity Com" (Provided by Risheem Muhammad)
23. "FBLE Equity Commission comment 3.15.22"] (Provided by Francine Miller)
24. "HAC NHLP USDA Equity Commission Comments 3.15" (Provided by David Lipsetz)
25. "UMOS 14218 Support Letter" (Provided by Chris McHenry)
26. "Tierra Del Sol & Colorado Rural Housing 14218 Support Letter" (Provided by Chris McHenry)
27. "Support For The Food, Conservation, and Energy Act of 2008 (1)" (Provided by Chris McHenry)



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American Indian Movement

Lorette Picciano, Ex-officio
Executive Director

*Executive Committee

1029 Vermont Ave NW Suite 601
Washington, DC 20005
Phone: 202-628-7161 Web: <http://ruralco.org>
www.facebook.com/RuralCoalition
Twitter: @RuralCo

For further information contact lpicciano@ruralco.org.

August 24, 201

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Via *regulations.gov* - Re: [Docket Number: USDA-2021-0006](#) –
Comments on Advancing Racial Justice and Equity and Support for
Underserved Communities at USDA-
<https://www.regulations.gov/document/USDA-2021-0006-0001>

Dear Secretary Vilsack:

The Rural Coalition/Coalición Rural appreciate the opportunity to comment on President Biden's Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, 86 Fed. Reg. 7009 (Jan. 20, 2021) (the "EO") and the USDA's request for information on Identifying Barriers in USDA Programs and Services, 86 Fed. Reg. 32013 (June 16, 2021). We submit the following comments on behalf of our board and members:

ABOUT RURAL COALITION

Born of the civil rights and anti-poverty rural movements, [Rural Coalition/Coalición Rural](#) (RC) has served as a voice of African-American, American Indian, Asian-American, Euro-American and Latino farmers, farmworkers, and rural communities in the US, as well as indigenous and campesino groups in Mexico and beyond for over 42 years. We work to assure that the voice of our over 50 diverse member organizations from all regions, ethnic and racial groups and genders have the opportunity to work in solidarity on the issues that affect us all.

Our recommendations reflect our guiding principles adopted at our founding in 1978 that:

- Justice and equal opportunity are the right of all people regardless of race, gender, ethnicity, immigration status, or place of residence.
- All people are entitled to the goods and services essential to a decent quality of life, including education, health and employment services, housing, and basic community facilities.
- They are also entitled to democratic community institutions dedicated to serving their interests.
- The long-term viability of rural and urban communities rests on effective care, control and use of resources by the people living there.
- Community-based organizations are instrumental in the development of communities. Public policy should encourage their growth and strength.
- The federal government has the responsibility to ensure the rights of all citizens and to help secure the fulfillment of these rights.

With our member organizations and the farmers and ranchers that we serve, we have submitted hundreds of comments to the Department of Agriculture and the US Congress for over 30 years. We have worked collectively to help thousands of our members file claims in the discrimination claims settlements processes. We have translated our concerns into concrete policy recommendations, many of which have been incorporated into over 45 sections of policy passed by the United States Congress. While participation of the BIPOC producers and workers we represent has in some areas has improved over the years, particularly with respect to participation in conservation programs, we still do not find a clear standard of service delivered in all USDA offices that assures equitable and fair service with accountability and respect for the dignity of this nation's diverse agricultural producers and farmworkers. Nor do we find this nation honors and ascribes value to their immeasurable contributions to our overall food farm and ecosystem.

In our comments we will highlight a few of the specific recommendations we have shared over the years. Most of all, we pledge to work with the United States Department of Agriculture to articulate and implement a clear vision of what equitable service would look like for all farmers and how accountability for that standard could be achieved and enforced. We thank you for the opportunity to comment on these important matters.

Cooperatively Yours,



John Zippert
Chairperson



Lorette Picciano
Executive Director

With our strong roots in the movements for human, civil, indigenous, and farmworker rights, Rural Coalition/Coalición Rural members share the belief that rural communities everywhere can have a better future and that community-based organizations who have long served the needs of rural communities and people have a fundamental role in building that future. Investments in their work will provide important returns to our economy, our environment, and our society.

1. Introduction

USDA's request for comments for a required assessment to develop a plan to eliminate any barriers to full and equal participation in programs and procurement opportunities, defines the terms racial equity and underserved communities as follows:

“The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.”

“The term “underserved communities” means populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of “equity.”

We recommend that USDA and its Equity Commission begin this inquiry by setting forth a vision of what fair service and equity would actually look like in the context of current agriculture and procurement programs. What is the baseline standard of how a county office should operate? Where does this standard of service exist today and who is currently receiving service that meets this standard?

Moreover, what is this nation's larger vision for our agriculture and food system, and its land, water, forests, and rural communities? Who are the farmers and workers of the future and what is their value to this system? How can the Department successfully secure equity at the margins of an increasingly fragile vertically integrated and extractive food and agriculture system that rewards volume over value and in which fewer and fewer farmers can survive much less thrive?

The leaders and members of the Rural Coalition have for decades worked to intervene and advocate on behalf of thousands of Black, Indigenous and People of Color farmers and ranchers, as well as the farmworkers we serve, many of whom aspire to be farmers.

During these years, we have repeatedly called for accountability especially with respect to the county offices of USDA. While there are many hardworking and committed USDA field staff members who go to great lengths to assist farmers and ranchers navigate complex program requirements and delivery systems, there are still far too many who do not. We have in our years of work seen far too few

instances where employees and their supervisors who fail to assure fair service delivery suffer any consequence or demonstrate any change in practice. Conversely, we have too frequently found that it is the very employees who went to bat to help the farmers they serve who have instead faced sanctions, including reassignment and removal from their posts.

The statement of our colleague and sister, Mrs. Shirley Sherrod, that she was “the only person ever fired by USDA for discrimination,¹” underscore the tragic fact that our decades long call for accountability for a fair standard of service remains fundamentally unaddressed.

We call for the Equity Commission to pay particular attention to their own call to identify “Opportunities in current agency policies, regulations, and guidance to address affirmatively and equitably ***“the underlying causes of systemic inequities in society.”*** Attention to the form in which these systemic inequities manifest themselves is essential to identifying and mitigating the fundamental conflicts of interest embedded in the local service delivery system of USDA, which themselves maybe perpetrated by and inextricably connected to systemic inequities and manifest power imbalances of an inequitable society.

Our Executive Director reported a decade ago that during outreach meeting hosted by an 1890 Institution in a southeastern state, an attorney engaged by the Extension Service conducted a workshop on the need for families to get wills to pass housing and other assets to future generations. She asked if the attorney also addressed the need for succession plans for farms. The lawyer replied that farm families would have to engage a real estate attorney to complete such a plan. She observed that our organization has cautioned producers to select real estate attorneys with care. A farmer in the audience motioned that he wished to talk with her. He told her that he had connected with his Cherokee relatives, and they secured several parcels of what they determined to be ancestral land at the outskirts of what is now a large city in the Southeast. He had sought help from a local real estate attorney to halt continual incursions by entities seeking to take adverse possession of their land. The attorney spread out and reviewed the deeds and land titles the aspiring producer showed him and then rolled them all up and returned them to him. *“Yes, you do indeed have all the titles. But I cannot help you. I am conflicted.”*

The reality is that local lawyers, real estate entities and local banks may be conflicted in dealing with BIPOC and other small farmers who require their services compounds the issues of the communities most facing heirs’ property challenges, especially Black Farmers. These same powerful entities may have financial contracts, exchanges or other business with the employees and committees of USDA local offices that lend themselves to conflicts of interest. The detailed financial and legal information they hold on the farm families they serve may, coupled with knowledge of the interests of other producers or family members who may be seeking land pose

¹ Statement of Mrs. Shirley Sherrod to the Committee on Agriculture of the US House of Representatives Hearing on the State of Black Farmers,” Washington, DC, March 25, 2021.

an inherent conflict with their duty to provide proactive outreach to these farmers to help them thrive.

Late last year, a Black farmer in Oklahoma requested assistance from our organization. He was employed in another state while he sought the loan he needed to operate the family farm where he grew up and farm throughout his life. He had filed all necessary documentation of ownership with Farm Service Agency. He learned that his neighbor had been farming and collecting benefits for crops grown over several years on his land. The local office told him that he had to demonstrate three years of experience before he would be eligible for a loan. They also wrote him a letter directing him to provide a certified copy of a lease to his neighbor so the neighbor could collect benefits from the crops he reported he grew on this farmer's land. The farmer provided the office with a copy of the "cease and desist" letter he had sent to his neighbor to stop using his land and complained to them about their role in enabling this incursion on his land. The local office then asked him "***do you want to sell your land?***" They further instructed him not bring this complaint to a higher level because he would "get the previous staff of the office in trouble." He was unable to secure the loan in 2020, which would have left him unable to benefit from the Section 1005 ARP program. He filed a complaint with the inspector general which remains unanswered and has filed a civil rights complaint that is pending.

What remains unclear is what tools USDA has, needs, and will use to hold this and other offices accountable for such inequitable and patently fraudulent practices. ***The failure to do so in any tangible way is in our view the single biggest impediment to ever achieving equity and accountability in service to all producers.***

Our leaders worked to help halt foreclosures for all farmers in the wake of the farm debt crisis through passage of the 1987 Agriculture Credit. We pushed for the inclusion at that time of the first socially disadvantaged farmer definition of discrimination by race and ethnicity, and to call attention to the fact that even at that time, farmers of color faced an even greater burden than the thousands of other farmers who struggled to hold onto farms during that crisis. The inherent struggle that must be recognized in any effort to achieve societal equity is summed up by a question posed by a farmer and faith community leader at the time that is even more relevant to this inquiry today when society is even more deeply rent: "***Do you want your neighbor more than you want your neighbor's land.***"

2. Endorsement of Member and Allies Comments

Rural Coalition expresses its support and endorsement of numerous comments and recommendations submitted by our members and allies. In particular, we endorse the comments of our member groups including Natural Resources Defense Council and National Young Farmers Coalition. We further endorse the comments of our allies including the National Sustainable Agriculture Coalition, Earth Justice, and the Center for Food Safety.

We join NSAC in expressing appreciation for USDA's extension of the comment period to 60 days but agree that "it is still insufficient to ensure robust BIPOC farmer participation." We further support the additional steps they recommend including extending the comment period for at least 120 days and in additional languages and with additional proactive outreach.

We further emphasize the need to allow producers and farmworkers to comment in trusted settings with assurance they will be protected from retaliation, including assuring their anonymity where required.

We further endorse NRDC's analysis that by "Evaluating systemic barriers to access and opportunity in all USDA policies, practices, and programs for the ways in which they perpetuate [discrimination and inequities], the USDA takes just the first step in rectifying decades of compounded racism and discrimination against historically underserved producers. While undertaking this agency-wide self-evaluation, the USDA should consider reformations in the following program areas."

We further agree with NRDC that "...USDA should support a just transition to organic and regenerative agriculture, implement policies to eliminate the worst health and community impacts from industrial animal agriculture (including pollution from Concentrated Animal Feeding Operations (CAFOs)), phase out policies supporting pesticide use, and increase producer access to debt relief programs."

The White House, USDA and the US Congress are at present deeply engaged in rolling out, securing passage and implement an ambitious "Build Back Better" initiative. Critical parts of this vision have involved supporting the basic income for families and children, including with refundable tax credits that have already slashed child poverty in this nation. As this nation struggles to combat the Covid-19 Pandemic, the value of essential workers was made clear, and a \$15 minimum wage is no longer a distant aspiration. It is now a reality for federal workers and contractors and for workers in many industries. Similarly, over the past decade access to health care as begun to be viewed as right for most families.

Build Back Better investments to address climate change have a clear stated goal: jobs. As the nation looks to the agriculture sector not only to continue to churn out food and fiber, balance the US trade deficit, and now to offset the carbon output of industries who have not yet adopted practices to cease emitting carbon, the focus is not on jobs. The system continues to value most of all the volume of product produced and exported and now also the quantity of carbon sequestered.

The agriculture sector and its farmers and workers also need a minimum wage, workplace protections, and access to medical care. For farmers, the equivalent of a minimum wage is a fair price that covers the cost of production and allows BIPOC and other farmers to survive and thrive as they nourish and sustain their local

communities and economies. That is why the decades long efforts to address the unfair competition in the agriculture sector, including the new Executive Order on Competition, are critical for all producers, including BIPOC producers.

During the pandemic, BIPOC farmer coops and organization quickly developed systems to feed their local communities. These systems that worked especially well while the dominant vertically integrated suppliers were unable to meet the needs of all communities. But once the dominant suppliers returned, they priced out the local suppliers with often inferior goods that did not meet the cultural needs and preference of the communities, and with a much greater degree of waste.

We urge USDA to look beyond the mere adaptation of its current program and delivery systems if it is serious about achieving equity. Without real investments in construction new program and building new infrastructure that serves long excluded BIPOC and small farmers and workers, equity can become merely a word that excludes or sets apart a critical group of rural peoples as if they do not matter to the centrality of the agriculture and food system.

In fact, the diverse land-based peoples of this nation are the farmers, ranchers and workers who possess the deep knowledge and experience necessary to help the Biden-Harris Administration reach its important goals of eradicating the pandemic, building resilience, fighting climate change, and restoring rural economies and ecosystems.

One important outcome of Obama-Biden administration's focus on resolution of the major discrimination lawsuits against USDA was the securing of authority allowing the strategic reinvestment of the remainder of the Cy Pres funds from the Keepseagle case. The funds continue to support an extensive network of technical assistance staff of the Intertribal Agriculture Council who continue today helping tribal farmers to navigate USDA loans and programs. The funds also support the Indigenous Food and Agriculture Initiative and the Native Farm Bill Coalition formed to pursue additional equity focused policies in the 2018 Farm Bill.

An additional investment in the Native American Agriculture Fund enabled the engagement of qualified leaders with sufficient time to conduct a comprehensive analysis of current agriculture and food policy to generate concrete ideas for a future food system. We refer you to the [Regaining Our Future Report](#) commissioned by the Seeds of Health Campaign and authored by Janie Simms Hipp and Colby Duran for the depth and breadth of its analysis covering commodities, credit, rural development, food and nutrition, livestock, forestry, energy and more and the reimagining of food hubs and food systems. While some of the proposals were particular to the tribal nations engaged in agriculture, many are also applicable and important to the other diverse rural, urban and immigrant communities we collectively represent. Similar investments in developing a strategic new step-up program for BIPOC farmers and workers that values their knowledge and work would not only create the access to infrastructure long denied them. It would also

support the reorientation of the farm and food system in a way that constructs an infrastructure that grows local economies and sustains farmers and workers.

General Questions

USDA is also requesting input on the following general questions where applicable:

1. Have you experienced injustice, inequity, or unfairness in one or more USDA programs? If so, which ones? Please explain the situation(s).

We have heard and witnessed countless examples of farmers experience injustice. Our Chairperson, John Zippert, who has filed hundreds of complaints and discrimination claims, has twice asserted to the US Congress that has “never met a black farmer who was not experienced discrimination.”

Our first attachment is statement separately submitted by our Board member, Mrs. Barbara Shipman, citing what she has encountered in her decades of effort to help the farmers she serves in Southeast Alabama fairly access service.

We have also attached the Amicus Brief filed on behalf of Rural Coalition, Land Loss Prevention Project, and Intertribal Agriculture Council with of 26 Amici, to the court in Green Bay, Wisconsin in opposition to their Temporary Restraining Order halting ARP 1005 payments to BIPOC producers. Included in this brief are numerous additional farmer declarations citing recent discrimination and the negative consequences these court actions are having.

These are only a small portion of what we hear on a far too regular basis. We would note that at this time, many producers are afraid to go on the record about their experiences for fear of retaliation.

2. Have you had difficulty accessing one or more USDA programs? If so, which ones? Please explain the difficulty.

The above references instances include a sampling of difficulties encountered.

3. Did you experience problems with required USDA paperwork, the USDA internet sites, the attitudes of USDA workers, or the locations of USDA offices?

Our members have experienced many such problems on a routine basis. At present farmers have options to file an appeal of a decision to the National Appeals Division, to file a complaint to the office of Civil Rights and report of fraud to the Inspector General. There is a lack of clear guidance to help producers know which system to use to resolve issues that they are facing. We believe USDA should establish a process with specific contact information designed to immediately address and correct problems with program requirements, and internet access, but especially on the attitudes of USDA workers, and not only the location of USDA offices but of the failure of USDA field staff to let farmers know how and when they can be reached.

It is critical the producers begin to see results and correction occur and to know that USDA has got their back.

4. Are there USDA policies, practices, or programs that perpetuate systemic barriers to opportunities and benefits for people of color or other underserved groups? How can those programs be modified, expanded, or made less complicated or streamlined, to deliver resources and benefits more equitably?

There are examples too numerous to detail here that perpetuate systemic barriers to opportunities and benefits. The most fundamental barrier is the failure of local offices to share information and help every farmer and rancher access the full range of benefits for which they are eligible. In our recent work to conduct outreach to help producers access the CFAP 2 program, we have had more than a dozen reports of farmers who requested information about the program at their local office and were asked “who told you about that program?” They were also not told they had the right to submit an application before any documentation was required.

Almost all the producers who contacted us reported that they had not received a receipt for service during their visit to the office. Our member groups worked hard to secure the approval of a mandatory receipt for service enacted in the 2014 to end one of the primary practices of local offices that gave rise to the 4 major discrimination claims against USDA and which ultimately required \$4 billion to settle claims by thousands of farm families. In the majority of the case, the basis of discrimination was the failure to tell all farmers about the availability of benefits.

A tribal producer reported to us within the past week that he is angered and saddened by the way that BIPOC farmers and ranchers, as well as elders, are ignored

by local offices in his area, unable to reach county staff by phone or at the office. He believes that the present way that discrimination is manifest is in the way the farmers are dismissed and ignored in the belief and hope that they will go away and stop trying. He believes he needs to be a voice for them, but he also documented that his advocacy to change things has cost him program benefits and services the office has denied to him. He believes that if he complains about his personal treatment, he will lose the ability to advocate for producers that without him have no voice. This is a choice that no farmer leader should ever have to make.

USDA must, as National Young Farmers Coalition has proposed, update its handbooks and field instruction and training.

USDA should also work with the networks of community-based organization who have for years served this nation's BIPOC farmers to develop a rapid response network to report deficiencies in service and set in place strategies to model the standard of service that all offices must deliver.

But in the most immediate term, the Secretary should issue a clear directive to all field offices requiring them to provide the required receipts for service to every farmer or rancher for every visit. USDA should next begin conducting regular reviews of these receipts particularly in any office where service deficiencies have been reported. Were producers provided clear instructions of what they needed to do to access benefits, and were these in concert with the requirements of the programs? Were farmers denied applications for service that were provided at the same time to other farmers?

We also call your attention to an additional longstanding issue that has particular implications for the level of farm and disaster benefits farmers receive. There has long been a practice of understating the base acres and yields of BIPOC farmers and ranchers, which compounds the impact of previous discrimination and consignment to smaller and less productive parcels of land. We recommend immediate action as follows, and an analysis of any statutory barriers that need to be addressed to ensure fair service.

- **7 USCA 2279a.(a) base acres discrimination as connected to Receipt for Service.** The U.S. Department of Agriculture must engage in immediate and effective implementation of 7 USCA 2279a.(a) ***Fair crop acreage bases and farm program payments yield.***
- Effective implementation is important for all farmers, but the failure to implement is more defined and realized among Native American producer who farm on Indian trust land, which is often rented to non-native American farmers, especially in Oklahoma. When the lease of a non-native American farmer expires

with respect to production on Indian trust lands, the value of the base acres remains on the Indian trust land and inures to the benefit of the next farmer which may be a Native American farmer. It is common practice for FSA to allow the base program acres to travel with the non-native American farmer and not benefit the next Native American farmer. In order to achieve full implementation of 7 USCA 2279a(a), FSA must give adequate notice that the reconstitution or restructuring of base acres will inure to the benefits of the Indian trust farmland or reservation land.

- This failure to act is deemed an adverse action within the context of a farm loan application or servicing transaction. 12 CFR 1002.9(a) (2). The statute is clear on this issue: “If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with the title V of the Agricultural Act of 1949 (7 USC 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.” 7 USCA 2279a.(a)
- Information regarding program benefits attached to base acres is valuable to minority farmers and farm credit loan making and loan servicing. When FSA does not provide adequate information regarding base acres, FSA violates the principles of the receipt for service regulation and the information requirements of the Equal Credit Opportunity Act. **See Regulation B of the Equal Credit Opportunity Act, 12 CFR Section 1002.2(c)(1)(i).**
- **Receipt for Service.** The USDA National Appeals Division recognizes that FSA’s employees have a greater understanding of program requirements. Administrative Law Judges recognize and understand that “while a program participant is responsible for exercising due diligence in understanding the requirements of a program, NAD case decisions recognized that it is not reasonable to expect a program participant to have greater understanding of program requirements than FSA’s own employees. This is why receipt for service is so important to understand what farmers are told by FSA staff. It is also important to note that the receipt for service reveals what the farmer was not told in terms of program benefits and services. **See NAD Case No. 2018E000577; and NAD Case No. 2013W000271.**

Long Quote from NRDC’s Racial Equity Comments

A. Ensure equitable access to financial resources.

“Preferential treatment in agricultural lending undermines the ability of farmers of color to compete in a fair marketplace and access agricultural support programs. White farmers have benefited from decades-long preferential treatment in USDA’s

loan and assistance programs that has not been afforded to farmers of color. Examples of discrimination in USDA lending programs and funding include:

- Failing to provide minority farmers with loan program information and applications.[1]
- Awarding minority farmers smaller loans at higher interest rates than white farmers.[2]
- Frequently delaying loan processing for minority farmers. [3]
- Applying minority farmers' loan payments to the wrong accounts. [4]
- Accelerating minority farmers' loans without explanation. [5]
- Directing almost 97% of early COVID relief funds for agriculture to white farmers.[6] Despite the fact that minority farmers suffered a disproportionately large share of the economic impact of the COVID-19 pandemic, they did not receive a sufficient share of relief.
- Employing race-neutral selection criteria in USDA loan and aid programs that systematically exclude socially disadvantaged farmers and ranchers from loans. Race-neutral formulas fail to account for significant circumstantial differences between socially disadvantaged farmers and non-socially disadvantaged farmers. For example, because minority farmers often have small acreages [7] and because USDA provides a set dollar figure per acre in its aid programs,[8] these programs fail to provide enough relief to meet the costs and expenses of minority farmers while satisfying the needs of farmers with large holdings.
- Placing unreasonable restrictions on loans and requiring more collateral than is justified, making it difficult for minority farmers to obtain additional credit.[9]

When farmers cannot access credit and financial resources, farms struggle to survive and the American economy suffers.[10] To advance equity in access to capital, USDA should take the following actions:

- Proactively examine how USDA discretionary funding is distributed and redirect more resources to producers of color within existing programs. During this process, the USDA should identify resource gaps in existing funding mechanisms and make recommendations to Congress about where further funding is necessary to sustain producers of color.
- Exercise enforcement discretion and extend foreclosure moratoriums and forbearance for producers of color to the fullest extent of USDA's authority, to ensure that producers of color can keep their farms and build their businesses successfully.
- Consider specific needs of BIPOC and historically underserved farmers when establishing procedures for agricultural loan and aid programs. USDA loan and aid programs should identify barriers to lending that BIPOC, socially disadvantaged, and other underserved farmers face and incorporate solutions to those barriers within lending programs.
- Prioritize land access for socially disadvantaged and next-generation producers. USDA should expand and prioritize the USDA Transition Incentives Program (TIP) and the Farm Service Agency Land Contract

Guarantee for socially disadvantaged organic farmers, to help them lease and/or buy farmland.

- Examine geographic and demographic trends in USDA lending and support programs, to identify local and regional USDA offices that may be contributing to ongoing discriminatory outcomes in distribution of resources.
- Complete the National Agricultural Statistics Agency (NASS) TOTAL Survey, the results of which will provide comprehensive data on farmland ownership, tenure, transition, and entry of beginning and socially disadvantaged farmers and ranchers, as a follow-on to the Census of Agriculture. These data can help USDA direct needed resources to underserved producers, address ongoing heirs' property issues, and support succession planning.
- Dedicate staff to redressing discrimination and access to support, beyond the civil rights and appeals process that many farmers find difficult to navigate and inadequate for addressing their concerns. USDA should have regional staff across the country who proactively reach out to farmers to understand whether they have needs that are not met, connect them with resources, and advise USDA leadership and Congress on gaps in services.
- Eliminate requirements for past participation in programs and experience requirements that may create barriers to accessing resources for small-scale producers, beginning producers, and producers of color who may not have the resources to apply to programs or whose relevant experience may not be easily documented or adequately valued by USDA.

5. How can USDA establish and maintain connections to a wider and more diverse set of stakeholders representing underserved communities?

USDA should engage its career staff in reviving long term relationships with its stakeholders and to reinstitute regular consultations in partnership with its CBO and minority serving institution partners.

6. Please describe USDA programs or interactions that have worked well for underserved communities. What successful approaches to advancing justice and equity have been undertaken by USDA that you recommend be used as a model for other programs or areas?

Multi-year investments in BIPOC led community-based organizations whose leadership includes and represents the farmers they serve have been invaluable in establishing an infrastructure of trust and assistance that can make a real impact in connecting producers to services. The long-term investment in these programs pays dividends as the CBO staff team develops a network of relationships with the local offices, often helping them effectively understand and meet the needs of farmers

whose cultures, crops, production method or languages may be unfamiliar to the existing staff.

In years past, these community-based organizations have organized invaluable partnership efforts linking their extensive and skilled networks with USDA leadership and career staff. The results of the USDA Partners Process conducted from 2005- 2010 are summarized in the **2010 report - [A Time to Change: A Report by the Assessment Conversations Team](#)**. Many recommendations from this report informed the development of over 30 sections of policy passed in the 2008 Farm Bill. The process also established proactive and ongoing relationships between USDA career staff across agencies and mission areas, and with community-based organizations. Many career staff cited the process as a highlight of their careers. BIPOC led CBO's established relationships to a wide range of USDA agencies, open the door to accessing outreach, technical assistance, and research programs they had not known existed. These partners are invaluable to help USDA improve its program and services, and to help assure that Congress addresses statutory barriers to improve access to programs.

7. Does USDA currently collect information, use forms, or require documentation that impede access to USDA programs or are not effective to achieve program objectives? If so, what are they and how can USDA revise them to reduce confusion or frustration, and increase equity in access to USDA programs?

We have addressed concerns related to required forms and documentation in several of the attached comments. We believe USDA should focus attention on who is and is not required to submit what documentation. Thus, it is our understanding that BIPOC producers have been required to provide a level of documentation in the CFAP program, for example, that is not required of all producers before they apply or are awarded benefits.

USDA should develop a system to require and then review receipts for service to measure and root out unreasonable requests for information, and failure to request at the outset a full detailing of what a farmer would need to provide, rather than requiring the farmer to provide one document, and then requiring another.

What is also critical is that the level of benefits provided by a program makes the level of effort to secure the benefit worthwhile. With respect to the CFAP program, all the outreach CBO's conduct is offset in some areas when one farmer goes to the trouble to apply for the program only to learn the benefit awarded is miniscule. One of our board members reported that that news travels to other farmers "faster than the delta variant."

8. Is there information you believe USDA currently collects that it does not need to achieve statutory or regulatory objectives?

We believe that the much larger problem is that USDA does not use the information it is required to collect in order to conduct proactive assessments of the fairness of the service it provides.

9. Are there data-sharing activities in which USDA agencies should engage, so that repetitive collections of the same data do not occur from one USDA component to the next?

We think some changes could be made but the bigger problem is that USDA does not fully utilize data it already has and does not make public its findings.

10. How can USDA use technology to improve customer service? Do you have suggestions on how technology or online services can help streamline and reduce regulatory or policy requirements? What are those technological programs or processes and how can USDA use them to achieve equity for all?

USDA must first assure that all farmers, ranchers, and workers have access to broadband and basic cell phone service, and the training and skills to employ these tools before it moves to a system that requires them. But technology should be used to assess the level of services provided.

11. Are there sources of external data and metrics that USDA can use to evaluate the effects on underserved communities of USDA policies or regulations? If so, please identify or describe them.

USDA needs to routinely measure outcomes in program participation. But it should move beyond data on the application and participation in programs by race, gender, and ethnicity to the county level. It should also measure additional metrics related to its lending programs – specifically the month in which the farmer first contacts the office about a loan, and the month the loan is actually provided. The delays in loan making and slow walking the provision of benefits contributes is a continual factor in the precarious financial position of many producers whose cases we have reviewed.

USDA should use comparative data from NASS and from the US Census to assess land tenure, land concentration, broadband access, and factors including poverty and health disparities.

A comprehensive profile should be developed of each county and region to identify factors that contribute to relatively economically and ecologically healthy communities as compared to ecologically and ecologically vulnerable communities. The lessons should be applied with the goal of fostering models of economic and ecological resilience rooted in equity and with good outcomes for families and communities.

12. What suggestions do you have for how USDA can effectively assess and measure its outreach and inclusion of underserved groups and individuals?

We have addressed this issue in the attached items related to data collection. But we urge USDA to begin with a top to bottom review of at least a set of local offices. USDA should endeavor to assess not only what barriers BIPOC producers encounter, but also who gets service first, and who gets service most. Who is informed and contacted as soon as programs are available? Who is discouraged from applying? Fairness could best be assessed by a comprehensive review the variation between the farmers who receive the most service and participate in the most programs and the farmers who do not participate at all. We agree with the proposal of National Young Farmers Coalition to engage OBPA in this analysis which should begin with an initial review to develop clear goals to reduce evident disparities.

13. How can USDA remove or reduce barriers that underserved communities and individuals face when they participate or attempt to participate in agency procurement and contracting opportunities?

We will address this issue at a later date.

14. Have you made recommendations for improvement in the past to USDA? If so, please list or attach those recommendations.

The Rural Coalition has offered extensive recommendations and comments over our four-decade history. The following is a sampling of our comments on equity and related issues over nearly two decades, where we have invested significantly to assure that a diverse range of stakeholders are included.

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2015 - Picciano, L. 2015. “Critical Needs of Small Farmers and Ranchers.” *Small Farm Digest* 17(Fall): 3-8.

2010 - Rural Coalition/Coalición Rural and Federation of Southern Cooperatives/Land Assistance Fund. 2010. “A Time to Change: A Report by the Assessment Conversations Team (ACT Report).

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2003- Green, J., L. Picciano, et al. 2003. “A Multi-Community Assessment of the Risk Management Needs of Small, Limited Resource, and Minority Farmers.” Rural Coalition.

2001- Green, J. 2001. “Small, Limited Resource, and Minority Farmers Discuss Conservation: Analysis of Focus Groups.” Missouri Action Research Connection & Rural Coalition/

Additional Equity Focused Recommendations

1. *Develop a Comprehensive New Step Up Program to Undergird Historically Underserved and New Entry Farmers and the Infrastructure they need to thrive.*
2. *Pandemic Response* – Rural Coalition and Alianza Nacional de Campesinas worked with our members and allies to seeking Congressional comprehensive list of critical actions to mitigate the impact of the pandemic with particular attention to farmers and workers in the food system. USDA should also continue providing substantive support to shore up and strengthen rural hospitals and clinics. Over 160 groups endorsed the letter which includes proposals that can be initiated administratively.
https://static1.squarespace.com/static/5b2c7bebc3725e593fb2fe/t/5f57fcf82112373f1ac33185/1599601923092/Final_Pandemic_Response_Letter.pdf
3. *Extend Relief to immigrant families excluded from all forms of emergency relief* – USDA should use every authority in its power to assure that relief,

ranging from food assistance to securing access to health care, COVID-19 protections and care, and safe and secure housing, reaches all immigrant families regardless of their immigrant status. This should include support for categorical eligibility in school feeding programs, and support for the community-based organizations who supply emergency support to workers and their communities.

4. *Protect Farmworkers and Their Livelihoods* – According to ERS, the majority of farmworkers are immigrants, with those undocumented comprising over half of the crop farmworker labor force. An already vulnerable population, immigrant communities have been excluded from many coronavirus relief programs. Farmworkers - many of whom are temporary guest workers, immigrants, and refugees – are facing severe healthcare inaccessibility or fear accessing medical services, inadequate housing, and harmful work conditions. We strongly support the efforts to “provide legal status based on prior agricultural work history, ensure they can earn paid sick time, and require that labor and safety rules, including overtime, humane living conditions, and protection from pesticide and heat exposure, are strictly enforced.” The Department of Agriculture needs to take an active role in ensuring that all applicable protections and rules are enforced in agricultural workplaces.
5. *Emergency Food Programs* –USDA should secure authority needed to establish a preference for local products in any emergency program, with specific set asides for entities working with socially disadvantaged farmers and ranchers, and flexibility in the mix of products based on what can be produced locally. We also urge that the lessons of the food box program be used to inform future efforts for both emergency and response and on the restructuring and reorientation of the food system to increase resilience in the face of future emergencies.
6. *Credit Issues and Protecting Distressed Farmers who are Still Operational* – USDA should develop a plan for standing disaster program that automatically goes into effect in the face of emergencies. USDA should extend as far as possible a moratorium on acceleration, graduation, and foreclosure for duration of the pandemic and economic recovery.

USDA must continue to pursue every avenue to secure the level of debt relief promised to BIPOC producers before it was halted by litigation. USDA should investigate ways that remaining funds in pandemic relief programs are directed to BIPOC farmers to keep them operational and engage to produce items, for example, for the food box program or any successor.

We further endorse the proposals in the [Top Priorities for COVID-19 C4 Response Legislation](#) from the Native Farm Bill Coalition including the following:

1. Immediately defer of all FSA loan principal due for the 2020 and 2021 production years and extend all loans for 2 years.
2. Offer payments to any lenders if they reduce the interest rate of current loans by 2% and offer the same reduced loan payments and extensions to their borrowers; and
3. Use FSA Farm Ownership loans to refinance real estate and other debt to aid in recovery from this crisis.

We further urge the Biden-Harris Administration to ensure that the Equitable Relief Provision in the 2018 Farm Bill is immediately and fully implemented with clear directives in handbooks to field offices. The intent of this provision is to protect farmers from adverse action in cases where errors were made on the part of FSA offices. In the time of this pandemic and the extreme stress on both producers and FSA and other USDA field office staff, this protection is critical. Every effort should be made to help farmers and ranchers hold onto their land and have the economic base they need to build back better both their farms and the economic underpinnings of their communities.

6) *Extend Emergency Feeding Programs - Feeding America's [report](#)* indicated that one in four children will be food insecure due to the unprecedented pandemic. We urge sustained emergency pandemic food assistance for those who need it, including the Supplemental Nutrition Assistance Program (SNAP); the Pandemic Electronic Benefits Transfer (P-EBT); universal free feeding program (Seamless Summer Feeding Option), the Farm to School Program and child and elder nutrition programs to ensure the food is distributed from the farmers that grow it to those who need it. We pledge to work with the Biden-Harris Administration to support any additional statutory and funding support needed to extend and increase such assistance. We further urge piloting new ideas to increase the connections to between USDA food programs and the nation's small and diverse farmers in a manner that meets the needs of communities for healthy, local food, while directly supporting the farmers who can most dependably supply it, in the face of the pandemic. Successful models to reorient food systems by increasing direct connections should be evaluated and studied to inform the development of future policies consistent with the goals of the Biden-Harris Administration.

7) *Livestock and Specialty Crop Sectors* – Nowhere were the vulnerabilities of the food and agriculture system revealed than in the pandemic generated crisis in the livestock sector. Protection of farm and food chain workers is a necessity at every level, and all entities, and especially those who receive any form of aid or support from USDA, must be held accountable for the protection of the health and safety and fair compensation of workers. The

crisis also reveals the critical importance of restructuring the food system to reduce concentration and oriented systems exchange more locally and less vertically.

Concentrated operations continue to dominate the market and government intervention is needed to protect both workers and small and mid-size farmers and ranchers in the fresh food and protein sector. The concentration of food processing and delivery is in itself a huge risk that needs to be comprehensively addressed. As the pandemic is brought under control, we urge the Biden-Harris Administration to begin working with the stakeholders including workers and small farmers to generate the new ideas necessary to make policies to construct a resilient food system in the future.

In the immediate term, we urge USDA to withdraw the Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act rule. The rule was inundated with loopholes. We recommend publishing similar regulations as those under the Obama-Biden Administration.

8) *Broadband Access for all Families* – The lack of access to affordable broadband services should be a right of all communities, and securing it is of paramount importance in the face of this pandemic. Every effort should be made to devote all available funds to providing emergency access to broadband especially for the nation’s most vulnerable children and families, including to tribal and border communities. Families require this support to continue schooling for children and communities need it to provide access to critical information they need to access the resources they need to protect themselves and their communities from the pandemic. Rural, tribal, farmworker and border communities should be consulted and involved in all efforts to assure communities are connected to networks and provided and trained to use computers and devices needed to benefit from these networks.

References Cited

- [1] *See, e.g.*, U.S. Comm’n on Civil Rights, *The Decline of Black Farming in America* 85, 87 (1982), <https://files.eric.ed.gov/fulltext/ED222604.pdf>.
- [2] *See, e.g.*, U.S. Comm’n on Civil Rights, *The Decline of Black Farming in America* 85, 87 (1982), <https://files.eric.ed.gov/fulltext/ED222604.pdf>.
- [3] *See, e.g.*, U.S. Comm’n on Civil Rights, *The Decline of Black Farming in America* 85, 87 (1982), <https://files.eric.ed.gov/fulltext/ED222604.pdf>.
- [4] *Decline of Minority Farming in the United States: Hearing Before the Gov’t Just., Info., & Agric. Subcommittee. of the H. Comm. on Gov’t Operations*, 101st Cong. 27 (July 25, 1990) (statement of David Harris, Jr., Executive Director, Land Loss Prevention Project), https://www.google.com/books/edition/Decline_of_Minority_Farming_in_the_United_States/XdD4pV3tgeEC?hl=en&gbpv=1.
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- [6] *USDA Data: Nearly All Pandemic Bailout Funds Went to White Farmers*, EWG (Feb. 18, 2021), <https://www.ewg.org/news-insights/news/usda-data-nearly-all-pandemic-bailout-funds-went-white-farmers>.
- [7] *See Lending to Farmers of Color and Women: New Report Examines Trends And Barriers*, Nat’l Sustainable Agric. Coalition (Aug. 27, 2019), <https://sustainableagriculture.net/blog/gao-report-lending-sdfr/>.
- [8] *See, e.g.*, *USDA to Provide Additional Direct Assistance to Farmers and Ranchers Impacted by the Coronavirus*, U.S. Dep’t of Agric. (Sept. 18, 2020), <https://www.usda.gov/media/press-releases/2020/09/18/usda-provideadditional-direct-assistance-farmers-and-ranchers>.
- [9] *See Management of Civil Rights at the USDA: Hearing Before the Subcommittee. On Gov’t Mgmt., Org., & Procurement of The H. Comm. On Oversight and Gov’t Reform*, 110th Cong. At 24–26 (May 4, 2008), https://www.google.com/books/edition/Management_of_Civil_Rights_at_the_USDA/uU8FKm6V3cC?hl=en&gbpv=0 (testimony of Guadalupe L. Garcia Jr.).
- [10] *See Ag and Food Sectors and the Economy*, U.S. Dep’t of Agric. Econ. Rsch. Serv. (noting that agriculture and related industries support 5.2% of the overall American GDP, accounting for \$1.1 trillion annually and supporting 11% of total U.S. employment, with direct on-farm employment accounting for 2.6 million American

jobs), <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/ag-and-food-sectors-and-the-economy/#:~:text=Agriculture%2C%20food%2C%20and%20related%20industries,about%200.6%20percent%20of%20GDP.>

August 13, 2021

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Via regulations.gov

Re: [Docket Number: USDA-2021-0006](#) – Barbara Shipman’s Comments on Advancing Racial Justice and Equity and Support for Underserved Communities at USDA

Secretary Vilsack:

I am an African American woman, a fifth-generation farmer, and a community leader in rural Southeastern Alabama. I am also a U.S. Army Veteran of the Gulf War and have served in the Georgia and Alabama National Guard. I work with recently returned service members from Fort Rucker to consider careers in farming.

My farm is certified organic by USDA. USDA has also certified my farm for good agricultural practices (GAP) growing fresh vegetables. These certifications are rare enough in my region—especially among African Americans and veterans—that teaching others about how to succeed as a farmer has become my second calling.

In addition to farming full time, I am the founder and Executive Director of Cottage House Incorporation, a nonprofit organization that works to inspire youth and help promote sustainable agricultural solutions and economic development in rural Southeastern Alabama through community programs, entrepreneurship, leadership, life skills and more. I have spent the last 15 years creating a beginning farmer curriculum, hosting over 1,000 children per year at Farmer Bootcamp that introduces them to farming, animal husbandry, planting and markets. Farmer Bootcamp also teaches an average of 20 new farmers per year to plan, plant, and operate farm business operations.

I am a member of Rural Coalition and serve on the organization’s Board of Directors. I joined Rural Coalition because I support its goal of ensuring that socially disadvantaged farmers, youth with limited resources, and veteran women are included in the opportunities, economies, and future for small scale operators of agriculture business.

Every year I accompany 40-60 farmers to FSA offices to make sure they get the service and information they are entitled to, and I currently work as a Rural Coalition recruiter to help farmers secure CFAP funds.

My responses to the customer experience questions below reflect both my own experiences as a farmer and the experiences of producers I advise and mentor.

Customer Experience Questions

1. Have you applied for or accessed USDA programs and services in the past? If so, please describe your experience.

I am advising farmers applying for CFAP 2, as a Rural Coalition recruiter. I placed an ad to publicize this opportunity for our local producers in Barbour County, Alabama. Based on the qualification information for the program that was publicly available, the ad said that producers could apply for compensation due to loss of “Livestock (cattle, pigs, sheep/wool, chickens, eggs, or goats and more)” (not including breeding stock), as well as row or specialty crops.

However, my local office in Clayton, Alabama has told farmers that the South African Boer Goats that I and others produce for meat in our region are not eligible for CFAP. These goats are the best quality meat breed, a significant product and source of income for numerous farmers, and a dietary staple for Muslim communities in our region. The office has not provided receipts of service or any other written explanation for this decision that I can rely on and share with the farmers I advise.

We were also asked for 2019 sales receipts for these goats, and the office did not explain why this would be necessary for goats, but not for beef cattle or other animals that are more typically raised by Caucasian producers. The CFAP 2 application instructions specifically say that this is a self-certification program and that documentation of sales, inventory, and other records “will not need to be submitted with the application.”¹

Native American Indian producers who I work with in Montana have also sought payments for bison and elk and been turned away or asked for substantial documentation of losses, such as pictures of animal carcasses.

2. If you have not applied for or accessed USDA programs and services in the past, why not? What would have made it easier for you to apply or access USDA programs and services?

Farmers hear stories from their peers about disparate treatment, as well as extra and unclear requirements for applications, and many decide not to apply at all. It takes significant time and work to understand a program and put together an application, as well as drive to the FSA office. When farmers are rejected with little explanation, it deters them from following up or participating in future opportunities. Others who hear about these hurdles do not apply at all.

3. How can USDA, its cooperators, grantees, and partners, better share information with underserved stakeholders about our programs and services? What are the best ways to notify and engage underserved stakeholders about new programs and services or changes to existing services?

¹ USDA, Apply for Coronavirus Food Assistance Program 2, <https://www.farmers.gov/coronavirus/pandemic-assistance/cfap2/apply> (last visited Aug. 12, 2021) (“To complete the CFAP 2 application, producers will need to reference their sales, inventory, and other records. However, since CFAP 2 is a self-certification program, this documentation will not need to be submitted with the application. Because applications are subject to County Committee review and spot check, some producers will be required to provide documentation. Producers should retain the records and documentation they use to complete the application.”).

As a program recruiter, I need clear information about program eligibility and requirements, and I need to know that the rules will be the same for everyone. When rules and decisions are not written down, I cannot be sure that the rules are being applied fairly and consistently.

I also need specific guidance from our local offices about what is missing from applications, and why it is required. I will not send a farmer to drive over an hour to a USDA office to apply for a program unless I know for sure that they will qualify, so I need to be able to rely on the forms and other materials USDA provides.

For example, it is not clear from the CFAP 2 paperwork how to report losses of goats, bison, elk, or other specialty animals. There is not enough guidance on what details to provide along with it. The paperwork should help producers provide all the necessary information, so there are no surprises.

4. Describe your experience(s) interacting with USDA staff when trying to access USDA programs and services. How were they helpful? Are local USDA offices staffed sufficiently and do they provide good customer service? What are areas for improvement?

As an African American woman, I have not been treated respectfully by local staff and I seem to have to follow a different set of rules than Caucasian farmers. I have been talked over and not given a chance to explain myself or ask questions. I also get different information from different staff, which adds to confusion and mistrust.

Poor service and extra requirements for the producers I work with is not new. For example, in the past, a farmer who I was advising went into an NRCS office and FSA office to request assistance. The young lady threw and not only hit him in the face with his folder, but she also told him *“get out of the office and don't come back until you have three years' worth of farm records.”* In addition to being disrespectful, this behavior is particularly triggering for veterans. Returning military members have PTSD, and the snap of a finger can put them in the military zone again.

Another time, I accompanied two farmers to visit *four separate county offices* to determine who was supposed to serve them. One was not open for a prescheduled appointment; another was closed. In the last office, the staff member agreed to get on the computer to ascertain the correct service center. She said it was closing time, but she could provide service there at another time. I told her, “that's fine as long as this farmer leaves here with two things – a letter of receipt for service that provides his farm and tract number and a copy of the technology map of where his land is located. Then in the future all you have to do is give the address and you can pull it down on the computer and print it all.” If we hadn't gotten that receipt, it's likely that they would have turned them away the next time. These offices rarely offer receipts of service unless we request them, and very few farmers know that they can ask for them.

5. Are USDA agency websites helpful in providing useful information on programs and services, explaining how specific programs and services work, and explaining how applications for participation are considered? What are areas for improvement?

I often experience a disconnect between what I see written on website and what I'm told by our local offices. I need the local offices to provide more, written detail and help farmers through the process.

6. What are the barriers to applying for loan and grant programs? How can USDA make loan and grant processes easier to understand and more accessible to underserved groups?

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

CASE NO. 1:21-CV-548-WCG

ADAM P. FAUST; CHERYL J. ASH; JAMES C. ASH; CHRISTOPHER C. BAIRD;
BRANDON BANDUCCI; TEENA J. BANDUCCI; CHRISTOPHER D. BOHNENKAMP;
JOSEPH W. SCHMITZ; THEODORE G. SHIELDS, JR.; JAY T. SLABA; JONATHAN P.
STEVENS; and LORI J. WATKINS,

Plaintiffs,

v.

THOMAS J. VILSACK, in his official capacity as Secretary the U.S. Department of Agriculture;
and ZACH DUCHENEAUX, in his official capacity as Administrator of the Farm Service
Agency;

Defendants.

**BRIEF OF AMICI CURIAE
THE RURAL COALITION, THE INTERTRIBAL AGRICULTURE COUNCIL,
NORTH CAROLINA ASSOCIATION OF BLACK LAWYERS LAND LOSS
PREVENTION PROJECT, AND
23 ADDITIONAL FARMING ADVOCACY ORGANIZATIONS
IN OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

Keisha Stokes-Hough
Alexandra M. Jordan
SOUTHERN POVERTY LAW CENTER
400 Washington Avenue
Montgomery, AL 36104
Tel: (334) 956-8200

Counsel for Amici Curiae

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INTEREST OF AMICI CURIAE

Amici Curiae are twenty-six advocacy organizations that work with and represent the interests of farmers and ranchers across the country.

The **Rural Coalition** is a collection of more than 50 diverse, community-based member organizations that have worked for 42 years to advance the interests of historically underserved producers and rural communities. Since 1978, the Rural Coalition has developed and secured passage of over 45 key federal policies to strengthen rural agriculture, with a critical focus on equitable access and new generation of diverse producers.

The **Intertribal Agriculture Council (IAC)** is a nonprofit 501(c)(3) national organization to pursue and promote the conservation, development, and use of Tribal agriculture resources for the betterment of the 574 federally recognized Tribal governments and over 80,000 Tribal producers. The IAC was founded on the heels of the 1980s farm financial crisis when a report to Congress determined that Tribal producers needed direct and specific technical assistance to support access to USDA programs, especially access to credit through Farm Service Agency. Many of our individual Tribal membership have a direct interest in the outcome of this case and will be irreparably harmed if the debt relief is not provided.

North Carolina Association of Black Lawyers Land Loss Prevention Project (LLPP) was founded in 1983 and is a non-profit, public interest organization providing comprehensive legal services and technical support to North Carolina's financially distressed and socially disadvantaged farmers and landowners seeking to preserve their farms, homes, land, and rural livelihoods. Many of our farmers were struggling to retain their farm operations prior to the COVID-19 Pandemic, which has only worsened their conditions. Debt relief is critical for farmers who have experienced discrimination in the implementation of USDA programs, so that they may receive timely access to credit and secure favorable loan terms and servicing of loans.

The **Natural Resources Defense Council** (NRDC) is a national, not-for-profit environmental and public health membership organization that works, on behalf of our 3 million members and activists, to ensure the rights of all people to clean air, clean water, and healthy communities. NRDC is committed to advancing environmental and social justice and seeks to break down the patterns of disproportionate environmental burdens borne by people of color who face social or economic inequities, including in our agricultural system and farming communities.

Rural Advancement Fund of the National Sharecroppers Fund, Inc. (RAF) is a 501(c)(3) organization that represents rural farmers, with special focus on African American farmers and young farmers. Denial of American Rescue Plan funds to RAF members will immediately impact at least 20 African American farmers in three counties in South Carolina, many of whom own small family farms that have been passed down for generations.

The **National Latino Farmers and Ranchers Trade Association** (NLFRTA) is a nonprofit based in Washington, DC, that organizes, engages, and empowers Latino farm and ranching advocacy groups, farmworkers transitioning into farm ownership, and, generally, small producers, throughout the United States and beyond. Latino farmers have historically suffered — and continue to suffer — under the discriminatory treatment of USDA staff. The relief offered under the 1005 program is the only possible relief for operations that are rendered even more vulnerable by economic, market, and climate conditions intensified by the pandemic.

American Indian Mothers, Inc. (AIMI) is a not-for-profit organization serving the education, health, social service, and agriculture and cultural needs of American Indians and minorities in North Carolina. AIMI serves our communities through 12 different programs in order to fill the gaps in services throughout rural communities. The socially disadvantaged farmers

served by AIMI have experienced extreme hardships during the COVID Pandemic, and without the Section 1005 assistance, these farmers will not be able to plant or plan for the future.

Arkansas Land and Farm Development Coalition (ALFDC) is a nonprofit organization founded in 1980 with the mission of stopping Black farmers from losing their land and family farm operations. We serve farmers who, after decades of discrimination and the pandemic, urgently need the debt relief afforded justly to them in Section 1005. Any delay in this relief will limit the few options available for them to retain land and continue to pass land to the incoming generations for the benefit and viability of the rural communities we have long served.

Cottage House Incorporation (CHI), founded in 2007, works to promote sustainable agriculture solutions through education of new and beginning farmers, veterans, youth, and women in agriculture. During the pandemic, the farmers served by CHI have experienced food insecurity; been unable to sell their cows, hogs, pigs, and chickens; and lacked funds to buy feed for their animals. Without debt relief, they won't be able to buy seeds or plant or plan for the future. CHI is especially concerned about five producers with FSA Youth loans: without Section 1005, these young farmers will go into default and may not have a way to continue farming.

Family Farm Defenders (FFD) is a 501(c)(3) organization and has over 3500 members in all 50 states, including many farmers of color. FFD's mission is to create a farmer-controlled and consumer-oriented food and fiber system, based upon democratically controlled institutions that empower farmers to speak for and respect themselves in their quest for social and economic justice. To this end, FFD supports agroecology, farm and food worker rights, racial justice, animal welfare, consumer safety and right to know, fair trade, and food sovereignty.

Kansas Black Farmers Association (KBFA), a 501(c)(3) organization, was founded by fourteen African American Kansas farmers in 1999. KBFA represents more than 150 rural and

urban farmers, agribusiness owners, youth farmers, and associate organizations and works to sustain Black land ownership. Over 50 of KBFA's members are eligible for Section 1005 relief, which they are depending on to continue their farming. The relief will allow the farmers to plant/drill — though a few weeks late due to late rains. An injunction will further delay this season, resulting in some of KBFA's farmers not having a milo, corn, or soybean crop this year.

The **Land Stewardship Project (LSP)** is a member-driven nonprofit organization founded in 1982 in Minnesota to foster an ethic of stewardship for farmland, promote sustainable agriculture, and develop sustainable communities. LSP represents over 6,000 members and thousands more supporters who are farmers, food system workers, and other residents dedicated to creating transformational change in our food and farming system. LSP believes it is critical to address the needs of farmers of color who have endured decades of discrimination in USDA programs and have not received adequate support during the pandemic. The debt relief included in the American Rescue Plan is a necessary step toward creating resilient rural communities.

The **National Young Farmers Coalition (Young Farmers)** aims to shift power and change policy to equitably resource a new generation of working farmers. Young Farmers represents aspiring and working farmers, ranchers, and land stewards who are reorienting agriculture in service to our communities. Young Farmers believes justice is foundational to a transformation in our food and farm systems; we've advocated for the Section 1005 loan-forgiveness program and other necessary programs that serve to increase the security and accessibility of agricultural livelihoods for farmers of color.

The **Oklahoma Black Historical Research Project, Inc. (OBHRPI)** was founded in 1998 to assist historically underserved farmers and ranchers by means of outreach, technical training, and cultural awareness to operate sustainable farms and ranches with an emphasis on sustaining

historic American Indian and African American communities. We are advocates for Socially Disadvantaged Farmers and Ranchers who have been historically underserved and deserve — and urgently need — the relief that is due to them in the ARP.

Operation Spring Plant, Inc. is a grassroots 501(c)(3) organization with over 34 years of experience organizing rural and urban, predominantly Black, small family farmers in North Carolina and throughout the southern US. We have served over 1500 farmers, youth, and landowners per year in North and South Carolina, Georgia, and Oklahoma. The farmers we serve are counting on Section 1005 relief to overcome numerous challenges, from a severe drought in 2013 to crop losses, restaurant closures, and inaccessible markets due to COVID-19.

The **Texas Coalition of Rural Landowners** was founded and incorporated in Cypress, Texas, as a Domestic Nonprofit Corporation on May 30, 2021, to assist farmers and ranchers who have sought aid from various USDA agencies. The Coalition's mission is to develop training to provide farmers information, skills, and awareness, in a cultural context; assist rural landowners building strong communities; build an equitable and sustainable food system that is beneficial to underserved rural landowners; and provide assistance to underserved landowners. The producers served by the Coalition have struggled with discrimination, and the disruptions of the pandemic. They are depending upon the relief in the American Rescue Plan.

World Farmers advocates for and supports immigrant, refugee, and historically underserved small-scale farmers from farm to market. Started in 1984, our Flats Mentor Farm Program, located in Lancaster, MA, provides access to the land, farming infrastructure, and technical assistance in agricultural production and marketing necessary for several hundred small-scale diversified farmers to grow and market their produce. Section 1005 debt relief payments are critical to supporting farmers without generational wealth in this country, including the immigrant

and refugee farmers with whom we work, and to supporting those farmers of color who are operating within an agricultural system of historic exclusion and displacement.

Farm Aid is a nonprofit organization whose mission is to keep family farmers on the land. Since the first Farm Aid Concert in 1985, Farm Aid has raised \$60 million to promote a strong and resilient family farm system of agriculture. Farm Aid operates 1-800-FARM-AID to provide immediate and effective support services to farm families in crisis. We have worked with thousands of farmers and hear every day how the pandemic has stressed them to the limit — most of all the nation’s socially disadvantaged farmers. We have joined this action because we know these farmers need and deserve the aid that is being delayed by this action.

The **Health, Environment, Agriculture, Labor Food Alliance** (HEAL) is a national multi-sector, multi-racial coalition of 50 organizations who represent over two million producers, workers, indigenous groups, scientists, advocates, organizers, and activists. Many of HEAL’s members and their communities have borne the brunt of COVID-19, and many of the producers who are part of our Alliance have gone above and beyond to produce and distribute food for their communities during the pandemic — and have gone into debt as a result. The HEAL Food Alliance opposes preventing the USDA from moving forward with a program designed to relieve debt for farmers of color, and supports the USDA’s defense of debt relief for these farmers.

The **National Family Farm Coalition** (NFFC) was established in 1986 to avert the demise of family farmers caught in the 1980s farm credit crisis. NFFC membership consists of 30 grassroots farm, ranch, and fishing organizations in 42 states and the nation’s capital. Our members are fighting for food providers’ rights, fair prices, clean air and water, strong local economies, and much more. NFFC believes that an attempt to overturn this act of Congress that enables USDA to

meet the urgent and particular needs of socially disadvantaged producers has no merit and only undermines the ability of family farmers who feed us with dignity and respect.

The **Rural Advancement Foundation International-USA** (RAFI-USA) was founded in 1990 to serve and advocate for farmers struggling to keep their farms. Today, our mission is to challenge the root causes of unjust food systems, supporting and advocating for economically, racially, and ecologically just farm communities. Our Farmers of Color Network program works with more than 300 farmers of color in North Carolina and the Southeast U.S.

The **National Sustainable Agriculture Coalition** (NSAC), founded in 2009, is an alliance of 130+ member organizations and their combined 2+ million members that advocates for federal policy reform to advance the sustainability of agriculture, food systems, natural resources, and rural communities. NSAC has heard directly from our members how Black, Indigenous and other People of Color (BIPOC) are treated worse than white farmers within the same applicant pool, including: when seeking fair and timely access to credit, when attempting to apply for and obtain direct USDA aid through support programs (including the Coronavirus Food Assistance Program), and when applying to participate in conservation programs. Consequently, these farmers are at direct risk of losing their livelihoods without urgent relief.

California FarmLink is a 501(c)(3) nonprofit organization and lender certified by the U.S. Treasury as a Community Development Financial Institution (CDFI). In 2020, more than 70% of California FarmLink's loans provided capital to Socially Disadvantaged Farmers and Ranchers, including Latina/o farmers in the Central Coast region and Hmong-American refugee farmers in the Fresno region. California FarmLink has at least three borrowers who are in immediate risk of bankruptcy and will likely enter bankruptcy if they do not receive debt relief.

Community Farm Alliance (CFA) was founded by Kentucky farmers in 1985 during the Farm Crisis as a vehicle for farmers to collaboratively address the issues facing them, their neighbors and their communities. The COVID-19 pandemic was particularly hard for Kentucky BIPOC farmers, and CFA responded by rallying private donations large and small to create the Kentucky Black Farmer Fund.

Women, Food, and Agriculture Network (WFAN) was founded in 1997 with a mission to engage women in building an ecological and just food and agricultural system through individual and community power. WFAN is a national organization, with women and non-binary members across the United States. Delaying debt relief for our BIPOC farmer-members compounds the challenges that they regularly face, particularly during the pandemic, which hit these communities exponentially harder. WFAN believes in the maxim that “justice delayed is justice denied,” and supports the immediate release of these much-needed relief funds.

Steward Holdings (Steward) is a private lending partner offering commercial loans and expert support services to regenerative farmers, ranchers, fishermen, and producers so they can expand and sustain their businesses. Steward currently works with over 100 human-scale regenerative farmers, ranchers, fishermen, and producers across the United States. Each day that relief under Section 1005 is delayed only adds to the economic burden being shouldered by farmers we work with, causing additional harm to them, their families, and their communities.

INTRODUCTION

A preliminary injunction in this case will unnecessarily deprive minority farmers of debt relief, compounding harm from decades of racial discrimination and the COVID-19 crisis. The American Rescue Plan Act (ARPA) was signed into law on March 11, 2021. Section 1005 of the ARPA provides direct, emergency debt relief for socially disadvantaged farmers and ranchers, to ensure their survival in the wake of the COVID-19 crisis. Congress recognized that minority farmers were already operating at a disadvantage when the COVID-19 pandemic struck, and needed immediate support. Accordingly, the legislation authorized the U.S. Department of Agriculture (USDA) to spend “sums as may be necessary” to relieve certain debt burdens for socially disadvantaged producers. Pub. L. No. 117-2, § 1005(a)(1) (2021).¹

Longstanding federal law defines “socially disadvantaged farmer or rancher” as “a member of a socially disadvantaged group . . . whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.” 7 U.S.C. § 2279(a)(5)–(6). In its Notice of Funds Availability, USDA explained that such groups “include, *but are not limited to*: American Indians or Alaskan Natives; Asians; Blacks or African Americans; Native Hawaiians or other Pacific Islanders; and Hispanics or Latinos.”²

Plaintiffs seek a preliminary injunction to forestall implementation of Section 1005, arguing that relief to socially disadvantaged farmers and ranchers amounts to a constitutionally impermissible racial classification. But Supreme Court precedent is clear that Congress may employ race-conscious measures if needed to address a compelling government interest, *see, e.g.*,

¹ *See also* USDA Notice of Funds Availability (NOFA), <https://public-inspection.federalregister.gov/2021-11155.pdf> (noting that USDA “received emergency approval” from Office of Management and Budget for ARPA information collection).

² *See* NOFA, *supra* note 1, at 6 (emphasis added).

Grutter v. Bolinger, 539 U.S. 306, 326–27 (2003), and the balance of harms weighs strongly against injunctive relief.

As discussed below, Section 1005 is a measured response to past and present discrimination in USDA’s programs, and the disproportionate impact of the COVID-19 pandemic on the nation’s most vulnerable farmers. Having been underserved by prior USDA lending and aid programs, socially disadvantaged farmers are relying on Section 1005 to meet their farming needs this season, and will be irreparably harmed if the promised assistance is delayed or denied.

ARGUMENT

I. Congress Enacted Section 1005 to Address Two Compelling Government Interests: Remediating Discrimination Against Minority Farmers, and Ensuring that COVID-19 Relief Reaches Those Most Impacted by the Crisis.

“The unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and government is not disqualified from acting in response to it.” *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 237 (1995).

In crafting Section 1005, Congress was acting in response to *two* compelling, appreciable problems that have particularly disadvantaged minorities: a clear and persistent pattern of racial and ethnic discrimination in USDA’s loan and assistance programs, and the disproportionate economic impact of the COVID-19 pandemic on minority farmers, which threatens to perpetuate the lingering effects of USDA’s discriminatory practices.

A. Minority farmers have been harmed by persistent discrimination in the USDA’s farm loan programs.

The Supreme Court has recognized that the government has a compelling interest in “remediating the effects of past or present racial discrimination.” *Shaw v. Hunt*, 517 U.S. 899, 909 (1996). And as government officials have acknowledged in this case, it is “no secret” that the

USDA's loan programs "have historically been infected by discrimination against minority farmers."³

Through its Farm Service Agency (FSA) and, formerly, Farmers Home Administration (FmHA), the USDA has operated as the "lender of last resort" to small farmers — a source of direct farm financing for those borrowers who cannot obtain credit elsewhere."⁴ But minority farmers have often been excluded from the benefits of this assistance. In various fora over the last four decades, including congressional hearings,⁵ civil rights reports,⁶ and class action litigation,⁷ minority farmers have decried unfair and discriminatory lending practices in USDA programs. Such practices include failing to provide minority farmers with loan program information and applications;⁸ awarding minority farmers smaller loans, at higher interest rates, than white farmers;⁹ frequent delays in processing loans for minority farmers;¹⁰ applying minority farmers'

³ Doc. 17, p. 4.

⁴ *Decline of Minority Farming in the United States: Hearing Before the Gov't Just., Info., & Agric. Subcomm. of the H. Comm. on Gov't Operations*, 101st Cong. 27 (July 25, 1990) (statement of David Harris, Jr., Executive Director, Land Loss Prevention Project), https://www.google.com/books/edition/Decline_of_Minority_Farming_in_the_Unite/XdD4pV3tgeEC?hl=en&gbpv=1.

⁵ *See, e.g., Management of Civil Rights at the USDA: Hearing Before the Subcomm. On Gov't Mgmt., Org., & Procurement of The H. Comm. On Oversight And Gov't Reform*, 110th Cong. (May 4, 2008), https://www.google.com/books/edition/Management_of_Civil_Rights_at_the_USDA/uU-8FKm6V3cC?hl=en&gbpv=0.

⁶ *See, e.g., U.S. Comm'n on Civil Rights, The Decline of Black Farming in America* 85–134 (1982), <https://files.eric.ed.gov/fulltext/ED222604.pdf>.

⁷ *See, e.g., Keepseagle v. Veneman*, No. Civ.A.9903119EGS1712, 2001 WL 34676944 (D.D.C. Dec. 12, 2001) (class action of Native American farmers); *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999) (class action of Black farmers); *see also Garcia v. Veneman*, 224 F.R.D. 8 (D.D.C. 2004) (putative class of Hispanic farmers).

⁸ *See* U.S. Comm'n on Civil Rights, *supra* note 6, at 87.

⁹ *See id.*; Exhibit H, p. 2 (Statement of Rural Coalition to the H. Comm. on Agric. Hearing on the State of Black Farmers (March 25, 2021)).

¹⁰ *See* U.S. Comm'n on Civil Rights, *supra* note 6, at 87.

loan payments to the wrong accounts;¹¹ and accelerating minority farmers' loans without explanation.¹²

Amici represent thousands of minority farmers, many of whom have directly suffered economic injury due to discriminatory practices in the administration of USDA's loan programs. For instance, Alfonso A. Abeyta, a Latino rancher in Antonito, Colorado, has a 400-acre ranch where he raises sheep and cows.¹³ He recalls several painful instances of discrimination by USDA representatives. When he first sought a USDA loan to own and operate a ranch, a USDA employee told him that "Mexicans were more suited to being farm workers, not farm owners."¹⁴ He later attempted to take out USDA loans because of several natural disasters. However, USDA representatives denied his applications because he and his family worked other jobs to supplement their income.¹⁵ To Mr. Abeyta's knowledge, white farmers in his area have routinely been able to take out USDA loans even though they worked outside of their ranches.¹⁶ He estimates that his losses from USDA lending discrimination are in excess of \$2.9 million.¹⁷

Nathaniel Bradford is a Black farmer and rancher from Creek County, Oklahoma, who has worked in agriculture for 30 years.¹⁸ He has been repeatedly discriminated against by FSA offices

¹¹ See *Decline of Minority Farming*, *supra* note 4, at 9 (statement of Congressman Mike Espy of Mississippi).

¹² *Id.*

¹³ See Exhibit A (Declaration of Alfonso A. Abeyta), ¶¶ 3–4.

¹⁴ *Id.* at ¶ 7.

¹⁵ *Id.* at ¶ 9.

¹⁶ *Id.*

¹⁷ *Id.* at ¶ 8.

¹⁸ See Exhibit B (Declaration of Nathaniel Bradford), p. 1.

in neighboring Payne and Okfuskee Counties.¹⁹ For the past 15 years, he has been repaying an FSA loan without adequate servicing.²⁰ Last year, he applied for a new FSA loan to replace a 100-year-old barn.²¹ Instead of giving him a loan to build a new barn, FSA appraised the old, derelict barn at \$30,000, and told Mr. Bradford that he would need to pay the full amount in order to remove USDA's lien.²²

In enacting Section 1005, Congress took action in response to a longstanding and well-documented pattern of discrimination against minority farmers in USDA programs. As Section 1005 authorizes USDA to remedy discrimination that is “traceable to its own actions,” the relief afforded to socially disadvantaged farmers is clearly appropriate under existing Supreme Court precedent. *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 288 (1986) (O'Connor, J., concurring in part and concurring in the judgment).

B. Minority farmers' precarious financial circumstances have been exacerbated by the COVID-19 pandemic.

When crafting Section 1005, Congress not only grappled with USDA's extensive history of racial discrimination, but also confronted the devastating economic impact of the COVID-19 pandemic on already struggling minority farmers. Researchers have identified clear racial disparities in the impact of COVID-19: minorities are more likely to lose jobs and wages due to the pandemic;²³ and Black, Hispanic, and Native American people are approximately three times

¹⁹ *Id.*

²⁰ *Id.* at p. 2.

²¹ *Id.*

²² *Id.*

²³ See Nishesh Chalise & Violeta Gutkowski, *How COVID-19's Economic Impact Varies by Geography and Race*, Federal Reserve Bank of St. Louis: Open Vault Blog (April 21, 2021), <https://www.stlouisfed.org/open-vault/2021/april/how-covid-19-economic-impact-varies-by-geography-and-race>; Mark Hugo Lopez et al., *Financial And Health Impacts Of COVID-19 Vary Widely By Race And Ethnicity*, Pew Research Center (May 5, 2020),

as likely to be hospitalized, and twice as likely to die, from COVID-19 infection.²⁴ While minority farmers have been disproportionately impacted by the pandemic, prior COVID-19 relief through USDA has failed to reach many of them.²⁵ Nearly 97% of the \$9.2 billion appropriated through USDA's Coronavirus Food Assistance Program (CFAP) went to white farmers.²⁶

Amici represent minority farmers who have been impacted by COVID-19, but received little or no relief under previous USDA pandemic assistance programs. For instance, Mr. Bradford tried to participate in CFAP, but was subjected to extra processes and scrutiny relative to white farmers.²⁷ Other Black farmers he knows were treated similarly, and Mr. Bradford believes that such roadblocks to participation were initiated by FSA county committees.²⁸ As a result, white farmers received more government support, including emergency assistance.²⁹

Leroy Brinkley, Jr., is a Black rancher who lives in Haskell, Oklahoma.³⁰ He has operated his 80-acre ranch for 23 years.³¹ Both his family and business suffered due to COVID-19. Mr. Brinkley, his wife, and his two-week-old granddaughter all contracted COVID-19.³² The entire

<https://www.pewresearch.org/fact-tank/2020/05/05/financial-and-health-impacts-of-covid-19-vary-widely-by-race-and-ethnicity/#:~:text=3The%20COVID%2D19%20economic,according%20to%20the%20April%20survey.>

²⁴ Centers for Disease Control and Prevention, *Risk for COVID-19 Infection, Hospitalization, and Death by Race/Ethnicity* (updated May 26, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>.

²⁵ Jared Hayes, *USDA Data: Nearly All Pandemic Bailout Funds Went to White Farmers*, Environmental Working Group (Feb. 18, 2021), <https://www.ewg.org/news-insights/news/usda-data-nearly-all-pandemic-bailout-funds-went-white-farmers>.

²⁶ *Id.*

²⁷ *See* Exhibit B, p. 2.

²⁸ *Id.* at pp. 2–3.

²⁹ *Id.* at p. 3.

³⁰ *See* Exhibit C (Declaration of Leroy Brinkley, Jr.), ¶ 3.

³¹ *Id.* at ¶ 4.

³² *Id.* at ¶ 8.

family had to quarantine apart from each other for 21 days, and his wife was hospitalized for nine days. Due to the pandemic, Mr. Brinkley could not work for two months, and was only able to work part-time for nearly a year.³³ His ranch was impacted as well, due to lost customers, and higher costs for feed, fuel, and production. Mr. Brinkley hopes to use the debt relief from Section 1005 to cover his losses related to COVID-19.

Henry Brown, a 71-year-old Black farmer, found prior COVID assistance programs impossible to navigate to his benefit.³⁴ His cow-calf business experienced significant income loss during the pandemic.³⁵ In addition, from March 2020 to February 2021, his off-farm household income decreased by \$2,200 per month, due to economic costs associated with the COVID-19 pandemic.³⁶ Mr. Brown made a successful application to the Small Business Administration (SBA) for an Economic Injury Disaster Loan to help with his farm.³⁷ But he was ultimately penalized by USDA for participating in SBA's coronavirus relief program.³⁸

By providing debt relief to the most disproportionately impacted farmers, who were largely left out of prior COVID assistance, Section 1005 lawfully redresses the “persistence” and “lingering effects” of discrimination in USDA's loan programs. *Adarand*, 515 U.S. at 237.

Congress has spent decades receiving and reviewing complaints from minority farmers, holding hearings on and studying the problem of racial discrimination in USDA's programs, and relying on race-neutral alternatives that have proven ineffective in remedying the harm of past and

³³ *Id.*

³⁴ See Exhibit D (Declaration of Henry Brown).

³⁵ *Id.* at ¶ 5.

³⁶ *Id.* at ¶ 7.

³⁷ *Id.* at ¶ 8.

³⁸ *Id.* at p. 3.

present USDA discrimination. *Cf. Sherbrooke Turf, Inc. v. Minn. Dep't of Transp.*, 345 F.3d 964, 970 (8th Cir. 2003) (approving race-conscious measures where “Congress has spent decades compiling evidence of race discrimination in government highway contracting, of barriers to the formation of minority-owned construction businesses, and of barriers to entry”). In enacting Section 1005, Congress was also taking urgent action to support the continued viability of minority farmers, who were already economically distressed, due in part to longstanding discrimination in USDA’s programs, and whom evidence confirms are disproportionately impacted by COVID-19.³⁹ As there is a “strong basis in the evidence” to support Section 1005, and compelling government interests are implicated, the debt relief to socially disadvantaged farmers is constitutionally permissible. *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 500 (1989) (citation omitted).

II. Section 1005 Is a Narrowly Tailored Measure, Employing the Least Restrictive Means to Achieve Congress’s Policy Goals.

The government’s consideration of race must be narrowly tailored to further its compelling interests. *Croson*, 488 U.S. at 507. Although “[n]arrow tailoring does not require exhaustion of every conceivable race-neutral alternative,” it does “require serious, good faith consideration of workable race-neutral alternatives.” *Grutter*, 539 U.S. at 339. Reviewing courts should also consider “the flexibility and duration of the relief” provided. *United States v. Paradise*, 480 U.S. 149, 171 (1987).

A. Race-neutral efforts have been attempted, and failed to remedy the effects of USDA’s long and persistent history of discrimination.

Discrimination based on race and ethnicity has been pervasive in USDA’s programs for decades.⁴⁰ In response to complaints about discriminatory and arbitrary implementation, USDA

³⁹ See *supra* notes 23–25.

⁴⁰ See, e.g., Exhibit H (Statement of Rural Coalition to the H. Comm. on Agric. Hearing on the State of Black Farmers (March 25, 2021)).

has engaged in a series of race-neutral reforms and actions, discussed below, but these changes have been insufficient to overcome continuing harms from past and present discrimination.

First, USDA Farm Loan Programs are themselves an example of race-neutral efforts to expand opportunity for farmers. Access to credit is a routine barrier for socially disadvantaged farmers, and congressional efforts to expand credit access for farmers began decades ago. USDA eventually created farm loan programs that target disadvantaged farmers.⁴¹ To get a loan, farms must be of a modest size, that is to say “family farms;”⁴² applicants must have been unable to get credit anywhere else;⁴³ strict loan limits apply; and officials’ wide latitude in making loans was tightened with voluminous rules designed to make lending more fair. If any race-neutral and targeted program for credit scarcity is imaginable, this is it. Nevertheless, “SDFRs received proportionately fewer loans and less agricultural credit overall than non-SDFRs.”⁴⁴

Aid programs are also administered in a race-neutral manner. In practice, such programs perpetuate inequality, because the race-neutral formulas fail to account for important differences in the circumstances, accessibility, and needs of socially disadvantaged farmers. For instance, an aid program that provides a set dollar figure per acre⁴⁵ may meet the needs of farmers with large holdings, but farmers with small acreages — which describes most minority farmers⁴⁶ — often

⁴¹ *Agricultural Lending: Information on Credit and Outreach to Socially Disadvantaged Farmers and Ranchers Is Limited*, U.S. Gov’t Accountability Off., 13 (July 2019), <https://www.gao.gov/assets/gao-19-539.pdf>.

⁴² See *FSA Farm Loan Programs*, U.S. Dep’t of Agric., <https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/>.

⁴³ See U.S. Comm’n on Civil Rights, *supra* note 6, at 76.

⁴⁴ *Agricultural Lending*, *supra* note 41, at 20.

⁴⁵ See, e.g., *USDA to Provide Additional Direct Assistance to Farmers and Ranchers Impacted by the Coronavirus*, U.S. Dep’t of Agric. (Sept. 18, 2020), <https://www.usda.gov/media/press-releases/2020/09/18/usda-provide-additional-direct-assistance-farmers-and-ranchers>.

⁴⁶ See *Lending to Farmers of Color and Women: New Report Examines Trends And Barriers*, Nat’l Sustainable Agric. Coalition (Aug. 27, 2019), <https://sustainableagriculture.net/blog/gao-report-lending-sdfr/>.

receive too little relief to meet their costs and expenses. The CFAP, for example, afforded the average white farmer \$3,398, whereas the average Black farmer received \$422.⁴⁷

USDA reformed its county committee system, created decades ago, in an effort to provide accountability and fairness in USDA programs in a race-neutral way. County committees are elected by local farmers to make important decisions in the local implementation of USDA programs.⁴⁸ Given the realities on the ground, this race-neutral approach to USDA accountability itself became an instrument of discrimination.⁴⁹ Seeking a race-neutral solution, in a series of reforms, USDA has transformed the county committee system to make it less powerful and more representative of the whole farming community.⁵⁰ But this race-neutral approach has flatly failed to provide racial equality in USDA programs.⁵¹

Lastly, in response to longstanding complaints that farmers had no means of reversing arbitrary and discriminatory decisions, USDA created an elaborate appeals system, the National Appeals Division (NAD), in 1994.⁵² NAD allows farmers to appeal any adverse decision to a relatively autonomous decisionmaker. While NAD may have improved accountability within

⁴⁷ See Hayes, *supra* note 25.

⁴⁸ See Farm Service Agency County Committees: In Brief, Cong. Rsch. Serv. (Jan. 29, 2021), https://www.everycrsreport.com/files/2021-01-29_R40179_111b8ebb8c5a99b497fb6c42c31be43a9681924a.pdf.

⁴⁹ See Susan Youngblood Ashmore, *Carry It On: The War on Poverty and the Civil Rights Movement in Alabama 1964–1972*, 81, 140–52 (2008), https://www.google.com/books/edition/Carry_it_on/SSdp-dtMM1sC?hl=en&gbpv=0; see also Pete Daniel, *Dispossession: Discrimination Against African American Farmers in the Age of Civil Rights* (2013).

⁵⁰ See Farm Security and Rural Investment Act of 2002, § 2501A, <https://www.congress.gov/107/plaws/publ171/PLAW-107publ171.pdf>; see also Farm Service Agency: County Committee Elections 2001, U.S. Dep’t of Agric., https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/coc_elections-fact_sheet.pdf.

⁵¹ See, e.g., Exhibit B, pp. 2–3.

⁵² See Department of Agriculture Reorganization Act of 1994, Subtitle H, 7 U.S.C. §§ 6991–7002.

USDA, it has done nothing to address discrimination. A farmer, for example, is not even allowed to raise discrimination as an issue in a NAD hearing.⁵³

As USDA officials have acknowledged in this case, “[t]he necessity of the debt relief in § 1005 is underscored by the inefficacy of the race-neutral alternatives that Congress used before enacting § 1005.”⁵⁴

B. Relief under Section 1005 will benefit the most vulnerable and underserved farmers: those impacted by USDA discrimination and at the greatest risk of failure.

Amici advocate for policies that will level the playing field for small farms and socially disadvantaged farmers and ranchers. A remedy for USDA discrimination should do several things. First, it should identify actual farmers who have struggled to succeed in farming. Second, it should target farmers who have participated directly in USDA programs, especially USDA loan programs, because that is where the most thorough record of discrimination exists. Third, the remedy should do something tangible that benefits the farmer, is directly related to the discrimination at hand, and makes that farm more likely to succeed.

Section 1005 meets all three of these criteria.

First, all recipients of relief are actual farmers. USDA farm loan regulations require that Farm Loan Program recipients be farmers when the loan is closed.⁵⁵ They can be relatively new farmers, but every loan recipient is an actual farmer. Further, these operations are all large enough to be considered farms, and not just rural residences or tiny homesteads with a small garden.⁵⁶ In

⁵³ See *Common Questions Related to Appeals*, U.S. Dep’t of Agric., <https://www.nad.usda.gov/content/common-appeal-related-questions>.

⁵⁴ Doc. 17-1, p. 33.

⁵⁵ See *Your Guide to FSA Farm Loans*, U.S. Dep’t of Agric., 17–21, https://www.fsa.usda.gov/Internet/FSA_File/fsa_br_01_web_booklet.pdf.

⁵⁶ *Id.* at 70.

addition, the farms receiving relief are of modest size. USDA rules require that they be no larger than a family farm — mainly defined as the borrower doing a large proportion of the work on the farm.⁵⁷ None of the recipients of a USDA farm loan, in other words, is a massive farming operation that is in no danger of failure.

Second, because each loan recipient can only receive the loan if the farmer could not get the loan anywhere else,⁵⁸ we know that these farms are in danger of being lost due to lack of credit, repossession, foreclosure, bankruptcy or some other financial catastrophe.

Third, we know that these socially disadvantaged farmers — actual borrowers with USDA loans — have faced the brunt of ongoing, well-documented discrimination. These farmers may get loans, but get them late, making successful farming all but impossible.⁵⁹ They get loans of smaller amounts than are needed and provided for in the rules.⁶⁰ USDA places unreasonable restrictions on the loans and requires more collateral than is justified, thus making additional credit difficult to get.⁶¹ If the farmer has difficulty repaying the debt, USDA rushes to accelerate, repossess, foreclose,⁶² and does not use the wide panoply of loan servicing options — including debt write-

⁵⁷ *See id.*

⁵⁸ *See Agricultural Lending, supra* note 41, at 13.

⁵⁹ *See Decline of Minority Farming, supra* note 4, at 9 (statement of Congressman Mike Espy), 20 (statement of David Harris, Jr.).

⁶⁰ *See Decline of Minority Farming, supra* note 4, at 61, 97 (statement of Randi Ilyse Roth, Staff Attorney, Farmers' Legal Action Group).

⁶¹ *See Management of Civil Rights, supra* note 5, at 24–26 (testimony of Guadalupe L. Garcia Jr.).

⁶² *See id.* at 12 (statement of John Boyd, President, Nat'l Black Farmers Assoc.), 22 (testimony of Guadalupe L. Garcia Jr.).

downs — that the farmers are entitled to when experiencing payment difficulties, and which seem so widely available to white borrowers.⁶³

Further, we know that ongoing debt is the most likely way a farm will be lost.⁶⁴ Behind virtually every farm collapse is a debt crisis. By relieving the debt, this USDA program provides a precise remedy to help socially disadvantaged farmers survive.

C. Section 1005 provides temporary relief in response to the exigencies of the COVID-19 pandemic.

In crafting a relief program for the most vulnerable farmers, Congress also had to consider their urgent financial needs in the context of typically rigid farming schedules.⁶⁵ Section 1005 is the most narrowly tailored approach that could deliver relief rapidly during the pandemic (in time to help farmers this season), and without creating problematic barriers to participation (as a grant application process would).

Given the inefficacy of race-neutral attempts to redress the impact of discrimination within USDA, and the urgent need to extend temporary aid to the most vulnerable farmers impacted by the COVID-19 pandemic, Congress's race-conscious measure in Section 1005 is appropriate.

III. The Balance of Harms Weighs Strongly Against a Preliminary Injunction, Because Minority Farmers and the Public Will Be Harmed, But Plaintiffs Are Not Harmed.

If the Court enjoins Section 1005, socially disadvantaged producers will be further and irreparably harmed financially, which will have devastating impacts on their operations,

⁶³ See *Civil Rights at the U.S. Department of Agriculture (C.R.A.T. Report)*, U.S. Dep't of Agric. Civil Rights Action Team, 22, 26 (Feb. 1997), <https://static.ewg.org/reports/2021/BlackFarmerDiscriminationTimeline/1997-crat-report.pdf>.

⁶⁴ See J. Rabin, *Excess Farm Indebtedness: Not a Sustainable Practice*, Rutgers Cooperative Extension: Sustainable Farming on the Urban Fringe (Oct. 15, 2010), <https://sustainable-farming.rutgers.edu/excess-farm-debt-not-sustainable/>.

⁶⁵ See, e.g., *Monthly Crop Stage Calendars*, U.S. Dep't of Agric., <https://ipad.fas.usda.gov/ogamaps/cropmapsandcalendars.aspx>.

customers, families, and communities. Both historic and continued racial discrimination has put them in precarious financial positions that have been exacerbated by the COVID-19 pandemic. As earlier pandemic relief did not reach or have a substantial positive impact on these producers, their financial positions worsened relative to their peers. Congress enacted Section 1005 to provide needed relief to socially disadvantaged farmers, recognizing that if action were not taken soon, they would face irreversible harm.

A. Discrimination in lending has made it more difficult for minority farmers to survive times of crisis.

In few other industries is regular infusion of capital, borrowed at fair terms, so necessary to success as in agriculture. Discriminatory practices against minority farmers — particularly in agricultural lending — have forced minority farms and ranches into foreclosure or hampered the economic viability of their operations. USDA has acknowledged that “minority farmers have lost significant amounts of land and potential farm income as a result of discrimination by FSA programs and the programs of its predecessor agencies, ASCS and FmHA.”⁶⁶

Decades of discrimination in lending have set minority farmers up for failure, particularly in times of extreme crisis like a global pandemic. In enacting Section 1005, Congress took this long history of discrimination in lending, and its continuing effects during the coronavirus pandemic, into account. In the committee report accompanying H.R. 1319, Congress explained:

The USDA spends billions of dollars annually to provide crucial support to American agricultural producers. Black farmers and other agricultural producers belonging to racial or ethnic minority groups have received a disproportionately small share of the farm loans and payments administered by USDA as a result of the longstanding and widespread discrimination against these groups. Despite multiple lawsuits, numerous government reports, and the limited programs created by Congress since the 1980s attempting to address the disproportionately low rates of agricultural spending on socially disadvantaged groups, USDA farm loan and payment programs continue to disproportionately benefit farmers who are not racial

⁶⁶ See *C.R.A.T. Report*, *supra* note 63, at 6.

or ethnic minorities. Consequently, the Committee has agreed to achieve its directed spending target by using a tailored approach to increase spending to address these longstanding inequities.⁶⁷

B. Delay in delivering debt relief will irreparably harm minority farmers.

Enjoining Section 1005 and denying needed debt relief to minority farmers would destabilize the farm sector as a whole. The immediate harm would not be borne by the Plaintiffs, but rather by the over 250,000 minority farmers this relief was designed to protect. They have already suffered disproportionately from the COVID-19 pandemic, and delaying or denying debt relief while the world is still in the midst of the pandemic would only exacerbate those impacts. The devastating market impacts of the pandemic on American agriculture have already been exceptionally disastrous for minority farmers, as the pandemic has compounded negative externalities from decades of discriminatory lending practices.

These deep impacts on minority farming operations include production to processing gaps, market closures, and loss of sales, all of which result in an inability to generate profit and repay debt. In a survey conducted by amicus curiae Intertribal Agriculture Council (IAC),⁶⁸ 86 percent of the Tribal producers who responded have been negatively impacted by the COVID-19 pandemic; 85 percent stated the need for financial assistance and support as a result of the pandemic; and 79 percent reported a production to processing gap.

Amici represent struggling minority farmers who have relied on the Government's assurances of debt relief, and will be harmed if this needed assistance is withheld. For instance, Mr. Bradford's ranch is already in serious jeopardy because of past due balances and delayed farm

⁶⁷ *Rep. of H. Comm. on the Budget to Accompany H.R. 1319*, 12 (Feb. 24, 2021), <https://www.congress.gov/117/crpt/hrpt7/CRPT-117hrpt7.pdf>.

⁶⁸ *See Covid-19 Preliminary Survey Results*, Intertribal Agric. Council, <https://www.indianag.org/post/covid-19-preliminary-survey-results>.

and ranch activities stemming from the pandemic.⁶⁹ He has made plans for his farm based on the promise of loan forgiveness, putting all of his family's savings into keeping the farm going.⁷⁰ If Mr. Bradford does not receive debt relief through Section 1005, he will go bankrupt.⁷¹

Jane Doe is an Asian poultry farmer in North Carolina.⁷² She is also a refugee.⁷³ She owes hundreds of thousands of dollars in loans which were used to start her family's poultry business.⁷⁴ Since her husband's death, she has struggled to manage the farm on her own.⁷⁵ The pandemic has caused delays with processing facilities, which have been harmful to her business, and she has been denied participation in aid programs.⁷⁶ If she does not receive debt relief through Section 1005, she will not be able to keep the farm going for much longer, and she fears that she will be financially taken advantage of as a widowed, female farmer.⁷⁷

Additionally, without debt relief through Section 1005, debt-to-income ratio restrictions will prevent many socially disadvantaged farmers from obtaining the lending they need to plant and harvest their crops and maintain their farms this season.⁷⁸

⁶⁹ See Exhibit B, p. 3.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² See Exhibit E (Declaration of Jane Doe), ¶¶ 2–5. Ms. Doe uses a pseudonym due to concerns about retaliation.

⁷³ *Id.* at ¶ 5.

⁷⁴ *Id.* at ¶ 7.

⁷⁵ *Id.* at ¶ 11.

⁷⁶ *Id.* at ¶¶ 10, 12.

⁷⁷ *Id.* at ¶ 15.

⁷⁸ See, e.g., Exhibit B, p. 3; Exhibit F (Declaration of George McNary III), ¶ 13; Exhibit G (Statement of Cassandra P.), pp. 2–3. Ms. P. uses a pseudonym due to concerns about retaliation.

C. Delaying assistance to minority farmers is also harmful to the public interest.

Without equitable access to credit, farms and ranches simply cannot survive; without profitable farms and ranches and the related businesses they help sustain, the American economy suffers.⁷⁹ American Indian and Alaska Native farmers alone produce \$3.5 billion in raw market value of agricultural commodities annually, according to the National Census of Agriculture.⁸⁰ Black farmers produce \$1.4 billion annually.⁸¹ Hispanic farmers produce \$21 billion annually.⁸² All told, approximately 250,000 socially disadvantaged farmers and ranchers contribute \$26 billion to the U.S. economy each year, and this is despite carrying a disproportionate amount of debt — an estimated \$20 billion in farm debt⁸³ — and having less access to farm programs.

If socially disadvantaged farmers are unable to survive pandemic-related losses, that would otherwise be ameliorated by Section 1005 as Congress intended, a loss of that magnitude — after all the losses that the American economy broadly, and the American farm sector particularly, have had to bear since March 2020 — would have devastating economic consequences for all producers, not just those eligible for debt relief under Section 1005. The death of minority-owned farming operations undermines the entire American economy, imperils American farming and ranching

⁷⁹ See *Ag and Food Sectors and the Economy*, U.S. Dep't of Agric. Econ. Rsch. Serv. (noting that agriculture and related industries support 5.2% of the overall American GDP, accounting for \$1.1 trillion annually and supporting 11% of total U.S. employment, with direct on-farm employment accounting for 2.6 million American jobs), <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/ag-and-food-sectors-and-the-economy/#:~:text=Agriculture%2C%20food%2C%20and%20related%20industries.about%200.6%20percent%20of%20GDP>.

⁸⁰ See *American Indian/Alaskan Native Producers, 2017 Census of Agriculture: Highlights*, U.S. Dep't of Agric., 2 (ACH17-7/October 2019), https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_AmericanIndianAlaskaNative_Producers.pdf.

⁸¹ See *Black Producers, 2017 Census of Agriculture: Highlights*, U.S. Dep't of Agric. (ACH17-9/October 2019), https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Black_Producers.pdf.

⁸² See *Hispanic Producers, 2017 Census of Agriculture: Highlights*, U.S. Dep't of Agric. (ACH17-10/October 2019), https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Hispanic_Producers.pdf.

⁸³ See *Agricultural Lending*, *supra* note 41, at 14.

writ large, and could potentially push the farm sector into another farm financial crisis like that of the 1980s. It is difficult to imagine a more compelling government interest than staving off total farm financial collapse.

Potential closure of minority farmers' agricultural operations would also have disastrous consequences for the American food system, particularly for those Americans who are relying on some form of food assistance in the wake of the pandemic-related economic downturn. Preliminary data from a survey of American Indian and American Native households conducted by the Native American Agriculture Fund and the Food Research & Action Center suggest a nearly 1500% rise in usage of federal food programs that connect individuals in need with American-grown or raised food, like the Farmers-to-Families Food Box. These food assistance programs are connected with local producers. In many Tribal communities, the closest local producers are socially disadvantaged farmers. Accordingly, enjoining debt relief will not only devastate these farms, but will also have a disproportionate impact on Tribal citizens' food systems.

D. An injunction of Section 1005 would undermine Congress's goal of remedying ongoing inequities in USDA funding.

When Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) on March 23, 2020, they fully recognized the threat facing agriculture. Nearly \$9.2 billion was designated in the CARES Act for the Secretary of Agriculture to use to provide direct support to agriculture producers. The funding went overwhelmingly to white producers, making little to no impact on USDA's socially disadvantaged producers.⁸⁴

Utilizing the CARES Act funding, USDA created a set of programs through the Coronavirus Food Assistance Program (CFAP): direct payments to producers and a Farmers-to-

⁸⁴ See Hayes, *supra* note 25.

Families Food Box Program (FFFB). Both programs did not provide adequate access or financial assistance to socially disadvantaged producers, exacerbating their precarious financial standings going into the pandemic.

In addition to the great disparity between who received and did not receive direct CFAP payments, it took USDA several months before making particular commodities produced by socially disadvantaged farmers and ranchers eligible for CFAP payments. In the first round of CFAP, which ran from April to September 2020, livestock made up more than 48 percent of the total payments.⁸⁵ However, bison, a major livestock category for Tribal nations, were not included. With livestock producers making up nearly 60 percent of all Tribal agriculture sales,⁸⁶ many producers went months without this funding.

Under the FFFB program, many socially disadvantaged producers did not have access to the program, and/or had their participation limited. Based on the structure of the program and outreach by USDA, very few Tribal producers, if any, were selected to be distributors/purchasers for the programs, and very few Tribal members sold into the program. Many found the requirements to get into the program difficult. Even when the FFFB program reached socially disadvantaged producers, that support was cut abruptly short. One award that went to an organization representing approximately 35 African American producers provided food boxes to predominately minority groups for two rounds of the program.⁸⁷ However, despite their demonstrated success, the organization was not provided an award for a third round.⁸⁸

⁸⁵ See *Coronavirus Food Program 1 Data*, U.S. Dep't of Agric., <https://www.farmers.gov/cfap1/data>.

⁸⁶ See *American Indian/Alaskan Native Producers*, *supra* note 80.

⁸⁷ *An Evaluation of the Farmers to Families Food Box Program*, Harvard Law School: Food Law & Pol'y Clinic, 15 (Feb. 2021), <https://www.chlpi.org/wp-content/uploads/2013/12/F2F-Food-Box-Report-Online-Final1.pdf>.

⁸⁸ *Id.*

The totality of the history of past and present discrimination in USDA programs, including the ones created by USDA in response to the economic crisis facing America's agricultural producers, required the creation of Section 1005 to stave off an impending financial crisis for socially disadvantaged producers. Enjoining these payments would not only disregard congressional intent and a clear history of discrimination, but would also fail to acknowledge the current crisis facing minority farmers, who are desperately awaiting relief that has been consistently promised, but never delivered.

CONCLUSION

Section 1005 is a constitutionally appropriate remedy for past and present discrimination in USDA's programs, enacted by Congress during a time of crisis that has disproportionately impacted minority producers. For the foregoing reasons, Plaintiffs' request for a preliminary injunction should be denied.

Date: June 23, 2021

Respectfully submitted,

/s/Keisha Stokes-Hough

Keisha Stokes-Hough (Miss. Bar No. 103717)
Alexandra M. Jordan (Ala. Bar No. 4624-X00X)

SOUTHERN POVERTY LAW CENTER

400 Washington Avenue

Montgomery, AL 36104

Tel: (334) 956-8200

Fax: (334) 956-8481

keisha.stokeshough@splcenter.org

alexandra.jordan@splcenter.org

Counsel for Amici Curiae

EXHIBIT A
DECLARATION OF ALFONSO A. ABEYTA

DECLARATION OF ALFONSO A. ABEYTA

My name is Alfonso A. Abeyta. I am over the age of 18 and fully competent to make this declaration.

1. I am a Latino rancher who is a member of the National Latino Farmers and Ranchers Trade Association (NLFRTA).

2. I want the NLFRTA and the Rural Coalition to represent my interests in this lawsuit, *Faust v. Vilsack*, No. 1:21-cv-548 (E.D. Wis.).

3. I live in Antonito, a rural town of approximately 656 people in southern Colorado.

4. I own and operate a ranch of over 400 acres, where I raise 500 sheep and 300 cows. I have operated this ranch for 61 years. I am 82 years old.

5. I currently have farm ownership and farm operating loans from FSA. Around the year 1995, I took out USDA loans in the amount of approximately \$350,000.00. I used the loans for real estate loans or ownership.

6. As of June 21, 2021, the outstanding balance on my loans was approximately \$455,000.

7. I believe I have experienced racial discrimination from USDA representatives. For example, when I first sought a USDA loan to own and operate a ranch, a USDA representative told me that “Mexicans were more suited to being farm workers, not farm owners.”

8. From 1981 to 2000, I estimate that my losses directly or indirectly associated with FHA/FSA discrimination were in excess of \$2.9 million.

9. In the past, I have attempted to take out USDA loans because of several natural disasters. However, USDA representatives denied my requests for loans because my family and I

were working other jobs to supplement our income. To my knowledge, white farmers in my area have routinely been able to take out USDA loans even though they worked outside of their ranches.

10. As a result of these loan denials, I had to sell off small pieces of my land to stay afloat financially.

11. In order to pay off my USDA loans, I entered into a land trade agreement with the Bureau of Land Management. However, as a result of delays in USDA representatives' compliance with the land trade agreement, I lost several hundred thousand dollars.

12. In 1996, USDA representatives denied my request for loan subordination based on miscalculations of the improvements I made to the property. While USDA representatives eventually reversed course after I appealed the decision, these delays resulted in a shortened growing season and loss of revenue. In addition, USDA representatives made adverse changes to an agreed upon farm plan for loan subordination without notifying me. These changes caused additional delays and loss of revenue.

13. In 2019, I was denied USDA disaster set-aside loan assistance because I participated in an industrial hemp crop pilot program authorized by the 2014 Farm Bill, which the USDA found was ineligible for loan assistance. I sought direction from USDA representatives before entering into the contract for hemp production and was not clearly advised that the crop would be ineligible for loan assistance.

14. I have filed a formal civil rights complaint with the USDA, appealed a USDA decision to the National Appeals Division, and reached out to the USDA and the President of the United States regarding my experiences of discrimination.

15. Specifically, the staff of the Farm Service Agency referred to my request for loan servicing in a derogatory manner when a loan officer stated: "trash in – trash out."

16. In a discriminatory manner during a farm loan servicing action on my loan in 2019, the FSA office deliberately provided me with inaccurate loan servicing information. More particularly, the FSA provided information on hemp production that was not correct. Later the FSA denied my equitable participation in the disaster set aside program. White farmers were treated more favorable under the same or similar conditions.

17. My business has suffered because of the COVID-19 pandemic. There are fewer buyers available leading to lower market prices.

18. I believe I am eligible for loan forgiveness under Section 1005 of the American Rescue Plan Act because I am a socially disadvantaged farmer who has an outstanding loan balance on a loan with USDA. I recently received a letter from USDA Farm Service Agency informing me that I am eligible to have my loan paid off.

19. If the injunction is not lifted immediately, my farm operations will be harmed in a major financial way.

20. Based on the letter from USDA regarding my eligibility for debt relief, I planned to catch up with yearly ranch obligations that I have been unable to attend to because of the past 3 years of drought conditions in my area.

21. I will be financially harmed if the debt relief is delayed.

I declare under penalty of perjury that the foregoing is true and correct.

Date: June 22, 2021

Respectfully submitted,


Alfonzo Abeyta

EXHIBIT B
DECLARATION OF NATHANIEL BRADFORD

DECLARATION OF NATHANIEL BRADFORD

My name is Nathaniel Bradford, and I am a Black farmer in Oklahoma. I am over the age of 18 and fully competent to make this declaration.

1. I am a member of one of Oklahoma Black Historical Research Project and I have a substantial interest in the outcome of this litigation.

2. I want amicus Rural Coalition and amicus Oklahoma Black Historical Research Project, Inc to represent my interests in this lawsuit, *Faust v. Vilsack*, No. 1:21-cv-548 (E.D. Wis.).

3. I live in Creek County in the state of Oklahoma.

4. I offer the following personal narrative:

I have been farming and ranching for thirty years and know the community of minority farmers and ranchers in the counties of Okfuskee, Creek and Okmulgee counties in Oklahoma. The USDS Farm Services Agency (FSA) has a known track record of not working with minority farmers in these counties. I farm 2000 acres, mostly leased in several counties, making my operation one of the largest farms owned by an African American rancher. I feel I have been continuously discriminated against in the FSA offices in both Payne and Okfuskee County. My complaints of discrimination have been of no avail. I've filed formal civil rights complaints; I filed an appeal to the National Appeals Division, and I've discussed this situation with my with my neighboring farms and organizations with which I work. I filed one complaint with USDA, and it was denied due to them stating the filing time. We've been subject to discrimination on multiple occasions which are all documented.

My experiences with FSA and other agencies of the USDA are similar to other smaller minority farmers/ ranchers. The size of our farms/ranch does not matter; we are all subjects of bad

local government agents. For the past 15 years, I have been repaying FSA on a farm ownership without adequate servicing of the loan which is required by federal government regulations.

I have been in mediation for years. I hired lawyer to help him to work out more favorable terms with FSA including a debt restructuring. I learned during the mediation that my attorney was having a private conversation with the FSA people prospecting for more clients instead of instead of representing me.

Last year, I tried to get a new loan to build a new barn to replace one that is over 100 years old and in poor condition. Even though this barn had not been included on my appraisal nor had they required me to insure it. They suddenly they told me it was understood that the barn was included. They appraised it at \$30,000 and required me to me repay that amount in order to remove the lien. Now they said that the barn is of no value, and have removed the lien, but they increased the appraisal by \$30,000. This decisions flies in the face of known convention in borrowing – they have inflated the value of an asset that is essentially worthless and then increased the appraised value anyhow, making my cost of borrowing to finance the new barn I really need prohibitive. This is tantamount to a predatory lending.

I had 110 head of cattle in 2005. Due to the drought of 2007, I lost most of my herd. Climate change is a key factor limiting in my ability to scale up my operation. I was down to 15 cows and after hard work, have rebuild to 115 head of cattle after almost 20 years. During the pandemic, I saw the opportunity to scale up production, and a new barn was part of my plan.

During the pandemic I sought to participate in the CFAP program. I feel I was subjected to extra processes and scrutiny to secure my participation. These roadblocks to participation seem to have been created by the FSA county committee only certain farmers. Other Black farmers have

experienced similar situations. White farmers get more government support including emergency assistance.

I am currently a borrower with the Farm Service Agency. I have a farm ownership and a farm operating loan, and also have a bank loan guaranteed by the Farm Service Agency. I have received a letter from Farm Service Agency saying that I'm eligible to have my debt paid off. I have not yet received a formal offer to pay. During the pandemic, I have been impacted by many factors, including market challenges with cattle prices inflation and feed and fertilizer and other costs I've had to delay production due to lack of the necessary services to operate.

I have made plans based on the proposed loan forgiveness. The delay in these payments will cause me financial harm due to my past due balances, delayed farm and ranch activities and not being able to purchase necessary supplies such as fertilizer feed seed and fuel. We have put all of our savings into our farm in order to improve production. If I don't receive this assistance as promised, we will go bankrupt because we have payments to the USDA and others that we simply will not be able to pay; therefore, our ranch is in serious jeopardy.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 6-22-2021

Respectfully submitted,

/s/ Nathaniel Bradford

Nathaniel Bradford

EXHIBIT C
DECLARATION OF LEROY BRINKLEY, JR.

DECLARATION OF LEROY BRINKLEY, JR.

My name is Leroy Brinkley, Jr. I am over the age of 18 and fully competent to make this declaration.

1. I am an African-American rancher who is a member of the Oklahoma Black Historical Research Project.

2. I want the Oklahoma Black Historical Research Project and Rural Coalition to represent my interests in this lawsuit, *Faust v. Vilsack*, No. 1:21-cv-548 (E.D. Wis.).

3. I live in Haskell, Oklahoma.

4. I own and operate a ranch of 80 acres, where I raise livestock. I have operated this ranch for 23 years and worked as a rancher for 28 years.

5. I currently have farm operating loans from FSA. I have a bank loan from a Farm Credit System lender which is guaranteed by the FSA through the Muscogee (Creek) Nation. I applied for the loans around fall 2020, but due to delays, the application was processed around March 2021. I took out USDA loans in the amount of approximately \$60,000. I planned to use the loans to expand my cattle herd and to establish a construction shop for farming equipment.

6. As of June 21, 2021, the outstanding balance on my loan was approximately \$63,000.

7. I believe I have experienced racial discrimination from USDA and its representatives. For example, I could not participate directly in USDA loan programs because I am a Tribal member. Instead, I had to apply for loans through the Muscogee (Creek) Nation. USDA representatives were unresponsive when I applied for USDA loans. I had a similar experience when I applied for loans in 1991. I did not receive any assistance and my loan

application was rejected. I have discussed these experiences of discrimination with other farmers and Tribal members in my area, and they have shared similar experiences.

8. My family and business have suffered because of the COVID-19 pandemic. My wife contracted COVID-19 and was in the hospital for 9 days. I also contracted COVID-19, along with our 2-week-old granddaughter. Our family had to quarantine apart from each other for 21 days. As a result of the pandemic, I could not go to work for two months and I had to work part-time for approximately 1 year. The pandemic also caused hardship for my ranch operation because I had higher costs for feed, fuel, and production and we lost customers due to COVID-19.

9. I have used my USDA loan in part to cover losses I suffered because of the pandemic, including extra hay and feed at higher prices due to the pandemic, equipment repair, and insurance.

10. I believe I am eligible for loan forgiveness under Section 1005 of the American Rescue Plan Act because I am a socially disadvantaged farmer who has an outstanding loan balance on a loan with USDA.

11. My family and my farm are still recovering from the impacts of the COVID-19 crisis, and it will be much harder to recover if the USDA's debt repayment is delayed.

I declare under penalty of perjury that the foregoing is true and correct.

Date: June 22, 2021

Respectfully submitted,

/s/ Leroy Brinkley, Jr.

Leroy Brinkley, Jr.

EXHIBIT D
DECLARATION OF HENRY BROWN

DECLARATION OF HENRY BROWN

1. I, Henry L. Brown, am a 71 African American. I meet the definition of a new and beginning farmer and rancher for purposes of loan making and loan servicing.
2. I desire to have the Amici, Rural Coalition, represent my interests in Civil Action No. 21 – cv-548-WCG.
3. If the injunction is not lifted, I will continue to suffer irreparable financial and economic harm to my farm operation.
4. I am eligible to participate in the Section 1005 program benefits.
5. During the months of March 2020 to February of 2021, I experienced farm income loss due to the COVID 19 pandemic. DOC Family Farms, LLC, a cow – calf operation, is a qualified agricultural business for purposes of Economic Injury Disaster Loans **(EIDL)**. **See Section 18(b) of the Small Business Act (15 U.S.C. 647(b))**. See 7 CFR 766.104(a) (1) (i), (ii), (iii), (iv), (v).
6. The economic effects of the coronavirus (COVID-19) pandemic caused farmers to miss farm loan payments.
7. During the months of March 2020 to February of 2021, my off farm house hold income decreased monthly by **\$2,200.00** due to work place health and safety dislocations associated with the COVID 19 pandemic, an event that is beyond my control. **See 7 CFR 766.104(a) (1) (i), (ii), (iii), (iv), (v)**.

8. As authorized under law the **CARES ACT** (P.L. 116-136) and in order to meet home and farm operational financial obligations that could have been met had the **COVID-19** disaster not occurred, I made a successful application for a Small Business Administration (SBA) Economic Injury Disaster Loans (EIDL) loan pursuant to the amended **CARES ACT**.
9. My Economic Injury Disaster Loans (EIDL) pursuant to Section 18(b) of the Small Business Act (**15 U.S.C. 647(b)**) did not require the Small Business Administration to take a security interest in my cows, calves or related offspring.
10. I have two loans with the U.S. Department of Agriculture Farm Service Agency. One loan is current and not in default. The second loan, identified as 10-079-348420796, was placed in default by Newton Gilman February 19, 2021.
11. The original FSA Promissory Note, identified as 10-079-348420796, in the amount of \$8,980.00 signed on December 21, 2018. The due date for this payment was on June 21, 2020 and has been declared in default on February 19, 2021.
12. I completed a Farm Business Plan dated October 17, 2020 for the purpose of farm loan servicing of the cattle loan identified as 10-079-348420796.
13. According to SBA's **EIDL** requirements, I was not required to include SBA in any financing or loan servicing transactions.
14. On February 4, 2021, USDA temporarily suspended non-judicial foreclosures, debt offsets or wage garnishments, and referring foreclosures to the Department of Justice. USDA is working with the U.S. Attorney's Office to stop judicial foreclosures and evictions on accounts that were previously referred to the Department of Justice. This is

for both direct loans and Farm Storage Facility Loans. Additionally, USDA extended deadlines for producers to respond to loan servicing actions, including loan deferral consideration for financially distressed and delinquent borrowers.

Acts of farm loan discrimination based on race, age and source of income on February 19, 2021 when FSA:

- (A) Denied adequate farm loan servicing in accordance with the **CARES Act' EIDL** program;
- (B) Treated, erroneously and in a discriminatory manner, FSA stated that I did not act in good faith during participation in the **CARES Act's EIDL** program and the U.S. Department of Agriculture Farm Service Agency farm loan servicing process;
- (C) I was penalized for lawful participation in **CARES Act's EIDL** program on June 9, 2020;
- (D) FSA stated in relevant part: " Additionally, you did not disclose to FSA that you had obtained financing from SBA on your application as required by Handbook 3 – FLP Par. 65 and as you certified when signing the application."

/s/ Henry Brown,

June 22, 2021

Henry Brown
Declarant

EXHIBIT E
DECLARATION OF JANE DOE

DECLARATION OF JANE DOE

My name is Jane Doe and I am an Asian farmer in North Carolina. I am over the age of 18 and fully competent to make this declaration. In support of this Declaration, I offer the following:

1. I have a substantial interest in the outcome of this litigation and I am a member of the Farmers of Color Network of the Rural Advancement Foundation International. I am an individual that would be negatively impacted by the Temporary Restraining Order issued by the Court in this lawsuit, *Faust v. Vilsack*, No. 1:21-cv-548 (E.D. Wis.).

2. I live in North Carolina.

3. I am a poultry grower and have been raising poultry for sixteen years.

4. USDA is the guarantor on my loans with a Farm Credit system commercial lender.

5. As an Asian refugee and female farmer, I am a “socially disadvantaged farmer” pursuant to 7 U.S.C § 2279 (e)(2).

6. As an Asian farmer, I am eligible for the debt payment pursuant to Section 1005 of the American Rescue Plan, as passed by Congress and signed by President Biden on March 11, 2021.

7. My husband and I took out loans to start our poultry operation and still have several hundred thousand owing on those loans.

8. I am not delinquent in my loan payments.

9. I have participated in NRCS conservation programs.

10. I feel that as a female farmer and an Asian farmer, I am always forced to take an extra step. I have been denied participation in programs and have had to ask multiple times for assistance.

11. My husband passed away and it is nearly impossible for me to maintain the poultry operation on my own.

12. The coronavirus epidemic has created several kinds of instability in the industry. In the spring of 2020, there were substantial delays with processing facilities, which created disruption with flock size allowances, getting birds to processors and supply of new flocks.

13. I will be significantly damaged if the payment permitted by Congress is delayed by the action of the Court in this matter.

14. Because of the need for constant facility upgrades and the high demands of the poultry farming industry, I cannot continue to farm.

15. The payment of the guaranteed loan will provide me with the ability to consider marketing my property without pressure from buyers that want to take advantage of my status as a widowed female farmer.

16. If the debt payment authorized by law was made in a timely manner, I feel that I would have more options to consider for the stability of my farm and family. Because of the delay, I may not have a choice.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 6-21-2021

Respectfully submitted,

Jane Doe

[Pseudonym]

EXHIBIT F
DECLARATION OF GEORGE MCNARY III

DECLARATION OF GEORGE MCNARY III

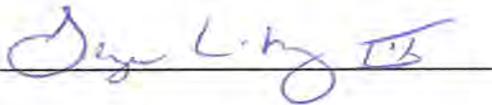
My name is George McNary III. I am over the age of 18 and fully competent to make this declaration.

1. I am an African American farmer/rancher who is a member of the African American Texas Coalition of Rural Landowners.
2. I want the NLFRTA and the Rural Coalition to represent my interests in this lawsuit, *Faust v. Vilsack*, No. 1:21-cv-548 (E.D. Wis).
3. I live in Hempstead, Texas, which has a population of less than 10,000 residence.
4. I own and operate a ranch/farm that is 110 acres.
5. I am 37 years old. I have operated this farm/ranch for 12 years. I received my first USDA loan in 2010. I subsequently took out two more loans in 2012 and 2019.
6. I currently have approximately \$900,000 in farming debt.
7. I believe I have experienced racial discrimination from USDA representatives. Initially I did not realize that my loan applications were being highly scrutinized. The average dollar amount did not allow for a profitable business, I was given a hard time regarding my agricultural income, which delayed me receiving loans, low ball appraisals, loans not funded/fully funded, never received funding in certain circumstances.
8. Prior to the announcement that the American Rescue Plan passed, the night before it became public information, I received an email from the local county USDA FSA agency asking me to fill out graduation papers within 30 days. I have never received an email like this before. This means I would be expected to pay off the loan and get a commercial loan, which would have made me ineligible for debt relief.
9. I estimate my losses to be approximately \$130,000 from 2010 to the present.
10. In the past, I have applied for USDA loans because of land acquisition. I currently have two loans for this reason.
11. I am a socially disadvantaged farmer/rancher that had to care for a close family member who contracted the COVID-19 virus. I had to take time away from my farm to tend to my family member, as well as help them financially. Which left me unable to buy feed and fertilizer due to the economic hardship.
12. Because daycare was closed due to the pandemic, my wife and I took turns working and caring for our kids, ages one and three years old. As a result, I had to pay someone to do the things that I was not able to do.

13. If the debt forgiveness is delayed due to the TRO, I will not be able to secure additional loans until the loan is paid off due to my current debt to income ratio.
14. I need to purchase equipment. I would also like to purchase land that is currently for sale that I can afford. However, the delay will cause the land that I can afford to be sold, and the more expensive land will be all that is left.
15. If the TRO is granted, there is a chance that my family and I will struggle. There is also a possibility that I will be delinquent in paying my \$18,000 mortgage, which was due in January.

I declare under penalty of perjury that the foregoing document is true and correct.

✓ Date: 6-22-2021

✓ Sign: 

✓ Print: George McNary IV

EXHIBIT G
STATEMENT OF CASSANDRA P.

Statement of Cassandra P.

Cassandra P. is a pseudonym for an African American woman farmer who resides in Northport, Alabama and farms 50 acres of pasture and vegetables in Pickens County, Alabama. I am concerned about reprisals from the local FSA office and white farmers who assist me with my farming operation, if my actual name is used.

I am connected to the Rural Coalition and their chairperson John Zippert who may represent me in this case. I have received assistance from the outreach and technical assistance programs run by their member groups for over twenty years.

I am primarily a cattle farmer with over 25 head of brood cows.

I have had three loans with the USDA Farm Services Agency. I received my first loan for \$25,000 in 2008 and used the funds to purchase a farm truck, pea sheller and other equipment. I was able to repay this loan from the results of my farming operation.

In 2011, I borrowed an additional \$25,000 for an FSA Microloan Program for farm equipment although I wanted more funds, the local FSA agent limited me to this amount. In 2013, I received another FSA Microloan for \$25,000 to purchase additional cows. The FSA took a mortgage on two rental houses, with a value of \$40 to \$50,000 on property in Birmingham, I inherited from my mother

I am a school teacher and decided to continue farming my family land utilizing old equipment that my father passed down to me. The equipment is 40 to 50 years old and breaks down often during farming season. One tractor no long goes into reverse which makes it difficult to use for some farming tasks such as moving around hay bales to feed the cows.

I have had as many as 25 brood cows on the land. I now have 18 brood cows.

Prior to the COVID-19 pandemic, I had encountered some problems with my farm operation. I need to improve the grazing with fertilization and some cross fencing. I also have had problems with calving which reduced my revenue stream. In 2018, Hurricane Michael damaged my farm and caused trees to fall killing three breeding animals. A timber harvesting contractor on a neighboring landowner's farm damaged my fence and allowed part of my herd to wander away. I recovered some but not all of the cows that I had.

The timber contractor came back and fixed the fence after I called him numerous times. Overall, I lost five head from the fence problem but I am still planning to sue the timber contractor in small claims court.

These difficulties meant that I fell behind in paying my full payments to FSA on the two outstanding loans. Mr. Phillips in the Tuscaloosa FSA Office told me that I would not be able to get any more farm loans because of my bad payment history. I called a Mr. Coles in the FSA State Office in Montgomery to complain of discrimination and discouragement by the local agent. The situation improved a little after I spoke up, but I still need more help to get my farm to where I want it to be.

During the past 18 months of the COVID-19 pandemic, I continued to experience difficulties in marketing my livestock and vegetables due to low prices and market disruptions. Several members of my immediate family, including a sister and several cousins were directly impacted by the disease. One cousin died of COVID-19 and related health problems.

I was happy to learn of the relief from the Section 1005 ARPA funding to forgive my outstanding loans after years of less than satisfactory loan servicing by FSA. I received my offer letter last week, indicating a balance of \$15,000 on the 2011 loan and \$16,000 on the 2013 loan.

My plan after the loans were paid, was to make a new loan. I was hoping to use these new funds to lime, fertilize and level my pasture land to make it more productive. I also hope to purchase new farm equipment, including a rolled hay bailer and tractor, which would help to upgrade and modernize my operation and make it more productive.

When I learned of the TRO and pending injunction, from my farm organization, I said that once again I would have to put my dreams on hold and try to make do with the brood stock and farm equipment I have until better days.

When the loans are paid, I hope FSA will release my two rental houses in Birmingham, which they took as collateral for the Microloans. This action by FSA, was questionable under the regulations, since they said for a Microloan, you only had to pledge what you bought as collateral. This shows the disparate treatment in lending and over-collateralization faced by most small Black farmers.

Once the rental houses are released from the mortgage, I plan to borrow funds, from a commercial lender, to repair and renovate them so that they can bring in additional revenue to further supplement my teaching

and farming income. I am unable to borrow against these assets now as they are part of the collateral on my FSA Microloans.

In further reflection on the delay in implementation of Section 1005, I say if this loan forgiveness does not come through, I might have to stop farming altogether and turn my land over to some white farmers."

I declare under penalty of perjury that the foregoing statement is true and correct.

Signed this ____21st____ day of June 2021.

By: /s/ Casandra P.

Note: John Zippert of the ASAC/Federation staff assisted in preparing this farmer declaration. Zippert also serves as Chair of the Rural Coalition Board of Directors.

EXHIBIT H
STATEMENT OF RURAL COALITION

STATEMENT OF

RURAL COALITION/COALICIÓN RURAL

With

**Alabama State Association of Cooperatives
Concerned Citizens of Tillery
Cottage House, Inc.**

**North Carolina Association of Black Lawyers Land Loss Prevention Project
Oklahoma Black Historical Research Project, Inc.
Operation Spring Plant, Inc.
Rural Advancement Fund of the National Sharecroppers Fund**

To the

**Committee on Agriculture
U.S. House of Representatives**

**For the Record of the Hearing on the State of Black Farmers Washington, DC
Thursday, March 25, 2021**

For More Information Contact:

John Zippert, RC Chairperson
Rural Coalition
Eutaw, Alabama
205-657-0274
Jzippert@aol.com

Lorette Picciano, Executive Director
Rural Coalition
1029 Vermont Avenue NW Suite 601
Washington, DC 20005
lpicciano@ruralco.org
202-628-7160, Direct: 703-624-8869
Website: www.ruralco.org

Savonala (Savi) Horne, ESQ, Executive Director
Savi@landloss.org
Land Loss Prevention Project
401 N. Mangum Street, 2nd Floor
Durham, NC 27701
Phone: (919) 667-8821
www.landloss.org

Introduction

Black farmers have been some of our nation's most vital stewards of the land, productive and industrious farmers, and resilient and determined producers. Remarkably, they have also used their farming and business acumen to produce more generations of farmers and landowners, schools, college graduates, separate business ventures, progressive community organizations, and more. Many black farmers and their communities thrived until they made the decision to acquire loans or other financing from the United States Department of Agriculture (USDA). The USDA was supposedly designed to help farmers in times of expansion, blight, and disasters. Yet, its racist lending and supervisory policies caused countless black farmers unwarranted stress and heart ache, debilitating illnesses, financial ruin, constant threats of government takeover, and premature deaths. Consequently, black farmers continue their more than century-old struggle for justice and equality from the U.S. government.

Matthew Grant (1918 – 2001) and Florenza Moore Grant (1921 – 2001) were farmers in Tillery, Halifax County, North Carolina. In the 1940s, they bought their family to the Tillery Resettlement Farms community under the federal Resettlement Administration that offered landless rural people an opportunity for hard work and survival. The Tillery Resettlement (Colored Section) was established as a segregated community with African American families like the Grants receiving smaller farms, smaller houses, and less farm equipment than their white neighbors. African American farmers were offered an opportunity to purchase land in the flood plain of the Roanoke River, while the White area of the Resettlement was out of the river's reach.

Toiling under the material and mental pressures of segregation, Matthew and Florenza raised a family and became leaders in their community. In the early 1970s, under pressures of mechanization of agriculture and competition from big agribusiness, they borrowed money under a U.S. Department of Agriculture (USDA) program that was supposed to help small farmers. They believed that unlike the local government, with its historical role in maintaining racial oppression, the federal program would be fair and supportive of a rapidly disappearing pillar in the nation – the African American family farmer.

By the late 1970s, the Grant family realized their hopes were misplaced. African American farmers were given smaller loans at higher rates than White farmers. In the spring, when White farmers were receiving funds to buy seed and fertilizer, African American farmers were still waiting for their loans. In the local Agriculture Department office, the Grants and their neighbors were told to wait until all White farmers had been seen first. They watched as checks were given out to Whites, only to be told that their money had not yet arrived. Loans to the Grants and other African American farmers were closely supervised, requiring extra signatures and trips to the county seat before farm supplies could be purchased. These hard working, proud survivors of the rural south, farming land that their slave ancestors worked for plantation owners, were treated with disrespect and racial hatred.

Drought years and discriminatory practices prevented the Grants from repaying the loan during the 1970s. In 1981 they signed a Consent Judgment against their property in an agreement that the USDA would release farm equipment and the Grants would withdraw a discrimination

lawsuit. This according to the USDA was a “settlement of sorts” that would allow the Grants to continue farming and moving on with their lives, but the USDA refused to work with them on a means of repayment on the delinquent debt. Subsequently, Matthew and Florenza’s children tried to “assume the debt,” but their proposed monthly payment plan was not accepted. Matthew was actually told by the FmHA district director, “It does not matter who you go to see, who you bring or what you come up with, we are going to sale you out.” Meanwhile, White farmers who had been affected by crop losses were given flexibility to settle their debts. Matthew and Florenza did not deny the debt, but they protested that their financial situation had been worsened by illegal racists practices.

In 1996, the USDA admitted that it had discriminated against the Grant family. However, they prevented the Grants from collecting the settlement that could have paid off their debt. Since that time the Grant family has worked without success to achieve a reasonable settlement with the government. Matthew and Florenza Moore Grant both died in 2001, six months apart from one another.

The Grant family requests that the USDA clear the Matthew and Florenza Moore Grant family debt, meet with our family to discuss an adequate settlement for years of discrimination and turmoil, and assist our family with starting an agricultural education fund for young students interested in farming and being stewards of the land.

Cumulative Impact and Consequences of Discrimination

Experiences such as that of the Grant family are not uncommon, when alternate financial arrangements are used to prevent permanent loss of land, especially when the underlying factor is discriminatory treatment by the government. The USDA has maintained that the Equal Credit Opportunity Act does not cover the impact of pain and suffering. The cumulative impact to the communities where these families farmed included a loss of feeling of good faith in any sort of debt settlement with the government. As a result, many farmers were unwilling to deal with USDA.

The Secretary and the Congress are urged first to hear their stories. As Section 1006 of the American Rescue Plan is implemented, we also urge that the Secretary consider how BIPOC who've taken over operations of their family farm can be given a release from prior debts as long as their debt arose out of some discriminatory actions. USDA and the Congress should take such action to assure that the cloud over the family is lifted so that the next generation farmers can participate in USDA programs on their own as new and beginning farmers. Their eligibility should not be barred because of a look back to debts of their parents or anybody else within their family who had the previous ownership of the farm.

The following excerpt from the introduction of the Statement by John Zippert that the Federation of Southern Cooperatives/Land Assistance Fund and the Rural Coalition to the U.S House of Representatives Committee on Agriculture Subcommittee on Conservation, Credit, Energy and Research on March 27, 2007 summarizes our past recommendation Congress, including issues that remain relevant today:

“Collectively, the Federation, and the Rural Coalition and its members and allies, have worked with thousands of farmers on the intricacies of their dealings with USDA and to seek structural change both administratively and in policy to assure equity and accountability in programs and services.

Over the past decade, we have supplied documents, analysis and testimony to the Civil Rights Action Team, the National Small Farms Commission, the US Congress and the US Civil Rights Commission. A half dozen of us served on the National Small Farms Commission, and we have also participated on other committees and in many sessions with the Secretary and the staff of the Department. We have led efforts to institute the USDA Partners meeting held annually for the past three years to allow USDA to develop relationships and understanding of the work and experience of its Community Based Organization Partners.

Our collaborative legal and legislative work included the 1987 Agriculture Credit Act, the Minority Farmers Rights Act of 1990 that was accepted as section 2501 of the 1990 Farm Bill, the 1994 Agriculture Reorganization Act, and collaborative efforts towards passage of the 1999 Waiver of the Statute of Limitations that removed a critical barrier to the settlement of the longstanding class action lawsuits. Over the years, we have also worked on disaster response, especially following hurricanes Katrina, Rita and Wilma.

We have also worked with this Committee on the most recent 2002 Farm Bill. We appreciate the support the members of this committee who helped assure that structural changes instituted to promote equity were included in that bill.

The average age of farmers continues to rise, especially among African American and other socially disadvantaged producers. For many years, inadequacies and inequities in programs and services have hastened the loss of African-American and other people of color owned farms. Access to credit is essential for all agricultural producers and those who aspire to be agricultural producers. This committee has the ability to take the actions needed to assure that new generations of people of color farmers and ranchers will have access to land and production.

In my years of work with the Federation of Southern Cooperatives/Land Assistance Fund, I have never met a black farmer who was not discriminated against. I believe the same is true for most of the diverse group of African-American, Latino, American Indian, Asian American and female farmers I have encountered within the Rural Coalition. As you well know, there remain issues surrounding the settlement of the Pigford v. Veneman and other still pending class action lawsuits against USDA that need to be addressed. We will provide a supplemental appendix for the record with updated statistics of the status of this settlement and on late claims.

For the past several months, our organizations have worked with a group of colleagues who represent a wide and diverse array of minority farmer and farmworker organizations called the Farm and Food Policy Diversity Initiative. As you begin your work on the 2007 Farm Bill, we share with you the collective wisdom of our organizations and our

partners on some essential changes that Congress can and should make in order to prevent the actions that necessitated legal action in the first place and assure transparency and accountability in the provision of services.

We want to help bring about the day when African American and other minority farmers can turn their attention to growing crops and revitalizing rural communities instead of filing complaints and lawsuits to secure the equitable service to which they are entitled in the first place.

Because of the cumulative effects of many years of discrimination and neglect, we are also proposing remedial measures and special services intended to reverse the impact of years of discrimination and neglect on many minority farmers. Our other recommendations include actions that can be taken to improve services to the many farmers who have suffered disasters in recent years, and some ideas on how to assure that new farmer programs will also serve socially disadvantaged producers.”

We have also attached for the use of this Committee an extensive appendix of the research and policy recommendations Rural Coalition with our members have developed and shared over several decades. Central to this work especially as related to Black farmers were our founding members including the Rural Advancement Fund of the National Sharecroppers Fund (founded 1937) and the Federation of Southern Cooperatives/Land Assistance Fund (founded 1967), and members who have formed and joined since, including Concerned Citizens of Tillery, Cottage House, Inc., North Carolina Association of Black Lawyers Land Loss Prevention Project, Operation Spring Plant and Oklahoma Black Historical, and our allies and partners including Intertribal Agriculture Council and Arkansas Land and Farm Development Corporation and the National Family Farm Coalition and Farm Aid.

The attached Congressional Testimonies include the many policy recommendations we jointly made over the years to this committee and to the U.S. Senate since the first hearings in 2000. On the issue of credit, we have also attached numerous policy briefs related to Farm Credit, many authored by our Policy Advisor, Quinton Robinson, who in 2002 was the House Agriculture Committee staff member who organized the first hearing in the Subcommittee on Departmental Operations. Of particular relevance at present is the need for USDA Farm Services Agency to issue regulations to fully implement the Equitable Relief Provisions and the Heirs Property Relending Fund passed in the 2018 Farm Bill

Over these years, our team of collaborated have worked with the House and Senate Agriculture Committees to develop and promote passage of 40 sections passed in Farm Bills and related legislation since 1986. In those years, we worked with Rep. Edolphus Towns, whose staff member Brenda Pillars gave us access to a typewriter when the opportunity for a new amendment arose, including the amendment for matching grants for state mediation programs. The most extensive work began in the 1987 Agriculture Credit Act when discrimination by race and ethnicity was first defined in the context of federal Agriculture Policy.

It continued in section 2501 of the 1990 Farm Bill, which authorized the first program to tangibly support the organizations who serve black and other farmers who had suffered

discrimination, called the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers (OASDVFR). That statute for the first time that recognized the importance of this network of community-based organizations, including many who testified in this hearing, by making them eligible for grants and contracts. We will underscore the importance of the direct one-on-one technical assistance they have long been doing as a critical factor in stopping foreclosures and helping Black farmers hold onto their land.

We call particular attention to the aforementioned USDA Partners Process. Beginning in 2005 and continuing into the Obama Administration, this process convened a series of dialogues, or conversations, on critical barriers faced by BIPOC farmers and the community-based groups who served them with interagency teams of USDA career staff. The process was led by Shirley Sherrod and other CBO leaders. We estimate that as many as 500 people contributed over those 5 years. The comprehensive [A Time to Change: A Report by the Assessment Conversations Team, Sept. 22, 2010](#) remains useful today both to measure progress and to identify additional changes. It was structured to identify problems, propose solutions including statutory changes needed, and also to describe what success would like. Many of the recommendations informed our proposals to you for the 2008 Farm Bill, and around 30 passed in the statute.

Since that time, many recommendations developed by the wide network of community-based organization who work directly every day with this nation's Black farmers and ranchers, and other Tribal, Latino, Asian Pacific, and other small-scale producers have been passed into law, with some implemented more fully than ever. We have also mobilized our communities to help lawmakers understand the degree of support for this proposals, including with sign on letters and collaboration with Members of Congress especially in Congressional Black and Hispanic Caucuses, including annual Dear Colleague Letters. One of the early ones was led by Rep. Sanford Bishop who for years led efforts to continually press for more funding for the 2501 Program, from \$1 million to its present funding level. We will continue to work also with Secretary Vilsack and his team to assure these funds more effectively reach and support the eligible entities as defined by statute. We will be forwarding additional recommendations to you on how the full suite of Outreach, Beginning Farmer and Local Food programs can best complement each other.

The drafting and action by this committee in this year of 2021 represents a historic and significant step forward in a new effort to begin to right some of the longstanding wrongs faced by Black farmers. We have attached for your record a copy of our March 3 sign on letter that we prepared to help support passage of the historic provisions included in the American Rescue Plan and a brief authored by our Policy Advisor on the relevant authorities supporting these provisions. We are deeply grateful to Chairman David Scott and the members of this committee, several of whom we have worked with for decades, for this action.

Relevant Data and Research

We are already working with USDA on the implementation of Sections 1005 and 1006 of the American Rescue Plan. As the committee's work of oversight continues and the preparation for the 2023 Farm Bill commences, we share additional proposals we are refining with our members and allies to support black farmers in securing land tenure for their families and generations into the future and restoring the agriculture as an economic base of their communities.

Particularly as the debate over climate mitigation begins, we will be highlighting the importance issue of land tenure. New investments of federal dollars over time have often favored larger scale farmers at the expense of others. But as the recent pandemic has shown us, crises such as these cause fundamental disruptions in existing food chains. Resiliency now and in the future point toward the value of reorienting the processing and distribution of food to shorter and more direct local and regional farm to food networks that are closer and more readily adaptable to serve the food needs of some of this nation's most vulnerable communities.

We will specifically address the issue of heirs property later in this piece. First, we thought it helpful to share a sampling of charts we have developed in connection with a research project under an Agriculture and Food Research Initiative project with the National Institute of Food and Agriculture. This AFRI standard research project, "*Community Resilience Through Land Tenure Rights*," will examine the impacts of land tenure arrangements, non-ownership and related encumbrances on the management of small to medium-sized farm operations in a diverse cross section of socially disadvantaged agricultural communities. Rural Coalition and its co-principal investigators include both CBO's and researchers from Tuskegee University and Kansas State University and North Carolina Association of Black Lawyers Land Loss Prevention Project are co-Principal Investigators, with almost a dozen other CBO partners.

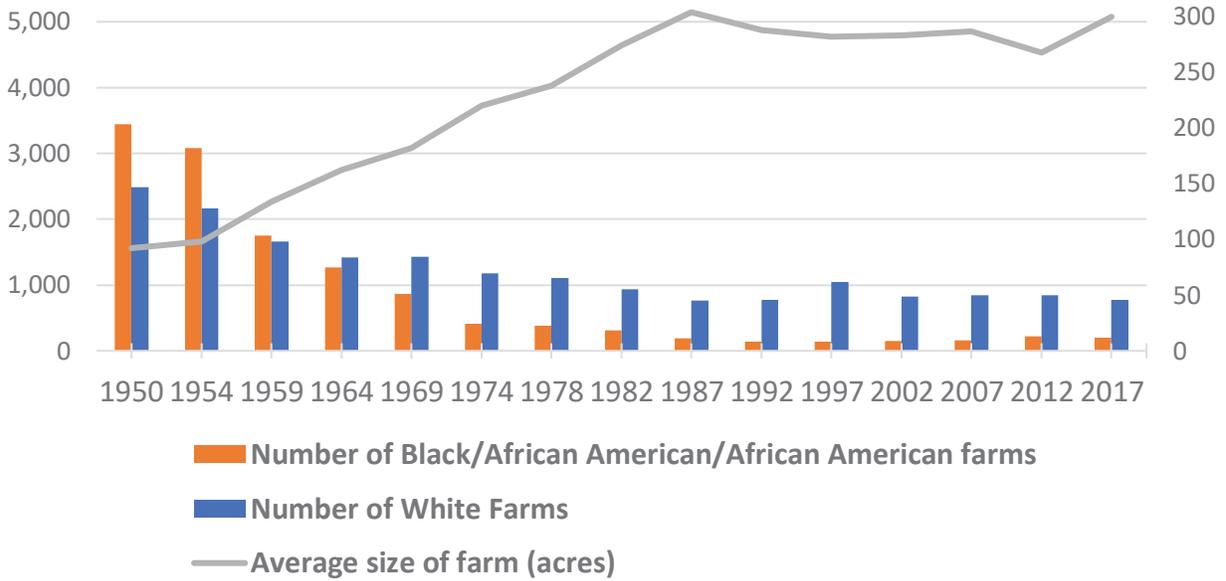
We will also use similar profiles in related research under a Sustainable Agriculture and Research grant, *Securing Land Tenure Rights for Heirs Property Owners*. The North Carolina Association of Black Lawyers Land Loss Prevention Project is Principal Investigator. The Rural Coalition and Tuskegee University and Virginia State University are Co-Principal Investigators along with multiple CBOs and Farmers in the Southern Region. The second grant focuses on the quality and availability of legal services.

These charts provide a snapshot of the trends in loss of land over time as far back as 1959 for Orangeburg County, SC. There also charts for Barber County, AL and Halifax County, NC. While there are specific issues with data at various points in time, we have found that the trends reflected are consistent with data we and others including the 1890 Universities have collected.

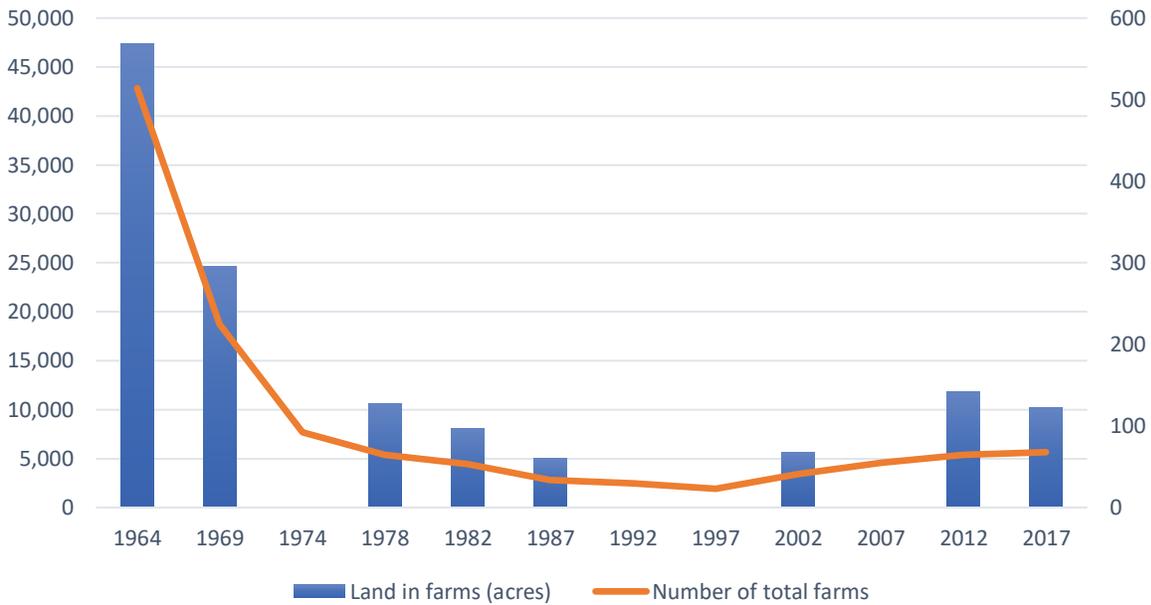
What the charts clearly provide is a sense of the cumulative impact of the past and in some places ongoing failure to address and halt discrimination. The result is the unjust and unnecessary loss of land by African American producers whose place on the land predates the arrival of many others in farming today.

State of Black Farmers in the U.S. – Historic Land Tenure by County

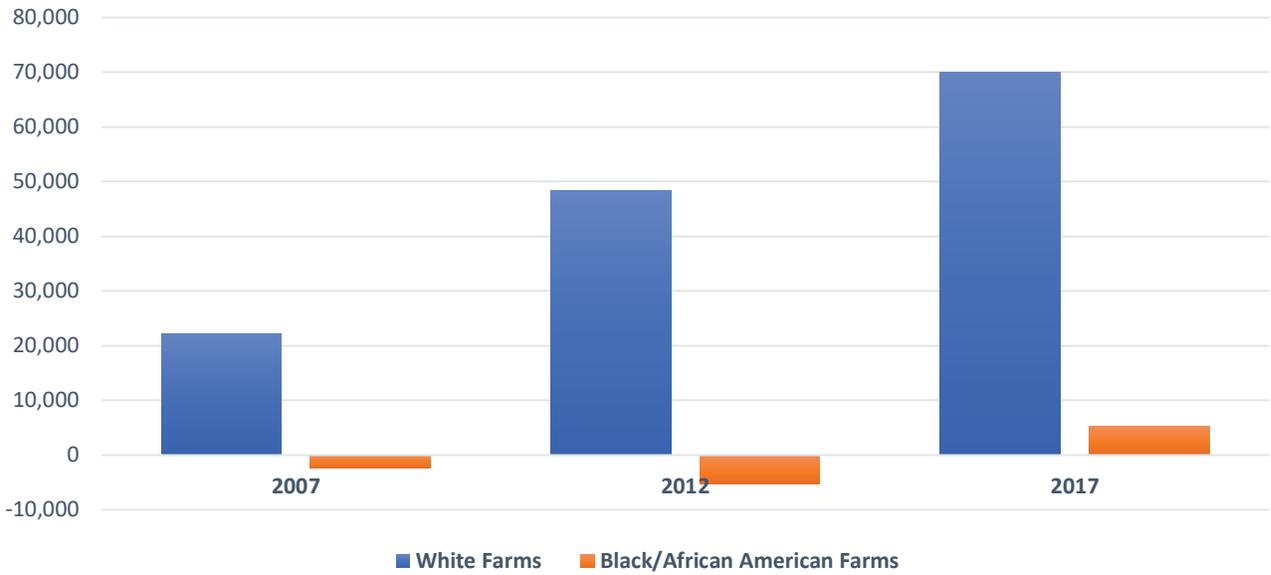
Change in Farm Numbers, Orangeburg County, South Carolina (1950-2017)



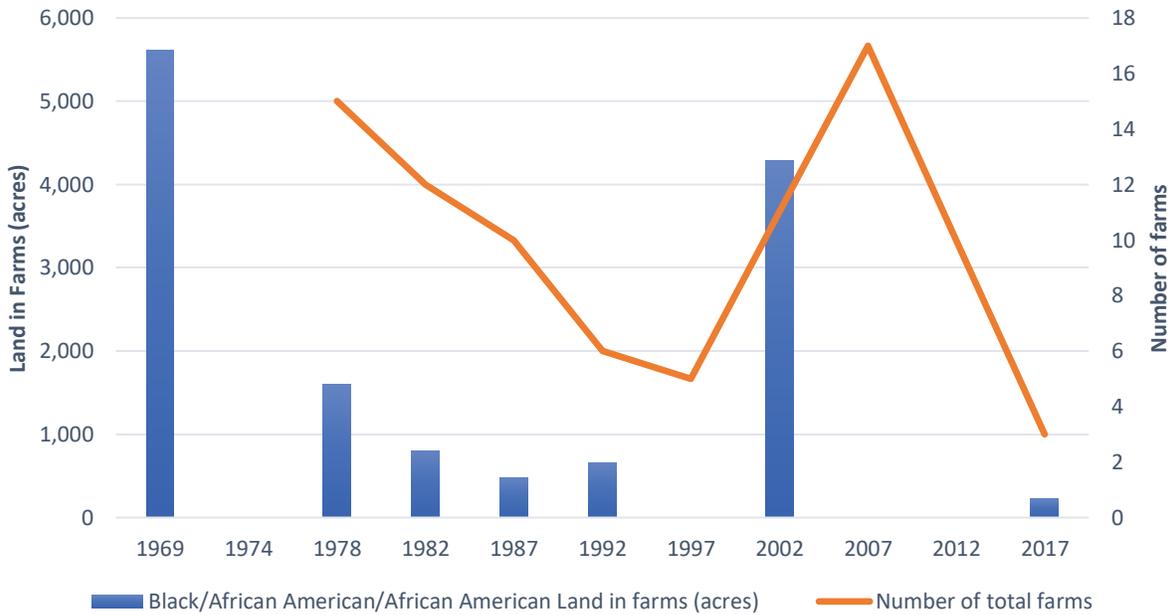
Black/African American Land Tenure in Barbour County, Alabama, 1964-2017



Net Cash Farm Income by Race in Barbour County, Alabama, 2007-2017



Black/African American Land in farms (acres) in Dale County, Alabama, 1969-2017



Decrease in Black/African American Farms and Land in Halifax County, North Carolina, 1978-2017

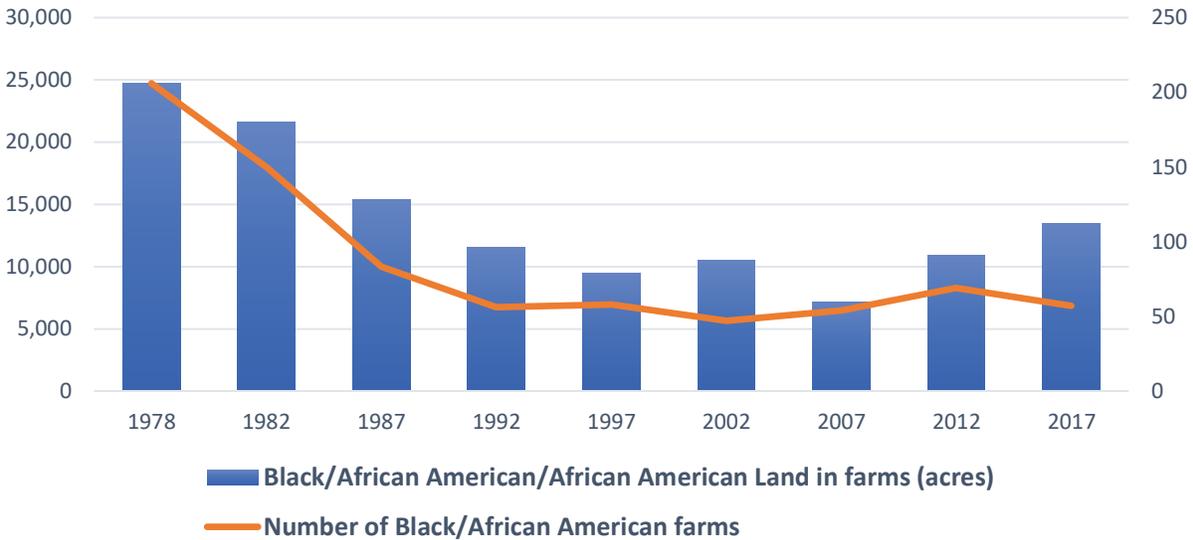
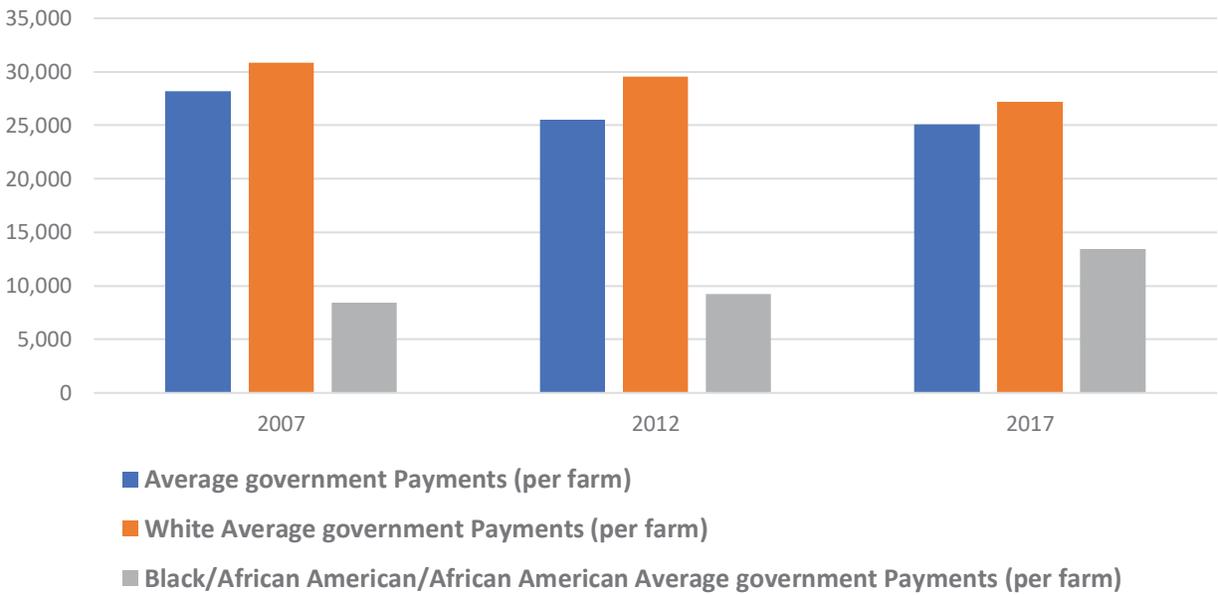


Chart Average Government Payments by Race Ethnicity in Halifax County, North Carolina, 2007-2017



In almost every county we have already researched over several decades, land ownership has become more concentrated. Many farmers and ranchers have been unable to retain their land. The evidence of disparate treatment is particularly notable with respect to Black farmers and ranchers.

In collaboration with our farmer and rancher leaders, we organized several participatory research projects designed to better understand their views of USDA. The first was around issues related to participation in Crop Insurance programs. The second followed a series of farmer-led training we developed with our members. Our reports are included in the appendix, but the following charts provide a snapshot of how the needs of farmers overlap or diverge with the structure and operation of USDA programs and services.

Table 1: Socio-Demographic Characteristics of Participants from Rural Coalition Financial Training Project (2004/2005)

Characteristic	Percent
Gender	
Male	67.5
Female	32.5
	(1048)
Race/Ethnicity	
American Indian	24.8
Asian American	3.5
Black/African American	54.9
White	5.0
Hispanic/Latino	10.7
Other	1.1
	(1052)
Highest Level of Education	
Less than High School Degree	29.6
High School Degree	34.8
Some College, No Bachelor's Degree	29.6
Bachelor's Degree or Higher	6.0
	(1050)
Total Farm Income (after expenses) in 2003	
Less than \$4,999	54.0
\$5,000 - \$9,999	23.5
\$10,000 - \$19,999	13.9
\$20,000 - \$29,999	4.3
\$30,000 or More	4.3
	(814)

Table 2: Farm Characteristics of Participants from Rural Coalition Financial Training Project (2004/2005)

Characteristic	Percent
Own Land	84.5 (911/1078)
Rent Land from Others	38.8 (409/1053)
Own <i>and</i> Rent Land	28.1 (295/1048)
Acres in agricultural production in 2003*	
Mean	85.2
Median	15.0
Minimum – Maximum	0 – 2400 (937)
Acres in agricultural production in 2004*	
Mean	87.4
Median	15.0
Minimum – Maximum	0 – 2600 (935)
Produced Commodity Crops in 2003 or 2004	54.5 (561/1030)
Produced Fruits/Vegetables in 2003 or 2004	54.6 (553/1013)
Raised Livestock in 2003 or 2004	47.1 (480/1020)
Produced Commodity Crops, Fruits/Vegetables <i>and</i> Livestock in 2003 or 2004	14.3 (137/960)

*Ranchers often did not include grazing acreage in their estimates of land in agricultural production. Therefore, the numbers presented here are conservative estimates.

Table 3: Risk Management Strategies of Participants from Rural Coalition Financial Training Project (2004/2005)

Risk Management Strategy	Percent
Have Risk Management Plan	4.7 (45/961)
Use a Tax Accountant	42.7 (439/1029)
Make Use of IRS Form Schedule F	18.6 (165/886)
Ever Purchased Crop Insurance	
Yes, Currently Have Policy	9.6
Yes, But No Current Policy	5.8
No, Never	84.6 (971)

Table 4: Labor Use of Participants from Rural Coalition Financial Training Project (2004/2005)

Risk Management Strategy	Percent
Spouse, Children or Other Family Members Receive Wages from Farm	17.7 (154/869)
Number of Full-Time Employees	
None	85.4
1-10	14.0
11-20	0.3
21 or More	0.3 (988)
Number of Regular Part-Time Employees	
None	80.6
1-10	17.9
11-20	0.9
21 or More	0.6 (987)
Employed any Seasonal or Migrant Employees in the Past Year	16.4 (127/773)
<i>Any Seasonal or Migrant Employees Participate in H2A Program</i>	<i>50.4 (64/127)</i>
Understand Tax Rules for Farm Labor	14.5 (126/870)

Table 5: Awareness of and Participation in Government Programs Among Participants from Rural Coalition Financial Training Project (2004/2005)

Agency/Program	Percent Aware
Farm Services Agency Credit Programs	52.5 (533/1015)
Farm Services Agency Disaster Payments	54.4 (522/959)
Natural Resources Conservation Service	48.7 (465/955)
Cooperative Extension Service	58.1 (567/976)
Rural Development	42.0 (400/953)
Risk Management Agency	35.7 (335/939)
Program	Program Participation
Ever Applied for a Loan from USDA	27.9 (234/839)
<i>Ever Been Denied a Loan from USDA</i>	<i>91.3</i> <i>(210/230)</i>
<i>Ever Received a Loan from USDA</i>	<i>32.0</i> <i>(72/225)</i>
Ever Received USDA Disaster Assistance	36.2 (354/977)
Participate in any Annual Commodity Program	13.5 (113/839)
Participate in any Conservation Program	8.1 (84/1040)

The farmer/mentors requested that we ask not only questions about the number of farmers who prepared schedule F of their tax return. Only 18.6 % said yes. They also wanted to know how many used tax preparers. 40% responded they did. Many of the groups who participated in this research continue to this day provide direct technical assistance to producers on the importance of good financial records, and the need also to provide required reports to document production and report losses.

These findings also underscore the importance of sustaining community-based organizations who are trusted by farmers for assistance in understanding and navigating USDA programs.

Also instructive is one chart from an earlier study which included a slightly different population of producers. We will have more to share as this committee begins work on the next farm bill and on climate issues. We looked at the level of participants in all types of insurance and these are our findings from the year 2002:

Table 4. Insurance Use from Small, Limited Resource and Minority Farmers Survey

Variable	Frequency	Percent
Currently use any form of insurance		
Respondents answering yes	<u>116</u>	<u>84.7</u>
	137	100.0
Types of insurance used		
Health insurance*	<u>97</u>	<u>83.6</u>
	116	100.0
Dental insurance	<u>43</u>	<u>37.1</u>
	116	100.0
Accident insurance	<u>39</u>	<u>33.6</u>
	116	100.0
Life insurance	<u>74</u>	<u>63.8</u>
	116	100.0
Disability insurance	<u>29</u>	<u>25.0</u>
	116	100.0
Auto insurance	<u>100</u>	<u>86.2</u>
	116	100.0
General homeowner or renter insurance	<u>84</u>	<u>72.4</u>
	116	100.0
Disaster insurance	<u>25</u>	<u>21.6</u>
	116	100.0
General liability insurance for farm operation	<u>43</u>	<u>37.1</u>
	116	100.0
Crop insurance	<u>29</u>	<u>25.0</u>
	116	100.0

We underscore the importance of the Farm Opportunities Outreach and Training Programs, including the Outreach and Assistance Program for Socially Disadvantaged Farmers and Ranchers. Our community-based organization members routinely accompany farmers the farmers we serve to USDA offices to make sure they are prepared to request services they need and to navigate USDA systems.

Our research findings highlight the need for improved connections and restoration of trust with USDA. Our organizations led efforts to establish systems that would allow USDA to monitor how these systems are working. One particular recommendation as far back as the 2002 Farm Bill was to require the farmer be provided a Receipt for Service on each visit to the agency. Language in the 2008 required USDA to provide a Receipt upon request. Rep. (and now HUD Secretary) Marcia Fudge offered an amendment during the 2014 Farm Bill Mark-up which is now a statutory requirement whose validity is affirmed including in an Administrative Law Judge opinion on a farm appeal. We remind the committee that the required receipt for service is

not uniformly provided in all offices and farmers are still facing push back for asking or outright refusal of their request.

Just last evening, our Rural Coalition Board Member Barbara Shipman of Cottage House, Inc. in Arton, Alabama shared this story. “I had one of my farmers to go into a particular NRCS office and FSA office to request assistance. The young lady threw and not only hit him in the face with his folder, but she also told him *“get out of the office and don't come back until you have three years' worth of farm records.”* Let me tell you please - returning military members have PTSD so it didn't take the snap of a finger to get them in the military zone again so that's why I go with them. So, I ended up having to talk to State Director. He said he was going to get involved. He called back to say he did so and said I should have no problem with anybody else like that.”

Mrs. Shipman, herself an Army veteran of the Gulf War, routinely welcomes recently returned service members from Fort Rucker to consider farming. This particularly newly returned Veteran had grown up on a farm and had a plan for producing pecans and goats.

She also recounted that she recently accompanied two farmers to visit four separate county offices to determine who was supposed to serve them. One was not open for a prescheduled appointment; another was closed. In the last office, the staff member agreed to get on the computer to ascertain the correct service center. She said it was closing time, but she could provide service there at another time. Barbara told her, “that's fine as long as he leaves here with two things – a letter of receipt for service that provides his farm and tract number and a copy of the technology map of where his land is located. Then in future all you have to do give the address and you can pull it down on the computer and print it all. When we walked out of the office, I told him that when you get ready to go back to the office you let me know. We will go together because that's what I do. I will walk him through how to get those things he wants, and I know he's in that computer system. He can't march over to the NRCS, no way, if he's not in the computer system in FSA, step number one.” She works with 40-60 farmers every year to assure service is done right. Without her, “they'll just turn him away and they won't even tell them about the receipt for service and they will not tell him he's due a copy of that topology map of his land or get him a farm and tract number - because that farmer number goes on that letter receipt for something so when he goes in the next time he has to do his put his farm in tracking down in the system and it brings up his file right and then he should have access.”

Technical Service Providers and Community Based Organizations - Mrs. Shipman has many other examples to share. Community based organizations need to have a sustained funding, perhaps in new ways, to assure the many CBO staff members who provide such services can be compensated, retained and prepare to train others to perform these services. They could form the foundation of a network of CBO based technical service providers with authority to work on technical assistance for both FSA and NRCS programs.

She and many of our other members, including Mr. Willard Tillman of the Oklahoma Black Historical Research Project, have the stressed the need for ongoing support in order to do the work necessary to help farmers and ranchers connect with USDA. They are also able to build relationships with service centers and assure farmers are able to do what they need to do. These CBO technical service provides are also provide the invaluable service of calling inadequate

service to the attention of USDA leaders at the state and national level, so immediate intervention can be made, with appropriate accountability. It is critical to set in place new policy to provide this kind of trusted technical support to help farmers, ranchers, forest land owners and their families secure land and rebuild local economies.

Technical Support Providers are now used extensively in conservation programs. Authority should be provided to allow these providers who work with CBO's to cover FSA programs also. This would help CBO's to build a sustainable network of next generation leaders trained by our skilled leaders who have supplied technical assistance to our farmer members for over 4 decades. We believe that such investments would improve family wealth, stabilize land values and secure a tax base with improvements to the education, public works and the economic situation of the whole community.

Critical and Continuing Issues – County Committees

Our early collaborative work began in 1997, when we convened a group to address the issue of Farm Service Agency County Committees. After a week of training and dialogue at USDA headquarters coordinated in cooperation with NRCS Chief Pearlie Reed and FSA Credit Director Lou Ann Kling, we examined voting patterns, and eligibility and access issues. Our members looked at county data of eligible voters and how many voted in county committee elections, and ballot counting procedures. We encouraged turnout with some results in subsequent years.

We have also examined over the past few decades the data systems of USDA and how transparency and accountability could be advanced with modification of these systems. In 2000, we prepared testimony for the Senate Committee on Agriculture where we were invited to testify by Senator Richard Lugar. This statement, which we have not located, was very similar to the one shared of the House hearing at the same time.

Senator Lugar, with Senator Blanche Lambert Lincoln and others, included language we recommended to assure transparency and accountability in USDA practices, including the collection and publication of data on the participate rates of producers in USDA programs by race, gender and ethnicity. These provisions were added and were updated in subsequent farm bills. More work is necessary to assure these are available to farmers and groups working with them at the county level. They are also essential to help the Secretary and his team to in a proactive way identify offices that are doing a good job, and offices where improvements or other action are needed.

For many years we urged USDA and the Congress to move from a complaint generated system of solving exclusions proactively instead of only after farmers had have to enter the long and risky process of appeals, civil rights complaints and litigation. We urge the Secretary to also engage the office of the Assistant Secretary for Civil Rights to have the ability to transform systems of analysis necessary to offset problems before the pose a barrier to more farmers.

We share the following story from our Rural Coalition newsletter of December 2000 which recounts the proceedings of the first Senate Agriculture Committee Hearing on Civil Rights in September that year.

Senate Agriculture Committee Holds First Hearing on Civil Rights in Agriculture: RC Chair Zippert Testifies

On September 12, John Zippert, Chair of the Rural Coalition and Program Director of the Federation of Southern Cooperatives, testified on behalf of both organizations at a landmark Senate hearing on Civil Rights in Agriculture, convened and led by Agriculture Committee Chairman Senator Richard Lugar (R-IN). The results of research done by Rural Coalition Member groups in 1996 and 1997 were included in Zippert's statement and provided the most specific evidence the committee received to support farmers' contentions of long-standing problems of disparate treatment by the county committees that oversee most Farm Services Agency (FSA) programs.

The USDA Inspector General (IG) Roger Viadero gave impassioned testimony on the state of the complaints processing system at the Department, with supporting statements from the U.S. General Accounting Office. Viadero has posted on the IG Web page a complete county-by-county breakdown of complaints filed. He singled out the USDA Office of Civil Rights as the key barrier to USDA's civil rights record, but noted that he had studied FSA county committees and found no problems. He asked what could be wrong with the committees, because they are elected by farmers.

A diverse array of Senators then asked incisive and pointed questions of U.S. Department of Agriculture (USDA) witnesses. Senators Thad Cochran (R-MS), Kent Conrad (D-ND), and Blanche Lincoln (D-AR) joined Senator Lugar in seeking answers from USDA officials about Viadero's testimony: why USDA remained so slow to act on complaints and why civil rights office operations had not yet improved.

In response, USDA Assistant Secretary for Administration Paul Fiddick outlined his plan to professionalize the management of the civil rights operation with techniques he developed in his work in

private sector businesses. He pointed in particular to his creation of a new career post in the Civil Rights office, that of Deputy Director, and he introduced David Widdingham, who is responsible for Operations. When the Senators asked Mr. Widdingham to recount his expertise for the job, he responded that he had been the long-time Director of Civil Rights for the FSA. The USDA employees who testified later had to explain to the Senators why the audience reacted incredulously upon hearing the appointment of a former FSA employee cited as a solution to USDA's longstanding civil rights problems. The real answer: FSA is widely seen as the agency with the worst record of treatment of minority producers, and the very one whose failure to address civil rights complaints for many years led to the *Pigford v. Glickman* lawsuit.

The tone of the hearing then changed, with more scrutiny placed on employment practices and program delivery within USDA. Senator Tom Harkin (D-IA) noted that he was less interested in how the Civil Rights Office was processing complaints than he was in learning why complaints were still being generated. The answer came from the third panel, which included farm and employee organizations such as John Boyd of the National Black Farmers; Lawrence Lucas of the Coalition of Minority Employees; Alexander Piries, the lead attorney on the *Pigford v. Glickman* lawsuit; and others told him why. There was marked similarity in the issues they raised. USDA programs, particularly within FSA, still do not operate fairly, and USDA employees in several agencies still work in an atmosphere of discrimination and hostility.

John Zippert provided the committee not only with evidence of problems, but with recommended solutions. He called for the complete removal of FSA employees from any action responding to complaints in the *Pigford v. Glickman* lawsuit and asked that USDA and the Justice Department be told to stop appealing cases where African American farmers had their claims accepted. He urged the Senators to assure that full funding was made for the Section 2501 minority farms outreach program. He advocated that bureaucratic barriers to the Minority Farm Registry be addressed and the Registry be implemented immediately.

Zippert also countered Viadero's assertion that he found no systemic problems with the county committee system. Zippert noted that if the IG knew so little about the problems with the county committees, perhaps his other findings were also inaccurate. Senator Lugar thanked the Rural Coalition specifically for the new details on county committee elections. Both he and Senator Harkin outlined the need for more action on county committees. After many years of work by the RC and others, attention is finally being paid to the real problems with the committees and the continuing injustices within USDA. The final RC statement will soon be available on our Web site: www.ruralco.org 

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Rural Coalition is an alliance of regionally and culturally diverse organizations, throughout the U.S. and Mexico, working to build a more just and sustainable food system. We envision a food system which:

- brings fair returns to minority and other small farmers, as well as rural communities;
- supports just and fair working conditions for farmworkers;
- protects the environment; and
- brings safe and healthy food to consumers.

County Committees – Below is a snapshot – the last we have – of data on the number of votes cast in the county election of 2009. This election was in only one Local Administrative area.

Data on the over composition of county committees is also included in some attached statements.

TOTAL BALLOTS CAST BY RACE, ETHNICITY, AND GENDER IN 2009¹

Gender	Ethnicity	American Indian or Alaska Native	Asian	Black or African American	Native Hawaiian or Other Pacific Islander	Unknown	White	Total Ballots Cast by Gender and Ethnicity
Female	Hispanic or Latino	73	2	34	9	145	960	1223
	Not Hispanic or Latino	172	108	408	226		3316	4230
	Unknown	123	78	319	147	1095	1782	3544
Female Total		368	188	761	382	1240	6058	8997
Male	Hispanic or Latino	100	52	27	10	366	1332	1887
	Not Hispanic or Latino	392	106	823	125		44837	46283
	Unknown	379	175	992	113	774	40435	42868
Male Total		871	333	1842	248	1140	86604	91038
Organization	Hispanic or Latino	14	3	9	1	314	494	835
	Not Hispanic or Latino	142	95	448	28	277	78620	79610
	Unknown	116	45	607	41	1217	66204	68230
Organization Total		272	143	1064	70	1808	145318	148675
Unknown	Hispanic or Latino	0	0	3		8	92	103
	Not Hispanic or Latino	3	20	43	11	416	1325	1818
	Unknown	6	6	6	7	1772	454	2251
Unknown Total		9	26	52	18	2196	1871	4172
Total Ballots Cast by Race²		1520	690	3719	718	6384	239851	252882

Ballot Summary

LAA Total Eligible Voters	2,021,637
LAA Total Ballots Cast	252,494
Percentage of Eligible Voters that Cast Ballots	12%
National Total of Ballots Disqualified	13,156
Percentage of Ballots Disqualified vs. Ballots Received	5%

¹Represents only those LAAs in which an election was held in 2009

²Due to producers' ability to select more than 1 race, the Total Ballots Cast in 2009 may be greater than LAA Total Ballots Cast in the Ballot Summary Table

When requirements were added in the 2002 and 2008 Farm Bills to authorize the assignment of minority advisors to county committees and to update election provisions, the Congress also changed the law to tie eligibility to participate on county committees to those who participated in farm programs. This should be extended to include farmers who are eligible to participate and registered with USDA, even if they choose not to participate.

However, issues with county committees also continue. In the past two weeks, we were contacted by an Oklahoma farmer who is employed in another state. He had informed the County Office a few years ago that the farm had been transferred to his name. He was seeking help because he currently has a neighbor who has been planting wheat on land that belongs to him and filing claims for payments. He has provided documentation to show that the FSA county office reached written to him demanding he send the certified lease so the

neighboring farmer could collect his payment. The farmer owner wrote a cease and desist letter to his neighbor and asked the office to address the issue of the illegal claims. He also noted that the lease given to the office by the neighbor was fraudulent. While he was seeking response from the county, he reported that the staff asked him not to report this as it would “get a former employee in trouble.” A county committee member also asked him if he wants to sell his land.

We believe these issues merit a full review of the role and practices of the use of county committees and their continuing failure to include and serve the needs of all farmers but especially Black Farmers. In the next farm bill, we believe it is time that this committee review ways to replace county committees with a more professional and accountable system.

FSA Farm Credit – Immediate Actions Needed

We have worked extensively on the issues of Farm Credit over many years and hope we can provide additional recommendations as the committee addresses those particular issues.

At present, the two most essential credit related issues are to assure that Farm Service Agency issue regulations and implement the following:

- 1) Ensure Equitable Relief Provisions to protect the farmer in the case of errors or intentional actions in loan agreements by Farm Service Agency staff members, and
- 2) Implement the Heirs Property Relending Program.

With respect to the Relending program, Congress since the 2018 Farm Bill has appropriated \$20 million for FSA to relend to entities qualified to lend as community development financial institution, and who have significant demonstrated experience serving the needs of socially disadvantaged farmers and ranchers.

There are such institutions available to begin working with families to resolve heirs property encumbrances which keep them out of full participation in USDA programs. These funds are urgently needed. The pandemic has caused the loss of over half a million members of our society. Some of them are farmers. Their families urgently need assistance in handling the difficult issues of settling estates. Making these program available will enable the groups who know how to do this work to immediately assist black and other people of color landowners to secure land tenure in a way the addresses the rights of all interest holders, and to emerge with a succession plan to guide that family in the future.

Direct and Guaranteed Loans and Borrowers Rights

Section 1005 of the American Rescue Plan provides funds to Black farmers and other people of color borrowers to pay off loans from both FSA and Farm Credit Administration. We will have attached a brief we provided to the General Accounting Office in advance of the study they did on the availability of credit to Socially Disadvantaged Farmers and Ranchers. The report suggests several issues for the attention of the Administration and the Congress. We will prepare future input on these provisions.

It is also important to understand the issues farmers are encountering due to lack of data collection and clear procedures to assure that all borrowers rights, including the Equal Credit Opportunity are assured. We have recommended to the Secretary that clear procedures for Farm Credit Borrowers to identify themselves as socially disadvantaged and eligible for the Emergency Relief provided must be set in place.

We further refer you to correspondence between Rural Coalition and both the FSA and the Farm Credit Administration referring to the case of a young farmer. We have redacted the farmer's name. These letters show how FCA tells the farmer to go to the lender, the lender says to go to FCA, and FSA asserts they have no authority on guaranteed loans. These illustrate the point that there is no clarity for the borrower and no real explanation if anyone has authority to act if farmers feel they were discriminated against on a guaranteed loan.

We urge Congress to address these gaps. We further endorse the recommendations provided in the hearing by the Federation of Southern Cooperatives that a separate entity within or similar to other farm credit institutions be established to attend to the unmet needs of this sector of farmers and ranchers.

Heirs Property, Insecure Land Tenure, Climate and Rural Communities

The Federation of Southern Cooperatives/Land Assistance Fund has been identifying the importance of addressing heirs property issues for decades, beginning with a 1980 Report by the Emergency Land Fund.

In 2017, the Oklahoma Black Historical Research Project convened the 100 Farmers Summit In Oklahoma City in March 2017 for in input in advance of the 2018 Summit. ¹ The 100 Summit Report: *Addressing the Needs and Concerns of the Underserved Minority Family Farming Community* is included in the attachments. The following issues raised by the 100 Black farmers on heirs property include:

- A) Specific Issues Related to Heir Property** – The following were the key issues that needed to be addressed to restore access to programs for producers lacking clear title or lease on the land they farm or seek to farm:

Heir Property: If you have land but there is no will or document saying who will be the administrator of it, your ability to administer and use it is very difficult. If there is not an administrator for the land, you will not be able to get a loan through the USDA. For example, when you want to take out a loan, but you are the beneficiary of land along with your siblings -you have to get all other siblings to sign on to your loan. You will end up in a case with the bank and your siblings to settle your claim interest in the land. Speculators will seek out one or two siblings to see if they can buy them out, then they can petition the courts for the full property to be sold. Called a “speculating interest” in the land to cause land loss. You get a minimal amount of the value of that land.

¹ Oklahoma Black Historical Research Project, with Rural Coalition, et al., ¹ The 100 Summit Report: *Addressing the Needs and Concerns of the Underserved Minority Family Farming Community*,” 2017.

Arkansas' law has changed – the Uniform Partition of Heirs Property Act allows an heir who is a co-owner to buy out another who wants to sell their share of a property at the market value of the property. ²

Adverse Possession is also used by white farmers, investors and property owners to take land. They pay property taxes and take ownership, even where there are not heir property issues. For example, an African American woman rented her land to a white farmer and as part of the rent he paid her taxes for 5 years. One year he did not pay rent and told he did not owe it because now he owned the land

Strategies: Get more protections in place for African-American families. A lot of risk factors that can result in land loss – need to address them comprehensively.

Key point: There is a systemic lack of access to information and resources to resolve heir property issues - We see a great deal of land that is idle, land that could be productive but isn't. The legal risk varies from state to state. In some states, someone can seize rights to a property simply by paying delinquent taxes. The time in which one is considered to have relinquished their rights to their land varies by state. There was a provision in the 2014 Farm Bill to help get Black farmers' land back; but it didn't go anywhere. We need new support for education on wills and estate planning.”

Heirs Property and the Ecological Costs of Discrimination

Oklahoma Black Historical Research Project worked over the past decade to engage Black farmers in NRCS programs. With Rural Coalition and the Scholars of the America University Farm Bill practicum, the researched the data and experiences of Black farmers in access USDA programs. Their findings are summarized and published in the research paper on the [Ecological Costs of Discrimination](#)³

Invasive species thrive in places facing climatic changes and put farmers at further risk. In Oklahoma, *eastern redcedar* is spreading at the rate of 800 acres a day. Without help for mitigation from USDA especially for historically underserved farmers who farm on heirs property, small cow and calf operations have seen their grazing land taken over by redcedar, which competes with pastureland by consuming up to 55,000 gallons of water per acre per year and puts the viability of their operations at further risk. Other risks they have faced over the past decade include severe cycles of floods, droughts, fires, freezes and tornados. Farmers who were deemed ineligible for NRCS program, the OBHRPI learned, were denied because they lacked the documentation to secure farm and tract numbers to demonstrate their control of the land on which they sought benefits.

² In addition to Arkansas; Alabama, Connecticut, Georgia, Montana, Nevada, New Mexico and Texas numerous states have now adopted or have introduced versions of the [Uniform Partition of Heirs Property Act](#). Passage of the Fair Access to Farmers and Ranchers provisions in the 2018 Farm have helped build support to enact the law drafted by the nonprofit [Uniform Law Commission](#) to make it easier to divide property and preserve family wealth as the owners multiply over generations.

³ Fagundes, Tillman, et al. **Ecological costs of discrimination: racism, red cedar and resilience in farm bill conservation policy in Oklahoma**, October 2019, [Renewable Agriculture and Food Systems](#) 35(4):1-15, DOI: [10.1017/S1742170519000322](#)

The Fair Access for Farmers and Ranchers Act, drafted by then Rep. Fudge, and introduced in the Senate by Senators Doug Jones and Senator Tim Scott, authorized the aforementioned the heirs property relending fund. It also authorized the use of alternate methods of documentation to allow access for farmers to NRCS and other programs to allow them to care for land. For the first time in federal law, it made some of the methods consistent with the processes outlined in the Uniform Partition of Heirs Property state passed law. The third provision, Section 12607 of the 2018 Farm Bill authorized Farmland Ownership Data Collection in order to identify the land tenure trends that may affect generational transitions, and barriers to entry for beginning and socially disadvantaged farmers and ranchers.

The data and studies compiled under Section 12607 are critical inform and guide all levels of agricultural policy making that concern the critical dynamics of heirs' property and absentee land ownership in farming communities. Appropriations of \$3 million annually were authorized. **We urge this committee to assure this important initiative is full funded. This baseline study is essential to allow the Congress to anticipate the impact of various kinds of climate interventions on farm and forest land tenure especially for Black Farmers.**

Heirs Property and Forest Land

Securing and building land tenure is also critical to protecting the intergenerational transfer of land and wealth and building a community with a healthy ecosystem and a tax base to sufficient to support quality education, employment opportunities, and a strong infrastructure. The following abstract of the paper “Taking Goldschmidt to the Woods: Timberland Ownership and Quality of Life in Alabama”⁴ summarizes the impact of the degree of highly concentrated land ownership on children, families and the communities:

*Abstract: We use a database of property tax records for 13.6 million acres representing every parcel of privately owned timberland in 48 rural Alabama counties to test two hypotheses inspired by Walter Goldschmidt relating land ownership and quality of life. Our data show private ownership is highly concentrated and 62 percent is absentee owned. We employed Pearson correlations alongside Poisson and negative binomial regression models to estimate influence of both concentrated private ownership and absentee ownership of timberland. Our findings support Goldschmidt-inspired hypotheses that concentrated and absentee ownership of timberland exhibit a significant adverse relationship with quality of life as measured by educational attainment, poverty, unemployment, food insecurity, eligibility for free or reduced-price lunch at public schools, Supplemental Nutritional Assistance Program participation, and population density. Low property taxes in Alabama limit the ability of local governments to generate revenue to support public education or meet other infrastructural or service needs in rural areas. We call on rural sociologists and kindred spirits to pay more attention to the fundamental importance of land ownership which shapes the foundations of power and inequality affecting rural life in America and beyond.*⁵

⁴ September 2020 [Rural Sociology](#) 86(1) DOI: [10.1111/ruso.12344](https://doi.org/10.1111/ruso.12344) Authors: [Conner Bailey](#), [Abhimanyu Gopaul](#), [Ryan Thomson](#), [Auburn University](#); [Andrew Gunnoe](#), [Maryville College](#)

⁵https://www.researchgate.net/publication/344021201_Taking_Goldschmidt_to_the_Woods_Timberland_Ownership_and_Quality_of_Life_in_Alabama

We look forward to other opportunities sharing our proposals to more fully full address the set of issues we have raised, including with respect to climate. We further point to a critical need to assure farmers have access to the qualified and trusted legal and technical assistance necessary to protect their land.

In October 2019, the North Carolina Association of Black Lawyers Land Loss Prevention Project authored a Continuing Legal Education (CLE) manuscript "Assisting Heir Property Owners Facing Natural Disasters: History and Overview of Heir Property Issues." We participated in person as a panelist in the collaborative CLE webinar to train NC Legal Aid volunteer attorneys on service to impacted heir property owners. The webinar took place on October 23. According to Legal Aid's coordinator, there were approximately 124 webinar participants on that date and the course will continue to be available for training purposes.

Through individual direct legal intervention, technical assistance, outreach and policy innovation and implementation, the overall outlook for North Carolina's disaster-affected families has been substantially improved. The benefits include increased property retention, removal of barriers to assistance programs, enhanced food access, heightened farm business risk management, and family engagement in multi-generational planning as a safeguard against inherent co-ownership vulnerabilities.

We project that the pandemic will continue to emphasize the need for education on what defines sustainability and how environmental, economic, health stressors are intertwined and cumulative. This highlights the importance of collaborative work we have all done to expand the framework of justice and increase the tools and resources available to communities to take direct action to promote community health. We see our engagement with Black and Brown-led coalitions and initiatives advancing sustainable environments and community-controlled food only deepening and expanding.

We will provide a letter to Chairman Scott and the Committee in upcoming weeks that better summarizes our immediate recommendations for action.

Conclusion

Today, black farmers find themselves still seeking financial compensation from years of discrimination by the United States Department of Agriculture (USDA). This financial compensation, along with the American Rescue Plan, has been called "unfair reparations," "another handout," or some other dehumanizing term by prominent and influential elected officials and others. This continued systemic and institutionalized racism is further evidence of the unrelenting discrimination that black farmers and their communities experience on a daily basis. Furthermore, many black farmers, their families and communities continue to be on the brink of bankruptcy, foreclosure, and homelessness. The USDA must act now to implement the American Rescue Plan and related initiatives to empower black farmers and their communities. The American Rescue Plan and related initiatives can only be successful if the USDA pays off black farmers' USDA farm loan debts, creates an inclusive and equitable implementation process for the \$1B authorized by Section 1006, and prioritizes policies that help black farmers and their communities to hold onto their land and protect it from further discriminatory practices.

EXHIBIT I
DECLARATION OF MYKIA XIONG

DECLARATION OF MAYKIA XIONG

My name is Maykia Xiong and I am a Hmong farmer in North Carolina. I am over the age of 18 and fully competent to make this declaration. In support of this Declaration, I offer the following:

1. I have a substantial interest in the outcome of this litigation and I am a member of the Farmers of Color Network of the Rural Advancement Foundation International.
2. I live and farm in North Carolina.
3. I am a poultry grower in Moore County and have been raising poultry for more than fifteen years.
4. USDA is the guarantor on my loans with a Farm Credit system commercial lender.
5. As a Southeast Asian refugee and female farmer, I am a “socially disadvantaged farmer” pursuant to 7 U.S.C § 2279 (e)(2).
6. As an Asian farmer, I am eligible for the debt payment pursuant to Section 1005 of the American Rescue Plan, as passed by Congress and signed by President Biden on March 11, 2021.
7. My husband and I took out loans to start our poultry operation and still have several hundred thousand owing on those loans.
8. I am not delinquent in my loan payments.
9. I have participated in NRCS conservation programs.
10. I feel that as a female farmer and an Asian farmer, I am always forced to take an extra step. I have been denied participation in programs and have had to ask multiple times for assistance.

11. The coronavirus epidemic has created several kinds of instability in the industry. In the spring of 2020, there were substantial delays with processing facilities, which created disruption with flock size allowances, getting birds to processors and supply of new flocks.

12. I will be significantly damaged if the payment permitted by Congress is delayed by the action of the Court in this matter.

13. Poultry growers are always asked to consider upgrades and improvements and it is a constant reality in this industry.

14. The payment of the guaranteed loan will allow me to continue farming without as much financial pressure.

15. This payment will also provide me with the ability to consider additional ways to make my farming enterprise more sustainable for my family and community.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 6-21-2021

Respectfully submitted,

/s/Maykia Xiong
Maykia Xiong

April 29, 2021

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

via regulations.gov

RE: Comments in response to Notice of Request for Public Comment on the Executive Order on Tackling the Climate Crisis at Home and Abroad, 86 Fed. Reg. 14403 (Mar. 16, 2021), Docket No. USDA–2021–0003

Rural Coalition, an alliance of farmers, farmworkers, migrant and working people in rural areas across the nation, submits the following comments on behalf of the undersigned, in response to the request from the Chief Economist, U.S. Department of Agriculture Office for input on the development and implementation of a climate change mitigation strategy intended to shift American agriculture to net zero greenhouse gas emissions under the Executive Order on Tackling the Climate Crisis at Home and Abroad.

Introduction

In developing our comments, we the undersigned sought to understand the goals USDA has in setting out the questions posed to commenters. In order to make our answers to these questions more specific and hopefully useful to USDA, we have drawn from the Climate 21 Project Transition Memo prepared for USDA as a possible basis for new USDA policies on tackling the Climate Crisis.¹ We share the following analysis and recommendations, which build from that understanding.

Equity is a Foundational Basis for Tackling the Climate Crisis

A food and agriculture system that is not equitable, inclusive and just is, by definition, not sustainable. Treating equity concerns as separate or additional concerns guarantees failure. These are fundamental considerations that must be integrated into all USDA climate-related decision making.

The Climate 21 memo raises the issues of diversity, equity and inclusion at its very outset:

¹ (Bonnie, Jones, & Harrell, 2020)

*Issues of diversity, inclusion, and environmental justice are important in all of USDA's work, including climate change. Given USDA's history of past discrimination against minorities, tribes and women in the implementation of farm and other programs, it is vital that USDA's efforts around climate change seek input from diverse stakeholders and that policies are administered such that access to resources and program outreach and delivery to these communities are prioritized.*²

The memo further underscores the need to emphasize the historic commitment of producers and landowners in resetting the narrative for climate change solutions:

“Reset the narrative of agriculture and forestry as climate change solutions with rural stakeholders by emphasizing producers' and landowners' historic commitment to stewardship, and economic opportunities presented by investments in climate mitigation and resilience.”³

In order to effectively tackle climate change, USDA must employ a more holistic frame. A wider reorientation of this nation's food and farming system, including a reversal of many of the extractive and harmful policies of the past, is essential to achieve solutions to the climate crisis. USDA needs more than just “input” from this nation's tribal and other historically discriminated-against producers and more than a “resetting of the narrative” for rural stakeholders. USDA will benefit from valuing and learning from the traditional ecological knowledges these long excluded producers still hold. They have utilized and developed them to survive over the centuries in which they have been removed from and denied access to the most valued land and left to survive on the most fragile holdings with paltry investments from the federal purse.

In creating new strategies, USDA should not neglect these *very old* strategies that work. TEK (traditional ecological knowledges) are not new strategies but they *are* neglected strategies. This body of knowledge should be treated as, supported, and funded as a new strategy. Practices and land management systems that have built and maintained healthy soils and balanced ecosystems for centuries often don't qualify for grants because they are not repairing damage. What often works, for example for dryland farming, simply doesn't fit with or can't be funded by existing NRCS programs which require three years of irrigation records. The knowledge and practices of they have long employed yield real results, and any preservation of healthy, high-carbon soils should be rewarded and incentivized.

² (Bonnie, Jones, & Harrell, 2020)

³ (Bonnie, Jones, & Harrell, 2020)

Through the lens of deep equity, which addresses not just great inclusion and diversity of voices, but the recognition that structural change is also needed to foster true equity for all, this comment focuses on the reorientation of agriculture towards a regenerative, holistic, science-based, and “climate-smart” system. We address and highlight the following topics:

- **Climate-Smart Agriculture and Forestry**
 - **Concentration, Land Tenure and Climate**
 - **Carbon Markets Will Intensify Destructive Concentration**
 - **Federal Climate Investments Must Address a Wider Range of Environmental Injustice and Ecological Threats**
- **Biofuels, Wood and Other Bioproducts, and Renewable Energy**
 - **Renewable Energy Production, Including Solar and Wind, Raise Equity and Environmental Justice Concerns**
- **Addressing Catastrophic Wildfire**
- **Environmental Justice and Disadvantaged Communities Questions**
 - **Additional Equity Recommendations**

Climate-Smart Agriculture and Forestry Questions

“Climate-smart agriculture” has been defined as an integrated, whole farm approach to managing landscapes that addresses the interconnection of food security and climate change. Such integrated practices provide ecosystem services, which play a role in air and water purification, nutrient cycling, erosion and flood control, and carbon sequestration. Remediating the current climate crisis requires a holistic, comprehensive approach in which whole farms produce both ecosystem services and food and fiber. Current proposals focus instead on conservation carve outs and carbon sequestration. Carbon markets are a reductionist and performative approach that employ farms and forests to compensate for or offset active emitters of greenhouse gases with ineffective, disjointed programs that carry significant dangers.

USDA must more clearly define what it means by “climate smart.” “Climate smart” must not be reductionist and centered on technology -- whole ecosystems, agroecology, community and environmental resilience must be the focus. Carbon sequestration cannot be the sole metric, out of context of the system in which it is occurring. Furthermore, it is a matter of national security and economic and public health to restore and build soil health and natural ecosystems to build resilience, nutrition, water retention, pollution reduction, biodiversity and an economic foundation for rural areas.

USDA would do well to begin by building upon existing programs, provided that *at the same time it invests in eliminating existing gaps that have effectively excluded smaller-scale, largely Black, Indigenous and People of Color (BIPOC), producers* from these programs. USDA should

restructure its Noninsured Crop Disaster Assistance Program (NAP) and crop insurance programs to better address climate risks and reward practices that are known to increase climate resilience and reduce risk for farmers and the insurance program. The goal should be comprehensive programs that economically support all producers who engage whole farm solutions based on best practice for their regions, operations, local economies and the climate. Production and conservation are not inherently separate practices. Each can seamlessly support the other.

Central to development of any practice-based incentives or carbon banking system must be equity. Institutional racism in agriculture continues to be prevalent and its impacts are cumulative, lasting and detrimental to climate solutions. A participatory-based study conducted in partnership with Rural Coalition titled “Ecological costs of discrimination: racism, red cedar and resilience in farm bill conservation policy in Oklahoma” found *“a disproportionate amount of USDA program funds, including conservation, commodities and loans, still flow to white farmers and ranchers. Per capita, Black farmers received about 50% of what other farmers received in government payouts in 2012.”*⁴

Figures 1 - 3 further illustrate that *“disparities in farm size and income in Oklahoma represented in Figures 1 -3 reflect similar patterns seen across the USA. Social science and legal literature argue that these trends are connected to the well-documented history of discrimination toward nonwhite and non-male farmers by the USDA, especially in the county-level Farm and Home Administration (FmHA; now the Farm Service Agency, FSA) offices—biases that prevented generations of farmers and ranchers from obtaining the USDA loans they needed to acquire land and keep their farm operating.”*⁵

⁴ (fagundes, et al., 2019)

⁵ (fagundes, et al., 2019)

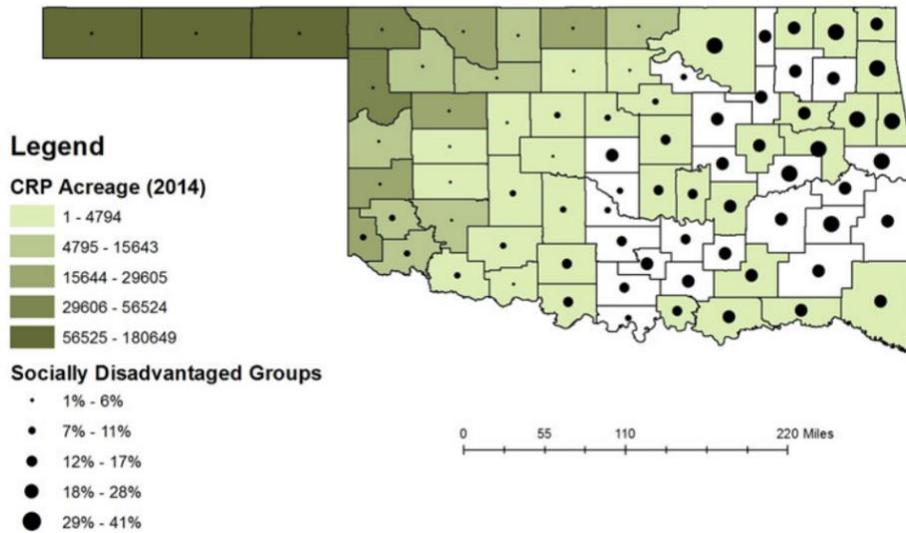


Fig. 1. Conservation Reserve Program (CRP) acreage with socially disadvantaged farmers and ranchers in 2014.⁶

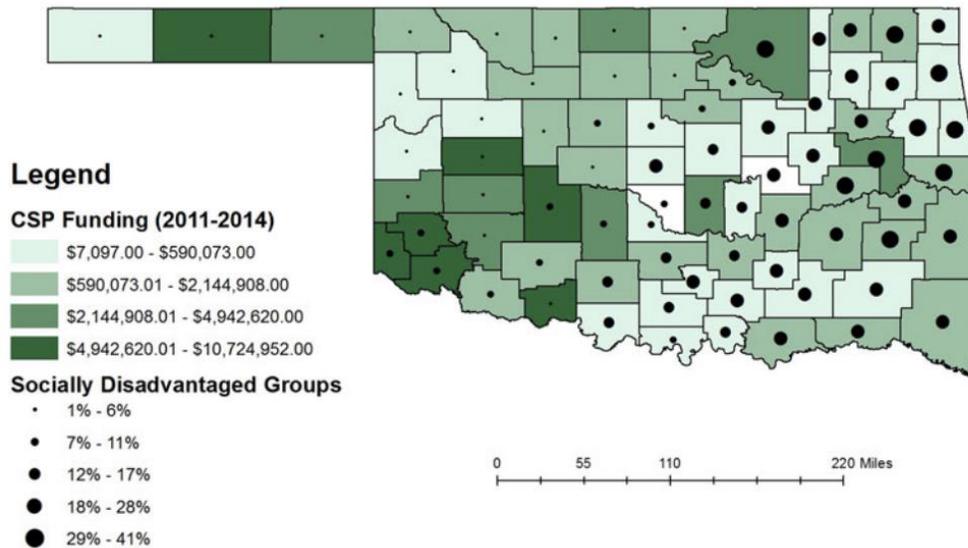


Fig. 2. Conservation Stewardship Program (CSP) funding with socially disadvantaged farmers and ranchers, from 2011 to 2014⁷

⁶ (fagundes, et al., 2019)

⁷ (fagundes, et al., 2019)

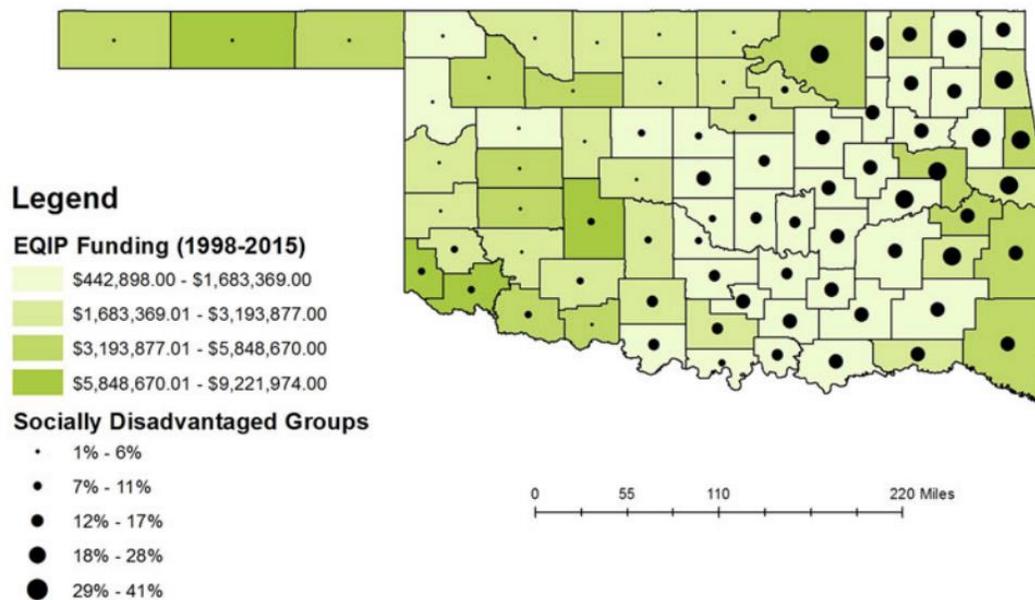


Fig. 3. Environmental Quality Incentives Program (EQIP) funding with socially disadvantaged farmers and ranchers from 1998 to 2015.⁸

The study goes on to note that “a disproportionate amount of USDA program funds, including conservation, commodities and loans, still flow to white farmers and ranchers. Per capita, Black farmers received about 50% of what other farmers secured in government payouts in 2012 (USDA, 2014a). The latest study available on subsidy disparities found that in 2005, the average Black beneficiary of USDA program funds received \$9,555 less than the average received for all other beneficiaries (NBFA & EWG, 2007).”⁹ This highlights the urgent obligation of any payment for ecological services or carbon sequestration incentive programs to emphasize equity through payments, outreach and technical assistance.

As part of its efforts to promote climate-smart agriculture, USDA and policy makers must also revisit policies that drive down the prices of commodities far below the cost of production. Such policies have been a key driver of over-production and the extraction and depletion of organic matter and nutrients from the soil and of water from aquifers. This highly vertically integrated, monoculture-based production model has destroyed the wealth of families and communities the world over.

Numerous producers and forest owners already implement innovative and climate-smart practices that sequester carbon and provide ecosystem services. These producers, notably Tribal

⁸ (fagundes, et al., 2019)

⁹ (fagundes, et al., 2019)

governments, and BIPOC, small-scale and new entry producers, who have adopted and implemented such regenerative practices under the most extreme of circumstances, should be the first to receive any benefits or credit within a carbon or greenhouse gas program. For example, the Oklahoma Association of Conservation Districts works with many farmers who have adopted soil building practices, and indigenous producers have been implementing practices rooted in Traditional Ecosystem Knowledges (TEK) for decades, if not centuries.

In Arizona, Michael Kotutwa Johnson has documented in his recent dissertation¹⁰ how management based on Indigenous Agricultural Knowledge (IAK), one aspect of TEK, leads to the same conservation outcomes as NRCS standard practices, but getting IAK based conservation methods approved by NRCS is a complicated process that happens on a case-by-case basis.” He further notes that American Indian participation in USDA Natural Resources Conservation Service programs remains very low. Mr. Johnson has also shared with our members his methods of cultivating corn, squash and beans on dry land in a continual system that has remained productive for over 100 years, as documented in his photos. His dissertation provides clear evidence of how the ancestral practice of continuous planting, saving, selecting, and sorting of seeds over decades assures the seeds adapt to changing conditions. This is one example of the kind of practices that should be highly valued for payments for ecological services under any new or expanded programs that work toward climate mitigation.

The USDA should center its support on small- to mid-scale farmers using sustainable and regenerative systems such as managed rotational grazing, which can build soil health and sequester carbon. It should invest in this sector by removing cost-share and matching requirements for BIPOC, limited resource and beginning producers, set minimums, increase payments for practices and reduce the amount of paperwork required to participate in such programs. There is clear evidence that such requirements result in under-enrollment by these populations in programs that would benefit them, such as the Value-Added Producer Grant (VAPG) program.¹¹

It is also imperative that USDA engage Tribal governments and groups representing BIPOC producers, including those supporting this comment, to conduct a systematic review of the barriers to equitable and adequate access to *existing* programs and how these can be mitigated, building on existing scholarship and direct consultation with these communities. USDA should further incorporate their proposals to incentivize adoption of practices to advance regenerative, agro-ecological, organic, and other traditional approaches to farming, forestry, and ranching that are proven but now neglected or undermined by existing programs.

¹⁰ (Johnson, 2019)

¹¹ (Ayazi & Elsheikh, 2015)

Concentration, Land Tenure and Climate

Over several centuries, the food and agriculture, fiber, and energy systems within the boundaries of this nation have been reoriented continuously. These changes have been directed to feed, clothe, shelter, and power a growing population, and later a growing desire to utilize agriculture exports to balance trade. Capital investments have been employed to replace labor and to develop highly vertically integrated processing, distribution supply chains heavily reliant on energy. This highly extractive system is itself a clear driver of the climate crisis.

Our members and allies, including Family Farm Action Alliance, the Campaign for Family Farms and our environmental allies, who represent family farmers and/or have clear proposals to define and address the extreme concentration and vertical integration in agriculture. We support their analysis particularly of the livestock sector, which by its very structure and concentration, is a major source of ecological damage to land, water and air. We urge USDA to adopt their essential proposals to address concentration and mitigate the dangers it poses for the climate and the economy.

The COVID 19 pandemic has illustrated the fundamental need to consider and address the costs of highly concentrated processing and distribution. The need to protect the workers in the meat processing sector was suddenly viewed as essential not only as a matter of basic justice, but also because when the lives and health of the workers were imperiled, existing distribution channels were frozen with formidable costs from farm to fork.

A system where global trade routes can be disrupted by a single ship stuck in the Suez Canal lacks resilience. The pandemic further illustrated the value of domestic production of essential products both in the US and across the world. It also demonstrated the value of local and regional production and distribution of food. Increased federal investments in more local systems would increase resilience, increase the quality of food and catalyze this system as a base for economic development and ecological health in rural and urban communities.

In addition to addressing the impacts of extreme concentration in the processing and distribution of food products, climate policy must also address and mitigate current economic factors that trend toward ever greater concentration of land ownership as well as ownership of seeds, production capacity, and distribution. Concentration of ownership and growth of absentee owners have undermined and continue to destroy ecological, economic, community, and public health in communities across this nation and world.

USDA must also immediately work to understand and stem the loss of land tenure including an issuance of regulations to implement the 2018 Farm Bill provision supporting relending to heirs property owners. A regulation must also be issued, and USDA field offices must be trained in the

use of the alternate documentation provisions which allow heirs property owners to access USDA programs. The Administration should request full funding for immediate implementation of the National Agricultural Statistics Service Survey of Tenure Ownership, and Transition of Agricultural Land authorized in the Farm Bill. That study is critical to understanding the degree to which land by county and state is held in undivided interests (heirs property) or absentee ownership. The Civil Rights Office should be fully funded and staffed.

Local and rural landowners are the stewards upon which we all rely and must be central to our climate policy. Through land ownership, job creation and business can expand.

The Climate 21 memo appropriately noted the need to connect climate policies to rural economies, a connection which we strongly endorse:

“Issue a Secretarial Order on Climate Change and Rural Investment to signal climate change as a top priority of the department, frame USDA’s interest in investing in agriculture, forestry, technology, innovation, and rural economies, and to set agendas for policy and programmatic actions needed to act on climate.”¹²

New climate investments have the potential to catalyze the reorientation of food, agriculture, fiber, and energy systems. We urge USDA to consider investing in bolder approaches, including the holistic approach such as that set forward by Native American Agriculture Fund (NAAF) in their *“Vision for Native Food and Agriculture Rebuilding and Recovery.”¹³* The comprehensive framing and incorporation of a wide range of elements including a new system of food hubs, repurposing existing financing mechanisms, and focusing on investing in next generation producers could become a model for other regions and other communities of BIPOC producers.

Any climate policy must be evaluated for its impact on land tenure, land ownership and control of land. USDA must adopt such measures as necessary to ensure that the role of this nation’s farmers and ranchers, and particularly its BIPOC producers, is enhanced and not erased by climate policies. It must also act to ensure that climate policies work to enhance, not destroy, the economic and ecological resilience of rural communities and advance agriculture and forestry as foundational to their economies.

Carbon Markets Will Intensify Destructive Concentration

If USDA takes on a new role in treating carbon as a commodity, it should proceed with great caution. Commoditizing carbon is a reductionist approach that has attracted venture capital, threatening land tenure. Bill Gates, a nonfarmer, now is the largest owner of U.S. agricultural

¹² (Bonnie, Jones, & Harrell, 2020)

¹³ (Simms Hipp & Givens)

lands, and there has been exponential growth of farmland purchase by unaccountable global investors.¹⁴ As we address in the next section, concentration of the control of forest lands and resources is proceeding at a rate that should cause alarm. Further privatization of the commons (carbon) has already resulted in significant concentration of wealth.

The commoditization of carbon poses additional risks of further consolidation of land, wealth and power. It rewards the reductionist methods that define the current, extractive system, which must instead be fundamentally reformed to reduce climate impacts. If the federal government enters this arena, it must assure that markets are regulated and transparent, and robust measures must be put in place to mitigate the disproportionate burden on small and socially disadvantaged producers. Metrics must also prioritize small farmers, multi-crop, and specialty crop farmers. Allowing polluters to buy the right to continue polluting by concentrating land and trading offsets props up high emitting entities and further harms vulnerable and socially disadvantaged communities, who also disproportionately live in the most polluted and underserved communities. It is inequitable and deeply unjust. While with new federal support, landowners and producers can be engaged to remediate the environment, policies must also require that high emitting corporations also reduce their own emissions to have any significant effect on a changing climate.

Federal policies that incentivize emerging carbon markets are likely to reverse, not advance, equity, inclusion and justice. The effects of existing private carbon markets should be examined before the federal government embraces this approach. What mechanisms would private markets have to make assure that carbon credits do not simply allow industries to continue polluting without demonstrable emissions reductions. The continued pollution has disparate consequences for socially disadvantaged communities, exacerbating inequities. The money “invested” does not benefit local communities. For example, where hedge funds have purchased forest property in the rural South, studies show poverty increases. If these markets cannot advantage local ownership by farmers and forest stewards who know how to protect their lands and are interested in the welfare of their communities, they should be avoided. Pilot projects could measure proof of concept but should not be a focus of major federal investment.

Voluntary adoption of enhanced conservation practices that build from current programs necessitates expanded access to markets (which could include enhanced SNAP funding for fruits and vegetables), support for aggregation hubs, access to processing facilities, labor, seeds, secure land tenure, research, technical support, and funding, as well as antitrust enforcement that would free farmers and ranchers to adopt alternatives. Any emerging federal interventions to reduce carbon or greenhouse gases must primarily recognize and remunerate such early adopters who have prioritized ecological health in their operations, uplift them, and then train and incentivize others to adopt these practices.

¹⁴ (Ross, Mittal, Johnson, & Word, 2014)

USDA should also work with producers to develop conservation compliance verification procedures so that shortcuts are not rewarded. The current trap of debt, costs of production in excess of price, and forced reliance on concentrated sources of inputs preclude adoption of new practices. Whole farm revenue and crop insurance reform are also necessary.

It is imperative to note that due to the nature of carbon cycling, rates of sequestration and ecosystem services vary depending upon location, climate, soil, biomes and more. Such a systems would mean that producers who have been subject to decades of discrimination and exclusion after to being pushed to the most fragile and vulnerable land would receive only a fraction of the benefits of other producers.

Furthermore, this form of “climate smart” policies do not stop the existing polluting practices they offset. Small to mid-size farm operations cannot maintain their viability and employ sound practices in an extractive system while commodity prices continue a downward trend in an increasingly vertically integrated global market. Sustainable agriculture must be reflected systemically throughout the entire agricultural chain, from soil to table and through to compost.

For that reason, USDA should adopt climate policies that implement payments for integrative and regenerative ecological practices rather than for quantities of carbon sequestered. Such an approach may also reduce the danger of land consolidation by absentee owners and investors seeking to accrue and profit from the passive benefits and payments for carbon sequestration. USDA must foster programs which keep producers practicing climate-smart methodologies on their land.

If establishment of a carbon bank is inevitable, USDA and other federal agencies must make clear how and where such an entity would be constructed and located, and how it would be regulated. In particular, clear policies and procedures to assure racial equity and environmental justice must be developed and instituted in direct nation to nation consultation with Tribal governments, and with the involvement of rural rooted and other communities with experience in addressing equity.

If the USDA is truly committed to equity, it must not just make programs more accessible, but include consideration of the structural impacts of its decisions -- for example, incentivizing factory farm biogas projects inadvertently contributes to increased scale of these operations and greater consolidation, putting small-scale dairies out of business. A systemic, or “deep equity” lens is essential if USDA is to meaningfully support and engage tribal governments and BIPOC producers who already suffer many disadvantages, as well as workers in family farms.

Food and farming systems in the United States are highly complex and intersect with many of today's most pressing problems. It is absolutely essential that the USDA's overarching approach to climate-smart farming and forestry honor and appropriately navigate this complexity by taking an integrated, holistic approach. Specifically, any and all new decisions and programs should be governed by a set of guiding criteria. We urge USDA not to myopically focus on carbon sequestration, but only enact decisions if the action meets a set of key guiding criteria. The following may serve as a starting point:

- Will not inadvertently incentivize GHG-emitting chemical inputs;
- Does not create disproportionate barriers for small- and mid-scale farms or socially disadvantaged farmers;
- Has been developed in a participatory process that includes tribal government consultation and representation of populations, including BIPOC producers and farm and food chain workers most likely to be impacted by the decision(s), and/or is embraced by these communities;
- Does not reward entities that cause high levels of environmental or community harm;
- Does not create inequity by driving further consolidation of wealth or control in the sector.

Federal Climate Investments Must Address a Wider Range of Environmental Injustice and Ecological Threats

Our current food and agriculture system is dependent upon the labor of millions of farm and food chain workers. While capital can move freely across borders without restrictions, labor cannot. Immigration policies and lack of labor protections mean farm and food chain workers and their families are routinely denied fair wages, and the ability to secure legal presence and live and work safely and with dignity in their communities. Women workers are often the least protected and most vulnerable to low wages and sexual harassment. The combined impact of these factors profoundly affects farming and farm laborer communities.

These workers are often the first and most exposed to the documented dangers of pesticides, herbicides and other agricultural chemicals, including nutrients; these dangers also pose broad ecological impacts. Farmworkers, and farmworker women in particular, routinely experience exposures and injuries that have long term consequences on their health and that of their children and families.

In addition, growing climate impacts are already posing new threats to workers, impacts which are being largely overlooked. The incidence of heat related illnesses among farmworkers is rising rapidly. The threat was intensified during the pandemic where essential personal protective equipment also increased the incidence of heat stress. Several years ago, a group of women farmworkers, or *campesinas*, who are part of the Rural Coalition were a part of a delegation to

New Mexico. There, the leaders of the southwest USDA Climate Hub shared the very useful information then available. One feature was the posting of a heat stress index for cattle. The women immediately asked why there are not such tools to measure the risk of heat stress for workers. We thus reiterate here their recommendation that workers receive protections from heat stress, including personal protective equipment to measure the heat they are experiencing. We further recommend that such any heat index also indicate dangers for human health, especially for workers; and that enforceable protections for all workers regardless of immigration status are set in place with regard to heat stress and pesticide exposures and working conditions.

Our communities have long raised concerns about the impact both habitat disruptions and agricultural chemicals are having on land and water. They cite a growing incidence of invasive species incursion and plant and animal diseases. Our communities have observed that overuse of pesticides and especially herbicides, which are frequently employed main to reduce the need for labor, are a factor contributing to more noxious weeds, and plant diseases including citrus greening disease. The agroecological cultivation methods they have long employed have been protective against these threats. They believe these methods could be tested more widely for their efficacy in removing toxins and healing and restoring land exhausted by chemicals and compaction. Farmworkers who suffer the costs of overuse of agricultural chemicals most directly strongly support reductions and much stronger restrictions on their use to reduce ecological and human health consequences.

Any climate strategy must also value and foster real protections and enhancement of habitats for another population that provides critical and irreplaceable ecological services-pollinators. Our environmental members and allies have developed strong and compelling evidence for reducing and eliminating the use of many agriculture chemicals and adopting agroecological and other beneficial practices to restore the land and reduce or eliminate the need for these chemicals. We support their recommendations in this important area.

Biofuels, Wood and Other Bioproducts, and Renewable Energy Questions

As USDA pursues ideas for new investment in bioproducts and renewable energy, it would do well to begin with a holistic approach to guide investments. Recent and continuing massive power grid failures had broad social consequences that require our urgent attention. While some of these issues are likely to be addressed in an infrastructure bill, USDA must consider what role bioproducts and renewable energy can and should play in a future energy transportation system.

The production and distribution of energy, including electricity and fuel for transportation, are already highly consolidated industries dependent on complex supply networks that are starkly lacking in resilience. (Bailey, Gopaul, Thompson, & Gunnoe, 2020). Substituting biofuels or large-scale renewable sources including wind energy for other fuels into the existing power and

transportation systems will not address the current costs and vulnerabilities of these systems. Investing in biogas digesters to turn the massive waste of concentrated animal feeding operations into an energy product does not remediate the worker safety, food safety or ecological and economic costs of these concentrated operations for farmers, workers and communities. Nor will those approaches take advantage of new technologies and opportunities to build a more resilient and localized system of energy production and distribution.

While other federal agencies will also be considering these questions, we urge USDA to consider that these transportation and energy systems and how they are reoriented bears significant consequences for rural communities, and especially for persistently poor communities and the tribal and BIPOC communities who live there. Smaller scale and more localized energy production could reorient energy distribution and increase the resilience of these systems instead of just expanding the current system, which is by its very nature, extractive. Transportation systems bypass and fail to serve rural residents who need alternatives to cars. There are deep equity issues involved at every level.

We also seek to understand what role USDA is envisioning for forests in its energy equations and in its overall approach to wood, fiber, carbon markets and climate.

There is a growing body of research that details the impact of the degree of highly concentrated ownership of forest land on children, families and the communities. This research documents the need for policies that secure land tenure as the basis of community and child wellbeing, protecting the intergenerational transfer of land and building a community with a healthy ecosystem and a tax base sufficient to support quality education, employment opportunities, and a strong infrastructure.

We place them here in the conversation because trends related to privately held forest land, in this case the transition from companies owning forests for producing paper to companies who own and manage the land as a financial asset, relates to how these forests might be used and valued both for biofuels and carbon credits.

In the paper “Taking Goldschmidt to the Woods: Timberland Ownership and Quality of Life in Alabama,” Dr. Connor Bailey and colleagues used *“a database of property tax records for 13.6 million acres representing every parcel of privately owned timberland in 48 rural Alabama counties to test two hypotheses inspired by Walter Goldschmidt relating land ownership and quality of life.”*¹⁵

Like the historic Goldschmidt study that linked concentration in land ownership to poverty in communities of the Central Valley of California, the data *“show private ownership is highly*

¹⁵ (Bailey, Gopaul, Thompson, & Gunnoe, 2020)

concentrated and 62 percent is absentee owned...Our findings support Goldschmidt-inspired hypotheses that concentrated and absentee ownership of timberland exhibit a significant adverse relationship with quality of life as measured by educational attainment, poverty, unemployment, food insecurity, eligibility for free or reduced price lunch at public schools, Supplemental Nutrition Assistance Program participation, and population density. Low property taxes in Alabama limit the ability of local governments to generate revenue to support public education or meet other infrastructural or service needs in rural areas. We call on rural sociologists and kindred spirits to pay more attention to the fundamental importance of land ownership which shapes the foundations of power and inequality affecting rural life in America and beyond.”

The paper goes on to detail how investments in timberland in Alabama, driven by investment decisions of large corporations with little connection to the communities, has changed:

Since 1990, and in particular during the period 2000–2008, corporations in the forest products industry sold most of their lands—approximately 50 million acres nationally (Bliss et al. 2010; Gunnoe, Bailey, and Ameyaw 2018). This large-scale divestiture was motivated by shareholders who reasoned the value of timberland should be used to pay down corporate debt and buy back stock shares, thus increasing share values (Gunnoe 2014). The primary buyers of these lands were other corporations and financial managers and investors classified as Timber Investment Management Organizations (TIMOs) and Real Estate Investment Trusts (REITs). TIMOs manage land for investors (e.g., pension funds) which own land as a financial asset but lack timberland management expertise. REITs are corporations which own land on behalf of shareholders and enjoy a tax-free status as long as they distribute 90 percent of their profits directly to shareholders and have minimal income from any form of manufacturing activity.

TIMOs and REITs have replaced paper companies as the largest owners of timberland in Alabama. The five largest owners of timberland in Alabama are either TIMOs or REITs, owning 1.9 million acres representing 10 percent of all privately owned timberland in the state. Similar changes in timberland ownership are happening elsewhere in the U.S., where three REITs and six TIMOs own a combined 31.4 million acres (FORISK 2018). The connection between absentee TIMO and REIT investors with the land or people who live near their land is distant at best (Gunnoe et al. 2018).”¹⁶

We have observed similar trends particularly in the State of Georgia. In Alabama, Georgia and other southern states, there remain many private forest landowners, including many Black landowners. There has been a push to address the heirs property issues that many black landowners face as land transitions into undivided interests held by survivors when owners pass

¹⁶ (Bailey, Gopaul, Thompson, & Gunnoe, 2020)

away without a will. However, the process of probating a will or an estate left with no will or executor, even in states where the Uniform Partition of Heirs Property Law has been enacted, is complex and expensive.

The Federation of Southern Cooperatives which has studied these trends for decades, estimates that at least 40% of black owned properties are now held in undivided interests or heirs property. Such properties are left wide open to partition sales which happen when outside interests offer to purchase the interest usually of one distant family member, forcing a sale of the whole property with distribution of the usually small proceeds among all family members. The risk of such forced sales grows as potential federal payments for ecological services for forest land investments makes them a more desirable asset for timber interests or even pension funds. BIPOC families are less likely to have access to affordable and unconflicted legal services necessary to create wills and succession plans. In the aftermath of a pandemic that has left over 560,000 families coping with the loss of family members, USDA and other federal agencies lack information to assess how many more properties are at risk. It is likely however that at least some of those properties include farm and forest land.

It is essential that USDA work with its BIPOC community-based organization partners to identify and address these risks and how new federal investments may make the critically important securing of land tenure for the nation's Tribes and BIPOC communities even more difficult and important. USDA should begin by issuing regulations to implement the heirs property relending program established in the 2018 farm bill. It should also issue a regulation and field directives to help farm and forest landowners faced with succession issues to utilize the alternate documentation provisions in the 2018 Farm Bill to access conservation and forestry programs they need to care for and protect the land as these issues are resolved. Finally, as mentioned elsewhere, USDA must assure that NASS Land Tenure study is funded and implemented to help understand the degree to which land is held in undivided interests and absentee ownership and to serve as baseline - and a warning sign - to document how the incidence of these land tenure patterns changes as new policies are implemented.

In addition to properties that are left vulnerable to losses through unresolved heirs property issues, we have reports from our members of the incidence of parties seeking to take possession of land not actively managed by use of adverse possession. Thus, a party that uses land of a certain period of time has specific rights on property law in some states to claim that property without a sale. Thus, when property owners must work outside, their neighboring producers use the land and sometimes cut the timber or otherwise legally challenge the property rights of the rightful owners by their adverse possession and use of it.

Another concerning trend is the growing use by wide networks of entities who entice BIPOC producers in particular to sign a power of attorney appointing an outside party to manage their

utilization of USDA services. These entities often charge a significant percentage of the benefits without informing the producers that USDA provides these services at no cost. There are multiple examples in states including Florida, Arkansas and New Mexico where such parties are charging between 10 and 30% of USDA benefits, including loans, in return for securing these benefits. The farmers are often not aware that qualified technical assistance is available from many trained and trusted community-based members to do the same thing without cost.

Timber Investment Management Organizations are among such entities reaching out to BIPOC landowners seeking to manage their land and timber assets for a cost. Any increase in payments for the ecological benefits forests can provide, or in their potential for new biomass facilities, pose potential risks for landowners who are not provided with a full understanding of how these tools work, and how benefits are accrued to owners vs. those who manage them for profit. USDA should assure that landowners have the information they need to assess these risks.

As we have noted elsewhere, USDA would be well advised instead to provide funds that will sustain the technical assistance programs offered by many community-based organizations who have helped thousands of Tribal and BIPOC farmers and ranchers navigate USDA programs at no cost. Such technical assistance programs should include support for consulting foresters to help navigate current and any new USDA programs and to access any local tax reductions relating to holding the land in forestry use.

USDA has not demonstrated it has the tools to understand how investments in ecological services, particularly if these create incentive or expand carbon markets, will impact the ownership and control of the land.

Renewable Energy Production, Including Solar and Wind, Raise Equity and Environmental Justice Concerns

Our members have further informed us that the terms of contracts related to renewable energy including wind turbines, solar farms and easements for power lines and other energy related uses of farmland are also subject to abuse. In Oklahoma for example, Black and tribal farmers were told essentially that the wind seemed to blow around their properties and was therefore less valuable than the wind blowing elsewhere. Because virtually all these types of contracts (as well as gas and mineral leases) include non-disclosure agreements, producers are unable to compare terms with their neighbors and have no way of knowing if these are fair.

In Oklahoma, Texas and other southern states, farmers and rural residents have installed solar energy systems for their own use. However, if these systems are connected to power company grids, the companies charge the farmers and families for distributing the clean energy they produce.

We expect these predatory enterprises and forced sales of heirs properties to grow if USDA provides new investments in ecological services or promotes carbon markets. We urge USDA to develop a full understanding of the risks of these practices for all farmers, and particularly the imminent threat they pose to the land holdings of BIPOC communities. Moreover, USDA must, in consultation with Tribal governments and BIPOC communities, develop tools to identify and mitigate these threats to land tenure. This should include a new focus on ways to promote the development of succession plans by all farm families. USDA should also upgrade its power of attorney forms to require written disclosure by outside entities who require producers to pay them for services USDA provides without cost.

Any large-scale change in federal policies has the potential to create a new set of winners and losers. Without the NASS study on land tenure, USDA has no database to serve as a baseline to determine the impact of current trends and new policies on who controls the land and what impact such changes have on environmental justice and equity.

We also urge USDA to consider the role of education, research and community investment in rural regions. While the reorientation of transportation and energy systems bears significant consequences for rural communities, and especially for persistently poor communities and the tribal and BIPOC communities who live there, there is great opportunity for investment and development of highly skilled workforces. Rural communities must be involved in the development of any new systems or reorientation. Producers and rural communities are already very well versed in environmental science, economics and mechanical engineering. Further investment into rural regions starting with youth through high schools and community colleges will only improve development of alternative renewable energy sources and on farm technologies.

In order to phase out fuel-based systems and incentivize renewable electricity we must look to innovative renewable solutions that engage agriculture and support agricultural communities. For example, vast research shows that hemp fiber, which is often composted or destroyed after harvest, is proven to outperform current battery technology with better energy capacity and storage. The cost to produce hemp electric batteries is also far cheaper and destructive than current battery production. Moreover, hemp producers have been able to invent numerous products from hemp, such as concrete and fiber, which processes emit much less greenhouse gas than traditional methods. Investment into such technologies and rural solutions is imperative, this smaller scale and more localized energy production could reorient energy distribution and increase the resilience of current systems.

Addressing Catastrophic Wildfire Questions

The communities we serve stress the fact that healthy forests are valuable and complex ecosystems that are important to the health of our entire planet. It is important to consider their ecological value and the economic importance of protecting it.

Monoculture forest plantations featuring a single species grown as an economic product do not provide the same ecological benefits as natural forests. Tree planting on a massive scale cannot replace these forests. USDA should work with private landowners and other federal agencies to identify and take steps to protect the forests that are relatively healthy and already sequestering significant amounts of carbon. It should also promote research to detail the benefits of protecting forests primarily for that purpose. USDA should construct programs that incentivize that protection in a permanent and sustainable manner with benefits to tribal governments, private landowners including BIPOC forest landowners, and the forest and park users and communities that surround national forests and other federally held lands that include forests.

While wood is a valuable resource, more research on how to sustainably harvest timber, and on how to meet needs for wood, energy and fiber in ways that protect forests represent critical research topics worthy of USDA investments.

It is further important to note that catastrophic wildfires are occurring largely on federal and state land and often in the Western US. USDA is urged to consult with other federal departments and particularly the Interior Department, on the land management practices on federal land. Moreover, USDA must consult directly with Tribal Governments and BIPOC producers including ranchers from the historic land grant communities of New Mexico and Colorado who use or have historically held land on the status and issues related to allocation of grazing leases and other rights to use land. These communities possess a deep understanding of traditional methods to enhance ecologically based management of the land, and the role of grazing animals in protecting forest health.

Environmental Justice and Disadvantaged Communities Questions

We have included numerous equity focused proposals in previous sections and in the recommendations that follow. Here we stress the need for USDA to consult closely with Tribal governments as well as its community-based organizational partners on how to resolve the many historical and structural barriers that prevent Tribal and BIPOC producers from engaging with and attaining the same degree of support and benefits most other farmers and ranchers receive from USDA. Even in the present day this sector of producers receives only a miniscule level of the support other producers depend upon.

In order to address this gap, we urge USDA to pilot and the US Congress establish a comprehensive *USDA Equity and Access Program* that supports and enables Tribal and BIPOC

farmers and ranchers to secure land tenure and fair access to USDA programs and services, and to build and secure viable operations that also benefit and provide an economic base for the poor rural communities where many reside.

A more holistic approach to fulling gaps in programs and services would jumpstart opportunities for BIPOC farmers to survive and thrive. We will be sharing a comprehensive template for such program, but essential elements include:

- Access to land ownership and secure land tenure – A significant percentage of producers and aspiring producers we serve lack farm and tract numbers and the documentation required to acquire them, even if they are cultivating land that has been in the family for generations. A land access program should provide incentives, cost shares or other support to help families resolve heirs property issues, secure clear title to their land and secure and maintain a succession plan for the future of their farmer. This could include assistance to help heirs property owners secure a Power of Attorney agreement or a Tenant in Common agreement. Such instruments would allow and encourage family agreement on the use and management of the property but doesn't require them to deed the property over to one owner or encourage the use of partitions by one party to force a sale or transfer of the property.
- USDA should provide more options to work with a mentor farmer or otherwise substitute work on a family operation, as a farmworker, or farming experience outside the US in order to meet the 3-year requirement to qualify for beginning farm loans.
- Access to farm operating loans – Producers recommend that USDA make available options for operating loans that defer the first payment for 24 months and provide interest rates reductions. These terms would allow them to build up the equity that many BIPOC producers lack due to the cumulative effect of discrimination.
- We further strongly recommend that Congress remove the statutory requirement that FSA serve only as a lender of last resort so farmers can remain eligible for USDA loans even as they progress in building equity and experience.
- Provide support for new incentives and tools to help producers improve record keeping systems, general farm and financial management practices and meeting all regulatory requirements.
- Provide incentives for participation in cooperatives to market their products, and to farmers to serve as mentors to other producers.
- Ongoing support for a network of qualified technical assistance based in the community-based entities that have developed the trust of producers to help them navigate the full suite of farm, credit and conservation programs. These technical assistance providers should receive support to help producers access both FSA and NRCS systems. Producers are already noting that recently instituted requirements to address ecological practices and benefits require them to use different language to define their needs for assistance. It is imperative that they have trusted technical assistance to navigate these and other coming changes.

Under this initiative, producers would receive support and incentives (which could be constructed as tiered grants, cost share payments or a comprehensive loan with loan forgiveness for meeting requirements of each tier) combined with technical assistance provided directly to farmers and ranchers through community-based organizations that already serve them.

We understand that these recommendations do not appear to directly address climate issues. However, in order to engage fully in the many conservation programs USDA already has, a significant percentage of BIPOC producers first need to meet eligibility requirements to access FSA before all the current and proposed programs will become available to them. Also, care of the often vulnerable land base they hold is in the interest of their families, their communities, and our nation. Addressing these gaps is the first step to building racial equity and environmental justice.

Additional Equity Recommendations:

1. USDA should immediately request funds from Congress to implement and complete the National Ag Statistics Survey of land ownership as a baseline to measure the impact of any payments for ecological services on land tenure, including changes in the incidence of land held in undivided interests and absentee ownership. The NASS Total Land Survey should be repeated within 5 years and once a decade thereafter with data collected on land ownership by race, gender and ethnicity, age of producer and other demographic and economic characteristics to the county level.
2. USDA should immediately implement the heirs property relending fund authorized in the 2018 Farm Bill and funded by Congress annually since to assure the required pilot projects are set in places with results ready to inform the next Farm Bill.
3. USDA should revisit how land tenure is reflected in its data systems. The categories of owner, renter and operator are insufficient, and the very large number of entities whose status is described as “unknown” in the payment system managed by FSA masks the degree to which land is held in undivided interests, in corporate or other forms of absentee ownership, and also the degree to which crop, grazing and forest land is managed by outside interests. Data on who actually controls land are essential to developing any long-term plan to mitigate the climate crisis.
4. USDA should promote the development of succession plans by all farm families.

5. FSA power of attorney forms should require outside entities to provide written disclosure to producers of the amounts of any payments they require to provide them with services USDA provides without cost.
6. USDA should also develop programs to support qualified technical assistance from trusted entities who already help producers and forest owners secure USDA program access and services at no cost to producers.
7. Carbon sequestration should be seen as an important but not the only factor in evaluating success. New investments should also be evaluated based on total ecological benefit and related factors including increases in overall resilience, in pollinator habitats, restoration of watersheds and water quality and disaster resilience.
8. Climate investments should be practice based. USDA should modify the EQIP and CSP programs to include a wider range of practices informed by traditional ecological knowledges and indigenous agriculture knowledges. These should include support for practices as well as new uses of the conservation reserve program that promote the continuous planting, saving, selecting and sorting of seeds over decades to assure they adapt to changing conditions. Set asides should be expanded to include tribal run projects and projects developed by traditional communities focused on increasing the ability of seeds and breeds to adapt to changing conditions. At the same time, USDA should consult with Tribal government and BIPOC communities to institute essential measures to protect the rights of tribal and other communities to retain control of these seeds and breeds.
9. USDA should increase incentives and reduce the amount of paperwork for BIPOC, limited resource and beginning producers in existing conservation programs. This should include eliminating costs shares and matching funds requirements, increasing minimum payments and utilizing payments for practices rather than carbon sequestration.
10. USDA must also invest in providing sustained support to expand the essential network of technical assistance providers connected to the community-based organizations who have the capacity and experience to provide this essential hands-on assistance.
11. USDA and other federal agencies should ensure workplace protections for all farmworkers and food chain workers, including protections against sexual harassment and discrimination. USDA should work with other federal agencies to address heat

stress. It should also institute immediate reduction of line speeds in poultry processing.

12. USDA must assure that any USDA Climate Policy and Rural Investment Advisory Board, or similar federal advisory committee established with the purpose of advising the Secretary on climate policy¹⁷ include a critical mass of representation identified by Tribal Governments and from groups with documented experience representing socially disadvantaged producers and landowners including forest landowners.

13. USDA should engage career staff with deep familiarity and trusted relationships with Tribes and BIPOC communities in the development of effective policies, including the outreach, small farms and civil rights offices within NRCS, FSA, APHIS, NIFA, NASS and many other USDA agencies. They should restore the cross-agency collaborations among career staff that generated many effective policy ideas that have informed equity advances in federal law. They should also reinstitute the structures that allow such collaborations and restore ongoing partnerships with community-based partners who are delivering services at the field level.

Conclusion

In any transition in our food, agriculture, fiber and energy systems to address the climate crisis, it is of course essential that solutions benefit both the economy and ecology. In closing, we reflect that the terms ecology and economy both derive from the same root – the Greek word “oikos” which means household. Our efforts to restore a resilient household – one that sustains our planet and its people into the future – requires deep humility and the capacity to begin to know what we do not know. Our solutions require the humility to consult and respect tribal and indigenous and traditional ecological knowledge in order to inform and deepen our understanding of how we can make the equitable transition essential to the future of our planet and its people.

In our view, this starts with assuring that in the US and beyond, land and resources are reconnected with the persons and communities who know how to care for them, for the benefit of all who live, work and depend on these systems. This requires a focus on secure land tenure, and a basic reorientation of systems from extraction to investment in true and durable resilience.

We appreciate this opportunity to share our insights and recommendations with you. We are most willing to answer now or in the future any questions you may have or to offer any assistance on refining and implementing a vision that reorients our current food and agriculture systems to one that is resilient and just and equitable.

¹⁷ (Bonnie, Jones, & Harrell, 2020)

Submitted by

Rural Coalition, Washington, DC

Rural Advancement Fund of the National Sharecroppers Fund, Orangeburg, SC

North Carolina Association of Black Lawyers Land Loss Prevention Project, Durham, NC

National Latino Farmers and Ranchers Trade Association, Washington, DC

Oklahoma Black Historical Research Project, OK

Kansas Black Farmers Association, Nicodemus, KS

Rural Development Leadership Network, New York, NY

American Indian Mothers Inc. DBA/Three Sisters Farm & Ranch C-op, Red Springs NC

Alianza Nacional de Campesinas, Oxnard, CA

World Farmers, Lancaster, MA

Family Farm Action Alliance

Etc....(List in process)

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March 3, 2019

The Honorable Gene L. Dodaro
Comptroller General
U.S. General Accounting Office
441 G Street NW
Washington, DC 20548

Re: **SEC. 5416. GAO Report on Credit Service to Socially Disadvantaged Farmers and Ranchers**

Dear General Dodaro:

I. **INTRODUCTION**

As the General Accounting Office prepares to fulfill its duties under Section 5416 of Public Law 115-334, the 2018 Farm Bill, the undersigned organizations representing the agriculture lending interests of minority and socially disadvantaged farmers and ranchers encourage the adoption of methodologies that examine and evaluate farm lending policies having a negative impact on minority farmers and ranchers. The study's methodology should examine, from our perspective, and evaluate certain "unique" lending patterns, practices and policies that reliable sources, academic and legal, verifiably document as contributors to farm loan default, acceleration and foreclosure within the minority farming community.

The undersigned organizations over the years have reviewed thousands of loan documents, and assisted minority farmers with loan servicing options. Before and after Keepseagle, Love, and Garcia Pigford Farmer settlements, the undersigned organization labored with minority and socially disadvantaged

family farmers and ranchers in the areas of farm credit applications, collateral requirements, and loan servicing. As a collective of over 100 years of experience in family farm foreclosure prevention and farm wealth transition, we know firsthand the consequences of late loans, disparate treatment and disparate impact in loan servicing and other hidden farming lending discriminatory policies and procedures.

A history of loan service to our farmers gives us the knowledge and credibility to offer suggestions that will accommodate efforts to determine other appropriate details of the study's methodology. As you develop a methodology to gather and organize reliable report data to present to the House and Senate Agriculture Committee, consider farm loan practices from our practical and historical perspective.

As delineated herein, our methodology suggestions find general acceptance in 7 U.S.C. 1983c which authorized the Secretary of Agriculture to implement pilot loan programs when there is a finding of loan program irregularities. This study is much needed as it will point out farm lending irregularities for the purpose of improving credit for all farmers. Farmers appreciate the fact that the legislative language mandates a product completion within 120 days of December 18, 2018, the execution date of the 2018 Farm bill.

II. LEGISLATIVE REQUIREMENTS

The statutory language requiring of the study is general and purposely vague. We point out the vagueness of the language, not as a criticism, but to augment the necessity of a broader methodology that captures real irregularities faced by minority farm borrowers.

Essentially, Section 5416. of Title V of the 2018 Farm Bill requires the Comptroller General of the United States to conduct a study to (A) assess the credit and related services provided by agricultural credit providers to socially disadvantaged farmers and ranchers; (B) to review the overall participation of socially disadvantaged farmers and ranchers in the services described in subparagraph (A); and (C) to

identify barriers that limit the availability of agricultural credit to socially disadvantaged farmers and ranchers. Title 5416, Sec. 5416 of Public Law 115-334.

The language's general reference to terms like access, participation rates and barriers by implication suggests that the functionality of the methodology encompasses the time, place, manner of access, and foreclosures that may violate federal laws if the irregularities are found to be within the consumer protection prohibitions of statutes like the *Equal Credit Opportunity Act (ECOA)* – **15 U.S.C. 1691- 1691f**, *Fair Housing Act (FHA)* – 42 U.S.C. 3601 – 3631; *Dodd Frank Unfair Deceptive and Abusive Practices Act (UDAP)* - **12 U.S.C. Section 5531(d)**.

Even though not specifically mentioned, it is permissible that the study's methodology must be comprehensive to the extent that access, participation and barriers will be quantitatively and qualitatively articulated by examining or evaluating lending irregularities and discriminatory practices against relevant regulatory guidance of relevant consumer protection statutes. If a plain meaning interpretation of Section 5416 applies without permissible considerations, the data could be limited to the number of minority farm loans granted and denied and miss critical data on key issues such as lending patterns, policies and practices that have a disparate impact or serve as disparate treatment. Missing the real issues of farm loan irregularities and discriminatory terms and conditions may cause further extractions of land wealth from minority farmers while denying the same or similar viable, economically appropriate lending risk management tools offered to nonminority farmers and ranchers.

We understand that not every aspect of a farm loan transaction can be studied. But critical irregularities must be studied. The Congressional intent of Section 5416 reveals that the results must inform and guide policy makers and practitioners on how to create program efficiencies while ensuring fair farm lending.

Reviewing overall farm lending participation rates does not address associated issues of barriers to participation such as fair and equitable participation. The fact that a minority farmer participates in a private or federal loan program does not automatically equal meaningful, fair participation. Some farm credit transactions run afoul of consumer credit statutes and we can attest to such examples evincing lending irregularities and discrimination. Therefore, participation in harmful discriminatory lending transactions is more detrimental economically than straight forward credit denial, especially when the loan is over collateralized, and a personal residence security interest is mandated but is unnecessary to secure the loan in question. Minority farmers understand that agriculture is a high economic risk industry and their reliance on fairness in credit transactions must be guaranteed by the lenders offering various credit options.

Farm lending, especially when directed by the government or guaranteed by the government, should be a consistent and evenly applied farm risk management toll. In accordance with 7 CFR 1779.63 and 7 CFR 4279.281 the U.S. Department of Agriculture and the Small Business Administration must make sure that lending irregularities and discrimination is not a part of any loan guaranteed by the government. Minority farmers confront the same floods, droughts, and market fluctuations as nonminority farmers. Inequities and irregularities within farm lending sector should not be held in the same farm risk category as natural disasters.

III. IRREGULAR AND DISCRIMINATORY LENDING PRACTICES

The data collected for analysis, under Section 5416, must include loan transactional components such as **(a)** excessive collateral requirements, **(b)** unwarranted late disbursement of loan funds, **(c)** misapplication or calculation of actual or average farm production, **(d)** evaluation of loan applications based the association of credit risk identified with third party non applicants, **(e)** directing or requiring borrowers to purchased equipment or inputs from entities related to the transactional lender, **(f)**

suggesting or requiring underfunded or over funded annual crop loans with the intent to gravely impact repayment ability, and (g) denying or forcing loan servicing options that diminish annual farm operations and loan repayment ability. While not exhaustive, this list is a compendium of discriminatory or irregular lending conduct that is prohibited by the Equal Credit Opportunity Act, the Fair Housing Act, and the Dodd Frank Unfair Deceptive and Abusive Practices Act. These aspects must be studied.

IV. DEVELOP A METHODOLOGY FROM APPLICABLE CONSUMER CREDIT; CIVIL RIGHTS; FARM CREDIT STATUTES AND REGULATIONS

The goal of this study is to collect data on access to fair credit since the lack of access to fair credit is the same as a barrier to credit. **We recommend that the study examines 8 (eight) standards.**

- (a) **Effects Test** – The Equal Credit Opportunity Act and its implementing regulations found at 15 U.S.C. 1691, and 12 CFR 1002, Regulation B, may prohibit certain credit practices that are discriminatory in effect because the practice or policy has a disproportionately negative impact on a prohibited basis such as race, age, gender, etc. Under the effects test, the policy or practice of the creditor does not have the intent to discriminate. The lending practice, under the effects test, appears to be neutral on its face. It is the application of the policy or practice that presents the irregular, discriminatory disparate impact or disparate treatment problem for the minority or socially disadvantaged farmer borrower. For example, the lender informs nonminority similarly situated farm loan borrowers on the best and lowest price seed, tractors or fertilizer. Or the nonminority borrower may get detailed information on where to find low priced farm land for rental. In contrast, the minority farmer does not get the same “best source to purchase” advice. Another example is appropriate as is the “best source to purchase” example. Consider a lender loan requirement specific to the minority farmer where a refinance of personal residence using a USDA guaranteed loan is mandatory for the closing of a farm

operating loan. Under the “effects test” a disparate impact problem arises where, in contrast, the nonminority, similarly situated farm borrower is not required to refinance his personal residence and or use the personal residence as collateral for a farm operating loan. It is easy to see that the minority farmer, in these examples are subjected to disparate treatment. Granted, some lender policies or practices will pass muster if it meets a legitimate business need of the lender that cannot reasonably be achieved as well by means that are less disparate in their impact. *See Regulation B, 12 CFR Section 1002.2(c), (m), (n), (t) and (z).*

(b) **Deceptive and Abusive Lending** – Although less frequently, a lender may subject a farm loan borrower to terms and conditions that are designed to put the farmer out of business. A farmer may be subjected to coercive tactics whereby a farmer can be lured into a farm loan that is not affordable or guaranteed to result in foreclosure. Lender decisions to such abusive or deceptive tactics in loan making or terms and conditions may violate the Dodd Frank Unfair Deceptive and Abusive Practices Act (UDAP). In the farming area, like other consumer credit, a UDAP claim can be successful only when the lenders conduct shows the following: “**(1)** materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or **(2)** takes unreasonable advantage of - **(A)** a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; **(B)** the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or **(C)** the reasonable reliance by the consumer on a covered person to act in the interest of the consumer. *Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. Section 5531(d).*

(c) **Residential Real Estate** – In order to obtain a farm operating loan, a farmer may be required to offer his personal residence as collateral for such loan. On its face the offering of a personal residence can be a lender requirement that is based on the credit risk of the particular loan.

However, Civil Rights statutes and implementing regulations such as 24 CFR Section 100.130 (a) prohibit a lender from imposing different terms or conditions for the availability of loans or other financial assistance because of race where the transaction is secured by residential real estate. **See 42 U.S.C. 3604(b); 24 CFR Section 100.130 (a); and 24 CFR Section 100.130 (b)(1)(2)(3).**

- (d) Excessive Collateral Requirements** - Whether minority farmers are required more frequently than non-minority farmers to tender excessive collateral in order to receive a farm loan or to acquire meaningful loan servicing through workout and loan modifications. **See Regulation B, 12 C.F.R. 1002.6(b)(4); Regulation B 12 C.F.R. 1002.2 (n)**
- (e) Discriminatory Loan Terms and Conditions.** - Whether minority farmers more frequently than non-minority farmers receive loan funds after April of any given crop year. Under the guidance of 12 C.F.R. 1002.6(b)(4) a lender cannot provide two different systems of credit application, loan pricing or loan servicing. **See Regulation B, 12 C.F.R. 1002.6(b)(4).**
- (f) Third Party Influence.** - Whether minority farmer loan application packages and lending decisions are unduly influenced by third party entities such as equipment dealers, agricultural input suppliers and or processors and millers of raw agricultural products. **See Regulation B, 12 C.F.R. 1002.2 (c); 12 C.F.R. 1002.4 (a)(b); and Unfair Deceptive Abusive Practices Act - 12 U.S.C. Section 5531(d).**
- (g) Lender Control Over Farmer Operations.** - Whether farm lender's more frequently exert control over the daily management of minority farmer operations in terms of acreage planted and equipment purchased. **Unfair Deceptive Abusive Practices Act - 12 U.S.C. Section 5531(d).**
- (h) Intentional Lender Mistakes.** - Whether certain lender decisions are implemented with intent to cause irreparable damage to the economic viability of minority farm operations. **Unfair Deceptive Abusive Practices Act - 12 U.S.C. Section 5531(d) (UDAP).** We do not infer that every

farm loan, whether USDA Direct or USDA guaranteed, is made and designed with the intent to defraud or damage the farming operations of minority operators. But, history and experience, nevertheless, inform us that such problems like this do appear occasionally and have the intended effect of causing harm and failure to minority farmer operations. Again, we stress that these practices do not happen every day, but our farmers tell when they exist, and the farmers tell us when lenders make lending mistakes – intentionally or not. Having made a compelling argument to the U.S. Congress during the 2018 Farm Bill debate, the House and Senate Agriculture Conference Committee, responded proactively to provide a provision of “equitable relief” for farm loan borrowers in those circumstances where a FSA farm loan employee makes a mistake – knowingly or unknowingly - and that mistake causes a borrower to be in noncompliance on a USDA direct loan. Section 5304 of the 2018 Farm Bill conference report gives the Secretary of Agriculture the authority to offer a farm loan borrower a provision of “equitable relief” when a decision of a farm loan officer causes the borrower to be out of compliance with the loan program. Noncompliance with a loan term or provision can lead to default, acceleration, and foreclosure. The “equitable relief” provisions of Section 5304 are far afield from the fraud prevention provision of the UDAP. **12 U.S.C. Section 5531(d)**. Lender mistakes whether intentional or not will cause economic damage to farm business operations. We mention the presence of “equitable relief” in Section 5304 to highlight the existence of a problem and the necessity that the GAO study look into irregular lending practices having a flavor of mistake or fraud. **Sec. 5304 of Public Law 115-334.**

V. INDUSTRY SPECIFIC CREDIT TRANSACTIONS: SUGAR CANE AND CONTRACT POULTRY

Although not often implemented by the U.S. Department of Agriculture, 7 U.S.C. 1983c permits the Secretary of Agriculture to conduct pilot loan programs in areas of lending irregularities, such as those endemic to industries such as contract poultry and sugar cane production. The existence of pilot loan

programs under 7 U.S.C. 1983c provides additional credibility to the research questions and methodologies that we suggest be made a part of this study. Our suggested approach makes a valid attempt to explain farm lending irregularities whether they be historical and race based or neutral loan making business decisions that have a disparate impact on minority farm loan borrowers. Upon the general applicability of 7 U.S.C. 1983c, we urge a methodology that informs the Secretary of Agriculture of the benefits of frequent, effective utilization of 7. U.S. C. 1983c when presented with a petition by a farm group showing that an area, or group of farmers are defaulting on loans on a consistent and increasing rate with a similar pattern or practice of lending or loan servicing. Under 7 U.S.C. 1983c, a petition from a farm group requires the Secretary to create a farmer Loan Pilot Project designed to prevent and restructure loans in the area of concern. FSA direct and private guaranteed lending in the contract poultry industry presents a good example of consistent farm lending irregularities. For example, in the years 2004-2007, approximately, we worked with Hmong organizations and producers, holding focus groups and other reviews of the difficulties faced by Hmong farmers who had relocated to northwest Arkansas near Fayetteville, to purchase poultry operations. We reviewed practices and called these to the attention of the Secretary of Agriculture. Many of the families included parents who entered the US as refugees, and children who had worked in fields such as engineering. A group primarily from Wisconsin began to move to northwest Arkansas at the recommendation of respected people, who had served in public positions within USDA and elsewhere. They had some resources, and it appears the local real estate industry worked in cooperation with the banks to secure guaranteed loans to buy out poultry operations that were not economically viable for their former owners. The producers showed us that in many cases identical or nearly identical farm and home plans were submitted to the banks for approval, and farmers were told they could secure certain conservation benefits used by previous owners. The prices of the farms rose as more producers moved in, and in most cases the families were not aware of the additional costs they must incur before the integrators

would allow them to enter production. The loans provided were proving highly risky, and many of the new producers lost their operations. The “solution” recommended at the national level after Rural Coalition and many other groups called for action, was to pressure the Natural Resources and Conservation Service to engage trainers from groups who worked as farm advocates to teach producers how to better meet the requirements of the poultry integrators. The GAO should review the loan portfolios in that region over the past 15 years to examine lending practices. Producers told us that the bankers, the real estate agents, and many others benefited. The producers are left with debts most likely still held by the Farm Service Agency.

Minority and socially disadvantaged farmers and ranchers are often subjected to lending irregularities deemed “non business credit risk” loan terms and conditions. The following terms and conditions are deemed “non business credit risk” terms and conditions: **(i)** lender loan servicing mandate to sell borrowers existing income producing collateral and use the sales proceeds to buy new replacement collateral from a single tractor equipment source identified by the lender; **(ii)** farmer requirement to purchase a piece of farm harvesting equipment and immediately lease the equipment to a third party business; and **(iii)** consideration of the past bad debt of a parent or other family member. The outgrowth of these and related lending irregularities **fosters** barriers to meaningful access to farm credit for minority farmers.

VI. EFFECTIVE COMPLAINTS PROCESSING AND SETTLEMENT

We further note that the Farm Credit System lacks a specific system or methodology to act on civil rights complaints consistent with ECOA and related requirements and that one needs to be developed and implemented in order to assure fair implementation of guaranteed programs.

We have attached correspondence that we conducted with the Farm Credit Administration on behalf of a young African American producer in South Carolina, and correspondence between he and FCA in 2014.

We also have correspondence and many documents on the case of a Hmong woman who had an operation in Missouri with her husband, and how she lost her operation after he passed away. In these cases and many others, producers come to us at a point when it is very difficult to save their operations. What is similar in all the cases we have mentioned is that there is substantial confusion not only for the guaranteed loan borrowers we have encountered, but also on the part of advocates, on how to secure the rights provided these borrowers under the Equal Credit Opportunity Act. The Farm Credit Administration has not included equal credit opportunity under the protected rights it lists on its website, and to file a discrimination complaint, producers are told to write to the FCA Office of Congressional Relations and Public Affairs. The questions asked and responses provided indicate there is no formal process to investigate claims under ECOA. There do not appear to be any statements or other information to tell farmers how to secure their rights. We urge you to review these attachments. The GAO study should examine what system FCA and the banks that make guaranteed farm loans should have and how producers should be informed of and assured their rights. Thus, producers who encounter unfair treatment lose valuable time trying to figure out the avenues of protection they do have. The GAO should consider what measures are necessary to correct these deficiencies and assure guaranteed lenders abide by ECOA in loan making and loan servicing.

The study methodology should also take a look at the specific minority farmer lending practices within certain crops or industries such as poultry in Arkansas, North Carolina and elsewhere, vegetable crops in South Carolina and sugar cane crops in Louisiana. The study will be much more valuable if it examines the lending practices in these industries as related to African American, Hispanic, Hmong and other Asian Pacific American, and Native Americans borrowers. A specific portion of the inquiry should address how the details of loan transactions may have caused or contributed to the exodus of minority and socially disadvantaged farmers from specific farm industries in specific areas, and who benefited and who lost in these areas.

VII. THE NEED FOR A SYSTEM OF COMPLIANCE MONITORING

Our Coalition has worked on the issue of compliance monitoring in direct lending and on the issue of equitable access to all federal programs for farmers and ranchers for many years. In particular, we have worked to assure the data is available to understand patterns and barriers that interfere with the assurance of equitable access and opportunities. Since 1987, we have worked to secure authority for the collection and analysis of program participation data by race, gender and ethnicity at the national, state and county levels. The Agriculture Credit Act in 1987 required the calculation of target participation rates for lending to the county level for direct and guaranteed loans. Farm Service Agency and its predecessor, the Farmers Home Administration, has done so for years. These data are available to guaranteed lenders and the Farm Credit System. Over the years, in each Farm Bill we have added other authorities for data and documentation. Following the 2012 Census of Agriculture, we urged the National Agriculture Statistics Service to provide data to the county level on the demographics, economics and crop produced by race, gender and ethnicity. They complied, and this data is now available at

https://www.nass.usda.gov/Publications/AgCensus/2012/Online_Resources/Race,_Ethnicity_and_Gender_Profiles/index.php.

We have seen no evidence that the Farm Credit System and other guaranteed lenders have any system to evaluate their lending to minority producers as compared to other producers, or that they collect the data they would need to proactively monitor their compliance with ECOA.

In 2011, Farm Credit Administration released for public comment a “Proposed Operating and Strategic Planning Rule, 76 Fed. Reg. 101 (May 25, 2011). Its recommendations were based on marketing practices related to addressing “diversity” in the marketing practices of the Farm Credit System

Institutions, while avoiding the more central issue of compliance with ECOA. The following is an excerpt from our comments:

“The Rural Coalition, and other undersigned partners and allies, submitted detailed recommendations with respect to the proposed rule, which we share with you now as they are pertinent to the current report and merit re-examination for the outcomes achieved following the issuance of this rule:

The Final Rule Should Require the Federal Credit System Institutions to Engage Historically Underserved Farmers and Community-Based Organizations that Serve Socially Disadvantaged and Limited Resource Farmers in the Development of Their Marketing Plans.

According to Section 618.8440(b)(8), the marketing plans of Farm Credit System institutions would have to include, at a minimum, a description of the institution’s chartered territory by geographic region, types of agriculture practiced and market segment and the strategies and the actions to ensure the institution’s products and services are equally accessible by all farmers, with an emphasis on outreach to historically underserved farming communities. Furthermore, the proposed rule advises institutions to use an array of demographic information, down to the county level, to identify the characteristics and market segmentation of its territory (i.e., Websites of the Census of Agriculture, the U.S. Census Bureau, and the United States Department of Agriculture’s Economic Research Service).

In addition to these sources, the Farm Credit System institutions should also engage their state National Agricultural Statistics Service (NASS) Directors to generate data specific queries in order to obtain a deeper understanding of the farmers that the institutions are mandated to serve.

Additionally, institutions should also specifically work with the USDA to obtain the annual application and participation rate data mandated in Section 14006 of the 2008 Farm Bill, including numbers and percentages, for each county or parish and state in the United States, organized by race, gender and ethnicity, from USDA’s Farm Service Agency and Rural Development programs. The Farm Credit should

also look at this authority and other more recent authorities to generate their own data on participation in their programs.

Section 618.8440(b)(8), also advises that the “marketing plans of institutions include grassroots outreach activities and education efforts that market to underserved populations regarding business and financial planning and leadership and loan programs for persons who are creditworthy and eligible to borrow.”

Although outreach to underserved farming communities is an essential component of an institution’s marketing plan, the unique perspective and reality of the underserved farmer should be incorporated in the developmental process of the institution’s marketing plan. Accordingly, the final rule should require institutions to include historically underserved farmers and community-based farming organizations that serve socially disadvantaged and limited resource farmers in the developmental process of the institutions’ marketing plans.

In preparing our Coalition’s comments to this proposed rule, we spoke to several members about the Farm Credit System and there exists a universal perception that the Farm Credit System institutions are not accessible to the underserved farmer and have failed to conduct outreach to these communities to educate them regarding the institutions’ programs and services. In the words of a long-time Latino farmer and advocate, “the Federal Credit System is further beyond the reach of the farmer than a commercial bank, we never felt this was a source of assistance.”

Moreover, institutions should work to develop meaningful relationships with the USDA Minority Farms Advisory Committee authorized in the 2008 Farm Bill and now established, community-based organizations that serve socially disadvantaged and limited resource farmers, 1890 and 1994 Land Grant Colleges and Universities, and grantees under the 2501 Outreach and Technical Assistance Program, as well as identify persons from these committees, institutions and organizations to assist in the development of marketing plans. Furthermore, the Farm Credit System Diversity Workgroup should also

identify members from the aforementioned committees, institutions and organizations to assist in the development of its programmatic efforts to reach historically underserved farming communities. The development of such relationships is essential if progress is to be made in expanding credit to this growing market.

As required by Section 4.19 of the Farm Credit Act, Farm Credit System associations and institutions should continue to tailor credit programs and services to address the needs of Young, Beginning, and Small farmers and ranchers. Although these programs do not have the explicit objective of advancing customer diversity and inclusion, these programs should be used as essential outreach portals to socially disadvantaged farmers and ranchers. As mentioned in a previous section of these comments, the current participation rate data of the USDA Beginning Farmers and Ranchers Program serves as a cautionary illustration of how well-intentioned programs can neglect the needs of historically underserved farming communities, especially if these communities are not included throughout the program development process.

Moreover, the final rule should emphasize the importance of allowing institutions to use discretion in determining whether farmers are creditworthy and eligible to borrow. If the Farm Credit System institutions want to make significant strides in serving historically underserved farming communities, these institutions must recognize that their credit requirements should not be rigidly enforced and should allow for case-by-case exceptions (i.e., waiver or lowering of collateral requirements). The language “creditworthy and eligible to borrow” should not be interpreted or implemented in such a manner to undermine the spirit of the proposed rule, which is to make the institutions more responsive to the needs to historically underserved farming communities.

The Final Rule Should Include Revisions to the Proposed Rule’s Working Definition of Diversity

2. **EXPANDED LOAN SERVICING.** - Loan servicing options such as debt write down pursuant to ([7 CFR §§ 766.101 - 766.116-766.150](#)).
3. **TREASURY OFFSET RELIEF. Additional Debt Relief: Treasury Offset Prohibition** – We further recommend that farm loan borrowers receiving debt relief under the American Recovery Act who submit a plan to continue operations may be further released from debt collection activities under **26 U.S.C. 6402(d)** upon the submission, within in 12 months of debt relief of a plan to continue farm operations. Upon satisfactory receipt of notice of continued farm operations, the Secretary shall, within 30 days of notice of continued farm operations, instruct the U.S. Department of Treasury to discontinue debt collections pursuant to ***7 CFR 1951.102; 7 CFR 1951.137 and 26 U.S.C. 6402(d).***”

Throughout the proposed rule, diversity is purported to be achieved through the inclusion of all individuals of varying race, ethnicity, sexual orientation, age, disability, social class, religious and ideological beliefs and not through a list of demographic criteria.

This working definition of diversity is problematic and provides a loophole for institutions to avoid implementing a marketing plan that actually promotes diversity and inclusiveness within the institutions' borrower base. Demographic criteria should be given equal weight in determining whether institutions are in fact providing equal access to credit to all farmers.

*Consequently, an institution's commitment to diversity and inclusion cannot be ascertained by an institution's lofty mission statement (as suggested by the Farm Credit Administration's Request for Comments) **rather by the institution's actions and achievement of assessment benchmarks.** The final rule should include a revised definition of diversity to address these concerns and should also assure that the diversity includes actual borrowers or potential borrowers from the socially disadvantaged community who actually understand the issues, the history and the complexity of small rural communities and their racial, ethnic and gender dynamics and history.*

The Final Rule Should Require the Farm Credit System Institutions and Diversity Workgroup to Make Their Final Marketing Plans and Participation Rate Data Public

The Farm Credit System Diversity Workgroup was established in 2006 to increase diversity awareness, promote understanding of inclusiveness, and serve as a diversity resource within the Farm Credit System. Since its inception, the Diversity Workgroup is purported to have sponsored a diversity conference, several trainings workshops, speakers, outreach and communications. Despite the laudable efforts of the Diversity Workgroup, the effectiveness of the Workgroup's efforts to achieve a more inclusive workforce and borrower base must be evaluated through various assessment and accountability

benchmarks. For example, some pertinent questions that must be addressed by the Diversity Workgroup [and at the current time by the Farm Credit System and lenders in General]:

(1) How many farmers from historically underserved farming communities have applied for and received loans from Farm Credit System institutions;

(2) Are the institutions' borrower base reflective of the market segmentation of their chartered territories? If not, what specific steps has the Workgroup recommended to the institutions to ensure they adhere to their mandate of providing equal access to credit to all farmers.

The final rule should require the Farm Credit System institutions and Diversity Workgroup to make their marketing plans as well as their assessment and accountability findings public. Moreover, if there are egregious shortcomings in the marketing plans efforts to respond effectively to the needs of historically underserved farming communities, these plans must be revised to address these gaps in services. In essence, the institutions should view their marketing plans as fluid plans that can be amended as necessary to be more responsive to the institutions' diverse borrower base.

... Farm Credit System institutions should take affirmative steps to ensure that data systems are in place to record the important demographic and participation rate data of all borrowers to allow comparisons and track progress.

The Final Rule Should Require Farm Credit System Banks and Associations Board of Directors to Appoint Directors From Historically Underserved Farming Communities or Community Based Organizations that Serve Socially Disadvantaged and Limited Resource Farmers

Reiterating Farm Credit Administration Bookletter BL-009, the proposed rule encourages all Farm Credit System Institutions' Board of Directors to appoint directors to serve on the Board that would further the aim of facilitating diversity, when feasible. Again, the discretionary language of the proposed rule (i.e.,

“encourages”) will not bring about transformative change in the corporate culture of the Farm Credit System institutions. In order to bring about substantive change in the corporate culture of these institutions, the final rule should mandate that at least one appointment to the institution’s Board of Directors be a member from a historically underserved farming community or a community-based organization that serves socially disadvantaged or limited resource farmers.

Now in 2019, we further recommend a review of racial, ethnic and gender diversity among the directors and staff of the lending institutions of the Farm Credit System.

While some statutes have been updated since our recommendations in 2011, we see no evidence FCA has changed their systems to comply with ECOA and to assure fair service to all borrowers and potential borrowers. The GAO report should address these fundamental issues of the ability of the Farm Credit System and guaranteed lenders to assure fair service to all producers, as ECOA requires them to do.

VIII. CONCLUSION

The results and findings of a comprehensive study could assist lender and government agencies with the legal mandate to offer the same loan products and loan servicing options offered to each and every farmer regardless of social status. The success of highlighting irregular farm lending patterns, and lack of systems to address these patterns, will be instructive to all farmers, lenders and reduce the overall costs of farm lending transactions while preventing questionable or unlawful family farm foreclosures.



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1029 Vermont Ave NW Suite 601
Washington, DC 20005

Phone: 202-628-7161 Web: <http://ruralco.org>
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Debt Justice: Examining Farm, Ranch and Forestry Land Owner Debt Relief Within the Agriculture Sector

Compiled by Rural Coalition
March 12, 2021

As you prepare to implement the Emergency Relief for Farmers of Color provisions of the American Recovery Act, we offer guidance on the use of statutes and regulations to ensure that the law's intent and purposes reach all classifications of socially disadvantaged farmer and ranchers as identified in that law.

The debt relief provisions require that the Secretary of Agriculture make loan modifications and defined payments to identified farmers and ranchers. Effective implementation requires permits the Secretary to take the following steps: **(1)** modify applicable loans by writing down exiting debt; **(2)** make payments to producers to pay off the new loan amounts based on loan modifications pursuant to **7 CFR 766.401(b), and (7 CFR §§ 766.101 - 766.116-766.150)** ; and **(3)** make a single payment to

the Internal Revenue Service to pay the tax consequences of any for loan debt forgiveness.

A. FARM LOAN DEBT RELIEF ELIGIBILITY REQUIREMENTS

Farm loan borrowers are deemed eligible for debt relief pursuant to the American Recovery Act upon proof of one or more of the following debt related circumstances:

1. **PENDING BANKRUPTCY.** - Cases currently pending in a federal bankruptcy proceeding;
2. **DISMISSED BANKRUPTCY.** – Prior dismissed bankruptcy filings within the last 30 years;
3. **FARM LOAN FORECLOSURES.** Current farm debt default, acceleration, or pending foreclosure.
4. **FARM LOAN FORECLOSURES.** Prior farm debt default, acceleration, or foreclosure occurring within 30 years of March 13, 2021.
5. **PENDING CIVIL RIGHTS.** - Cases with pending unresolved civil rights complaints pursuant to [Title VI of the Civil Rights Act of 1964 \(§§ 15.1 - 15.12.](#)
6. **FINDINGS OF CIVIL RIGHTS DISCRIMINATION.** Cases with resolved civil rights complaints pursuant to [Title VI of the Civil Rights Act of 1964 \(§§ 15.1 - 15.12](#) with ruling in favor of the agency and against the farm loan borrower.
7. **PENDING PROGRAM APPEALS BEFORE THE NATIONAL APPEALS DIVISION (NAD).** - Cases with pending before the U.S. Department of Agriculture National Appeals Division pursuant to 7 CFR 11;

8. **FINAL DECISIONS ON PROGRAM NAD APPEALS.** - Cases decided with final decision issued by the U.S. Department of Agriculture National Appeals Division pursuant to 7 CFR 11;
9. **LITIGATION.** Farm loan disputes involving ECOA discrimination filed and pending in federal or state courts;
10. **EQUITABLE RELIEF – FARM SUPPORT PROGRAM.** – Cases involving farmer requests for program equitable relief pursuant to 7 U.S.C. § 7996 (d) ; 7 U.S.C. § 6998 (d), and 7 U.S.C. § 1339 (*causation based on misaction or misinformation*); and
11. **EQUITABLE RELIEF – FARM LOAN.** Cases involving farmer requests for farm loan equitable relief pursuant to 7 U.S.C. 2008a. (*causation based on government farm loan error or mistake*).

B. STATUTES AND REGULATIONS IN SUPPORT OF FARMER DEBT RELIEF

1. **SECRETARY’S DEBT COLLECTION EXCEPTION AUTHORITY.**
Pursuant to 7 CFR 766.401(b), the Secretary of Agriculture may, to advance the financial interests of the farm loan program, relieve the debt of farmers under circumstances where by the debt relief promotes a financial interest of the Agency. 7 C.F.R. 766.401(b) states in relevant part: “(b) the Agency’s financial interest would be adversely affected by acting in accordance with published regulations or policies and granting the exception would resolve or eliminate the adverse affect upon its financial interest.” 7 **CFR 766.401(b).**

TO: Biden-Harris Agriculture Agency Review Team
FROM: Rural Coalition
DATE: December 3, 2020
SUBJECT: Transition Memo for the U.S. Department of Agriculture First 100 Days

ABOUT RURAL COALITION

Born of the civil rights and anti-poverty rural movements, [Rural Coalition/Coalición Rural](#) (RC) has served as a voice of African-American, American Indian, Asian-American, Euro-American and Latino farmers, farmworkers, and rural communities in the US, as well as indigenous and campesino groups in Mexico and beyond for over 40 years. We work to assure that the voice of our over 50 diverse member organizations from all regions, ethnic and racial groups and genders have the opportunity to work in solidarity on the issues that affect us all.

Our recommendations to you are reflect our guiding principles that

- Justice and equal opportunity are the right of all people regardless of race, gender, ethnicity, immigration status, or place of residence.
- All people are entitled to the goods and services essential to a decent quality of life, including education, health and employment services, housing and basic community facilities.
- They are also entitled to democratic community institutions dedicated to serving their interests.
- The long-term viability of rural and urban communities rests on effective care, control and use of resources by the people living there.
- Community-based organizations are instrumental in the development of communities. Public policy should encourage their growth and strength
- The federal government has the responsibility to ensure the rights of all citizens and to help secure the fulfillment of these rights.

INTRODUCTION

As the Biden-Harris Administration takes office, RC looks forward to working closely with the President, the Vice President and the leaders they bring on board to *Build Back America for Rural Resilience*.

The unprecedented coronavirus pandemic has exposed inequities and vulnerabilities in our agriculture, food and health systems with a disparate impact on rural, tribal and immigrant communities predicated by systemic racism and oppression, economic injustice and neglect, and the labor exploitation particularly of Black, Indigenous, and people of color in the rural United States. We strongly support the administration's

outlined day one priorities of eradicating the coronavirus pandemic, economic recovery, securing racial equity and reversing climate change.

We submit the following initial recommendations for immediate actions to undo harmful changes and to usher in a new climate at USDA.

RECOMMENDATIONS FOR IMMEDIATE ACTION ON DAY ONE

- 1. Immediately Restore Data Collection for the National Agricultural Statistics Service Agricultural Labor Survey**-A [Federal Notice](#) signed at Washington, DC, September 24, 2020 by William Northey, Under Secretary, Farm Production and Conservation USDA. [FR Doc. [2020-21592](#) Filed 9-29-20; 8:45 am] and published 9/30/2020 indicated that the USDA National Agricultural Statistics Service (NASS) would not be collecting data on agricultural wages, hours worked, and wage rates in October 2020 as originally planned, nor publishing the biannual Farm Labor report in November 2020. Cessation of collecting data would be harmful to H-2A workers and local farmworkers, especially during this unprecedented pandemic. We urge the Biden Administration to cancel the notice and immediately restart and maintain data collection and publication of the Farm Labor report. We also question why the Notice was signed by the Undersecretary of the mission area responsible for farm and conservation programs while the data is collected under the authority of the Research, Education and Extension area including agencies- in this case the National Agriculture Statistics Service- with the statutory mandate to collect the data – which we view as a politicization of the data collection process. (*Rural Coalition will share our in-process comments as soon as these are completed.*)
- 2. Repeal Executive Order on Combating Race and Sex Stereotyping** – This order is counter to years of effort to combat discrimination and racial and gender inequities and should be immediately repealed and any training or grants program or actions taken to implement the order should be immediately and fully reversed.
<https://www.whitehouse.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>
- 3. Repeal SNAP Work Requirements** –This USDA rule published on April 1, 2020, narrowed state options to waive work requirements for able-bodied adults without dependents (ABAWDs). [Reports](#) indicate that roughly 76 percent of counties (712 total) currently eligible for waivers to the food stamp or Supplemental Nutrition Assistance Program (SNAP) will no longer have that flexibility. The impact is immediate and egregious, especially during this

unprecedented pandemic. Instead of limiting SNAP beneficiaries and requirements, we recommend that the Biden-Harris Administration repeal the SNAP work requirements rule and approve all waivers requested. We further urge USDA to increase flexibilities to extend SNAP benefits to ensure that the food this nation's diverse producers in rural and urban areas alike directly reaches those who need it the most, especially in the persistently poor rural and urban communities in which we serve and which have reported higher food insecurity. <https://www.federalregister.gov/documents/2019/12/05/2019-26044/supplemental-nutrition-assistance-program-requirements-for-able-bodied-adults-without-dependents>

4. **Withdraw the Inadmissibility on Public Charge Grounds Rule** – This Department of Health and Human Services rule, which expands the definition of a public charge, has had a devastating impact on the willingness of farmworker and other immigrant worker families to receive any public benefit, no matter how critical, for fear of compromising their current or future immigration or residency status. This means that families who need food provided through the school lunch, Women Infants and Children (WIC) program or the SNAP program, or any other program, are fearful to accept food they really need at a time when they have also been denied the basic emergency pandemic relief benefits available to all other families. Repeal and subsequent restoration of trust and good faith is of even more urgent import to assure the immigrant workers irrespective of immigration status, do not avoid COVID-19 testing or vaccines essential to protecting their health and the health of other frontline workers especially in the food and agriculture system. <https://www.uscis.gov/archive/final-rule-on-public-charge-ground-of-inadmissibility>
5. **Repeal the Schedule F Excepted Service Executive Order and Restore full Protections for the Federal Civil Service** – This Executive Order, issued on October 21, 2020, is one more of numerous abridgements of the rights of the federal workforce, including the employees of the US Department of Agriculture. This order which removes civil service protections from a large class of federal workers, is in addition to other orders and workplace changes that have abridged rights to participate in federal employee associations and unions, and subjected worker to arbitrary and capricious retraction of benefits, and changes in working conditions specifically devised to drive them out of their jobs. The federal government, including the Department of Agriculture, must demonstrate, especially in the course of this pandemic, that federal employees are valued and essential to the orderly functioning of the government. A first step is repealing

this and other Executive Orders. <https://www.whitehouse.gov/presidential-actions/executive-order-creating-schedule-f-excepted-service/>

PANDEMIC RESPONSE

1. **Pandemic Response** – Rural Coalition and Alianza Nacional de Campesinas worked with our members and allies to author a letter to Congress outlining a comprehensive list of critical action to mitigate the impact of the pandemic with particular attention to the food system. Over 160 groups endorsed the letter. We have attached it for your review, as it also includes proposals that can be initiated administratively. It can also be downloaded here: [https://static1.squarespace.com/static/5b2c7bebcef3725e593fb2fe/t/5f57fcf82112373f1ac33185/1599601923092/Final Pandemic Response Letter.pdf](https://static1.squarespace.com/static/5b2c7bebcef3725e593fb2fe/t/5f57fcf82112373f1ac33185/1599601923092/Final+Pandemic+Response+Letter.pdf)
2. **Extend Relief to immigrant families excluded from all forms of emergency relief.** – USDA should use every authority in its power to assure that relief, ranging from food assistance to securing access to health care, COVID-19 protections and care, and safe and secure housing, reaches all immigrant families regardless of their immigrant status. We have further proposals forthcoming in this area.
3. **Protect Farmworkers and Their Livelihoods** – We know from experience, and confirmed by data from USDA Economic Research Service that majority of farmworkers are immigrants, with those undocumented comprising over half of the crop farmworker labor force. An already vulnerable population, immigrant communities have been excluded from many coronavirus relief. Farmworkers - many of whom are temporary guest workers, immigrants, and refugees – are facing severe healthcare inaccessibility or fear accessing medical services, inadequate housing, and harmful work conditions. We strongly support the Biden campaign initiative to “provide legal status based on prior agricultural work history, ensure they can earn paid sick time, and require that labor and safety rules, including overtime, humane living conditions, and protection from pesticide and heat exposure, are strictly enforced.” The Department of Agriculture needs to take an active role in ensuring that all applicable protections and rules are enforced in agricultural workplaces.
4. **Food Box Program** – Several of the leaders represented on our call have participated in this program and will have additional proposals on how to assure any funds remaining in this program are immediately allocated with preference to the farmers and communities that most need them. There should be specific set asides for entities working with socially disadvantaged farmers and ranchers,

and flexibility in the mix of products based on what can be produced locally. We also urge that the lessons of this program inform future efforts for both emergency and response and on the restructuring and reorientation of the food system to increase resilience in the face of future emergencies.

5. **Credit Issues and Protecting Distressed Farmers who are Still Operational** – USDA is in need of a standing disaster program that automatically goes into effect in the face of emergencies.

USDA should immediately halt foreclosures for the duration of the pandemic and economic recovery and make a moratorium on foreclosures part of a standing disaster program.

There is also an urgent need for debt relief which Congress has thus far not provided. USDA should investigate ways that some of the remaining funds in pandemic relief programs are provided to distressed farmers who are still operational and able to produce items, for example, for the food box program.

We further endorse the proposals in the [Top Priorities for COVID-19 C4 Response Legislation](#) from the Native Farm Bill Coalition including the following:

1. Immediately defer of all FSA loan principal due for the 2020 and 2021 production years, and extend all loans for 2 years;
2. Offer payments to any lenders if they reduce the interest rate of current loans by 2% and offer the same reduced loan payments and extensions to their borrowers; and
3. Use FSA Farm Ownership loans to refinance real estate and other debt to aid in recovery from this crisis.

We further urge the Biden-Harris Administration to ensure that the Equitable Relief Provision in the 2018 Farm Bill are immediately and fully implemented. The intent of this provision is to protect farmers from adverse action in cases where errors were made on the part of FSA offices. In the time of this pandemic and the extreme stress on both producers and FSA and other USDA field office staff, this protection is critical.

USDA should provide instructions and training to field staff to assure they proactively provide such loan servicing to all producers facing adverse action. Every effort should be made to help farmers and ranchers hold onto their land and retain the economic base they need to build back better both their farms and the economic underpinnings of their communities.

- 5) **Extend Emergency Feeding Programs** - Feeding America's [report](#) indicated that one in four children will be food insecure due to the unprecedented pandemic. We urge sustained emergency pandemic food assistance for those who need it, including the Supplemental Nutrition Assistance Program (SNAP); the Pandemic Electronic Benefits Transfer (P-EBT); universal free feeding program (Seamless Summer Feeding Option), the Farm to School Program and child and elder nutrition programs to ensure the food is distributed from the farmers that grow it to those who need it. We pledge to work with the Biden-Harris Administration to support any additional statutory and funding support needed to extend and increase such assistance.

We further urge the incoming administration to pilot of new ideas to increase the connections to between USDA food programs and the nation's small and diverse farmers in a manner that meets the needs of communities for healthy, local food, while directly supporting the farmers who can most dependably supply it in the face of the pandemic. Successful models to reorient food systems by increasing direct connections should be evaluated and studied to inform the development of future policies consistent with the goals of the Biden-Harris Administration.

- 6) **Livestock and Specialty Crop Sectors** – Nowhere were the vulnerabilities of the food and agriculture system revealed than in the pandemic generated crisis in the livestock sector. Protection of farm and food chain workers is a necessity at every level, and all entities, and especially those who receive any form of aid or support from USDA, must be held accountable for the protection of the health and safety and fair compensation of workers. The crisis also reveals the critical importance of restructuring the food system to reduce concentration and oriented systems exchange more locally and less vertically.

Concentrated operations continue to dominate the market and government intervention is needed to protect both workers and small and mid-size farmers and ranchers in the fresh food and protein sector. The concentration of food processing and delivery is in itself a huge risk that needs to be comprehensively addressed. As the pandemic is brought under control, we urge the Biden-Harris Administration to begin working with the stakeholders including workers and small farmers to generate the new ideas necessary to make policies to construct a resilient food system in the future.

In the immediate term, we urge USDA to withdraw the Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act rule. The rule was inundated with loopholes. We recommend publishing similar regulations as those under the Obama-Biden Administration.

- 7) **Broadband Access for all Families** – The lack of access to affordable broadband services should be a right of all communities, and securing it is of paramount importance in the face of this pandemic. Every effort should be made to devote all available funds to providing emergency access to broadband especially for the nation’s most vulnerable children and families, including to tribal and border communities. Families require this support to continue schooling for children and communities need it to provide access to critical information they need to access the resources they need to protect themselves and their communities from the pandemic. We are willing to work with you further on this issue.

- 8) **Rural Hospitals** – Rural hospitals, many already on the brink of collapse, are more stressed than ever in the face of this pandemic which stretches health care workers and facilities far beyond their already limited capacities. All possible USDA resources should be invested to support them, and there should be close coordination with other federal agencies to supply the Personal Protective Equipment and all resources that can help them to meet the current and emerging challenges.

ADVANCING EQUITY IN AGRICULTURE AS A FUNDAMENTAL STEP TOWARD ACHIEVING BUILD BACK BETTER GOALS

The Biden-Harris Plan to Build Back Better includes strong aspirations to advance equity, proposals which Rural Coalition strongly supports:

“ADVANCE RACIAL EQUITY IN RURAL AMERICA: Biden will pursue a dedicated agenda to close racial wealth gaps – including for rural Americans of color. One key way in which Biden will advance racial economic equity in rural America is by addressing longstanding inequities in agriculture. Black, Brown, and Native farmers have long faced barriers to growing their agricultural businesses, including unfair prices, unequal access to government support, retaliation for civil rights complaints, and outright injustice...As President, Biden will build upon the historic progress made during the Obama-Biden administration, taking additional steps to support the rights of Black, Brown and Native farmers.”

We have heard many discussions of equity in agriculture. Without real action, equity can become merely a word that excludes or sets apart a critical group of rural peoples as if they do not matter to the centrality of the agriculture and food system. In fact, the diverse land-based peoples of this nation are the farmers, ranchers and workers who possess the deep knowledge and experience necessary to help the Biden-Harris Administration reach its important goals of eradicating the pandemic, building resilience, fighting climate change and restoring rural economies and ecosystems.

One outgrowth of the Obama-Biden administration’s focus on resolution of the major discrimination lawsuits against USDA was the reinvestment of the remainder of the Cy

Pres funds from the Keepseagle case into entities including the Indigenous Food and Agriculture Initiative and the Native Farm Bill Coalition formed around work on the 2018 Farm Bill. This investment provided the time and resources necessary to engage qualified leaders with sufficient time to provide a comprehensive analysis of current agriculture and food policy with concrete ideas of for advancement. We refer you to the [Regaining Our Future report](#) commissioned by the Seeds of Health Campaign and authored by Janie Simms Hipp and Colby Duran for the depth and breadth of its analysis covering commodities, credit, rural development, food and nutrition, livestock, forestry, energy and more. While some of the proposals were particular to the tribal nations engaged in agriculture, many are also applicable and important to the other diverse rural, urban and immigrant communities we collectively represent.

We believe the Biden-Harris Administration will benefit greatly by both hiring at leadership levels and engaging Black, Indigenous, Latino, Asian Pacific and other leaders steeped in the deep knowledge and the capacity to work together necessary to bring about the essential transition to reorient food, agriculture, forest, fiber and energy systems in a manner that that regenerates both land and communities with a view to the future. We further urge the new Administration to both hire and engage leaders who represent and deeply understand the critical role of labor and immigrant workers in agriculture and food systems. Each leader and the full team should also be well versed in the intersection of these critical issues, and able to catalyze the holistic approach essential to generate real solutions that reach the people and communities who most need them. Such an approach will engage and benefit rural and urban communities alike.

FIRST ONE HUNDRED DAYS

We urge the incoming administration to invest in the fundamental participation of Black, Indigenous and people of color producers, farmworkers and food system workers and rural and tribal communities in making and carrying out these plans. That means assuring their inclusion at every level.

A true commitment to racial equity requires that the resources provided by the federal government actually result in wealth creation. This means resources must be accessible in reality to all communities and particularly those excluded in the past. Reversing the racial wealth gap starts at every level and in every program of the department, and in creating programs and access, and in the case of farmworker communities in particular, relationships, where none exist at present.

The most immediate damage of the outgoing administration that needs correction relates to the misuse and invasive scrutiny applied in the allocation of funding to BIPOC communities in particular.

We would call out in particular the need to reverse the dismantling of the Rural Development Mission area and using its funds for projects of favored political allies while abandoning diverse rural communities in the midst of the worst emergency in memory.

We further call to you attention the immediate need to correct the misuses of the Outreach and Assistance Program for Socially Disadvantaged and Veteran Farmers and Ranchers, and to reverse or eliminate the Farm Programs and Conservation Business Center and particularly its grants and agreements section, and to return these functions to the respective program agencies.

We will address in another section the related urgent need to revive USDA administrative entities and functions essential to consultation and fostering input by all the communities we represent.

We wish to state that over the years all programs and functions authorized by Congress and built through difficult struggle to reverse and repair injustice, engage and support BIPOC communities, and especially the African American communities, have been among the most scrutinized and investigated entities in the history of the Department of Agriculture, none more so than the Outreach and Assistance Program for Socially Disadvantaged and Veteran Farmers and Ranchers. The Request for Proposals for the most recent OASDVFR includes yet another example of how organizations and entities struggling to provide service to engage excluded farmers are treated. Rather than allowing the maximum level of funding of \$250,000 a year for 3 years, the Office of Partnerships and Public Engagement reduced the maximum level to \$150,000. And it added arbitrary and indicative budget restrictions in addition to the ordinary requirements to abide by applicable regulations – that required more detail and set a cap of \$10 per day for food at included activities. These arbitrary and disrespectful restrictions were not included in the second round created by OPPE for their favored misuse of the funds. (We have addressed these issues in our comments noted below).

Under an administration and with a Congress where massive and wealthy corporate entities and well-heeled businesses received huge Federal Reserve loans and Paycheck Protection subsidies and other federal benefits with back of the envelope level of financial detail and oversight, the creation of the FPAC Business Center bears special scrutiny and review within USDA. The Grants and Agreements Section had subjected contracts already approved by the Natural Resources and Conservation Service to intense reviews seemingly purposely created to delay the approval and initiation of these contracts. One contract, for example, was delayed over a rounding error of .02 cents. These arbitrary requirements are especially counterproductive at a time when maximum flexibility is advised at a time when the course of the pandemic will determine when the in-person and hands-on forms of outreach and assistance essential in our communities can start again.

We strongly suspect – and this team should ascertain – that such scrutiny is not uniformly applied, and that the level of detail required in projects that make the effort to engage in the smallest and most critical places far exceeds what is required for larger entities.

We would also note that reports have already been prepared on the misuses of funds in the AMS Food Box program, with scant oversight and quick renewal of contracts to large entities while the handful of effective programs that connected actual farmers with actual communities were not continued.

There are many other examples we could cite. Our main point is that in order to achieve equity, and conquer racial wealth gaps, the federal government must begin with the money. Instead of delivering programs with an ethic of what one of our members called “supervised credit” requiring scrutiny with the expectation of misuse, and with an apparent intention of making access so difficult that the entity would stop seeking funds, it is imperative to afford the same – or greater- respect and trust afforded to large entities who have much less need of the funds.

We would further note the same principle of fairness in accessing and allocation of funds should be true at every level of government from the IRS conducting a disproportionate number of audits in low-income rural communities, to the public charge rule designed to threaten and frighten hard working immigrant families away from programs to feed their children and care for their families while they undertake a disproportionate share of the essential and difficult work needed to feed and care for all our families.

Here we share our proposals for immediate action:

- 9) **Immediately Restore the Integrity of the Outreach and Assistance Program for Socially and Veteran Disadvantaged Farmers and Ranchers and Initiate the FY 2021 Funding Round** - As the only program dedicated to providing outreach, technical assistance, and education to socially disadvantaged farmers and ranchers, we urge the Biden-Harris Administration to restore the Outreach and Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers Program (2501 Program). We strongly recommend increasing the maximum award amount to the statutory level \$250,000 a year for three years. We further urge that the Administration request an additional appropriation beyond the mandatory funds provided of no less than \$20 million of the additional funds authorized for appropriations for the Farm Outreach and Training Opportunities (FOTO) program, to be split equally between OASDVFR and the Beginning Farmer and Rancher Development Program. We also refer you to our recent comments signed on by almost 60 of our member and partner groups. These comments, which include recommendations to immediately fix many other

technical and substantive issues in the FY 2020 round, can be downloaded here: https://static1.squarespace.com/static/5b2c7bebcef3725e593fb2fe/t/5fc7d5666d2b7b26a14e1e38/1606931815285/Rural+Coalition_USDA2501+Comments2020_Fin.pdf

10) Eliminate or Reorganize the FPAC Business Center and reduce or eliminate the broad array of functions (*Acquisition and Procurement, Appeals and Litigation, Budget, Civil Rights & Equal Employment Opportunity, Customer Experience, Economic and Policy Analysis, Environmental Activities, External Affairs, Financial Management, Grants and Agreements, Homeland Security, Human Resources, Information Solutions, Management Services, Performance Accountability and Risk*) it has created or taken over. Any essential functions on budget and contracting and especially the grants and agreements function should be returned to the program agencies with the knowledge and experience to undertake them in a manner consistent with the goals of the programs.

<https://www.fpacbc.usda.gov/about/index.html>

The shared funds of the federal government should be invested into program and services that solve problems and create results. As such, funds need to be closely connected to the agencies and functions who understand their purpose and to the people who deliver them to the field level. The FPAC Business Center represents a massive diversion of scarce funds to management and oversight functions that divert from the programs and investments that are critical to communities.

11) Utilize and Seek Funding for the Heirs Property Authorities in the 2018 Farm Bill – The closing of the racial wealth gap in rural areas (and the solving of the climate crisis) is integrally related to halting land loss and restoring land tenure to the farmers, the tribes and the communities who know how to care for and nurture it. To accomplish this, we need first of all to halt land loss and build a future for a diverse new generation of producers. Approximately one-third of all black-owned land in the south is held as heirs' property. This insecure form of land tenure has been the cause or a large portion of black land dispossession and has prevented landowners from accessing key land and farm protection programs.

The 2018 Farm Bill created a provision to allow farmers and families who lack a clear title to their land to utilize forms of alternate documentation to demonstrate control of the land for the purposes of register their farm and qualifying for a farm and tract number that allows them access USDA farm and conservation programs. This new authority primarily helps producers access conservation programs. (Further review and authority may be needed with respect to opening access to some Farm Service Agency programs for heirs property owners. USDA

should also work with Tribes and the Office of Tribal Relations to determine whether how the alternate documentation provisions could beneficially be applied to allow access to producers farming on fractionated land.)

We urge Farm Service Agency and Natural Resources and Conservation Service to undertake a special effort to assure its field staff understand and are prepared to help producers utilize the new alternate documentation authority, with special attention to any producer who may be subject to rejection of a program application related to lack of documentation of control of land.

The Farm Bill also authorized a relending program (Section 5104) with up to \$10 million authorized annually under the Credit Title for the Farm Service Agency (FSA) to make loans through qualified intermediaries to resolve heir's property on farmland with multiple owners. Congress has already provided funding for this program, with more in the pending Agriculture Appropriations bill. This program has yet to be made available to qualified intermediaries, including for the first time, cooperatives; with demonstrated experience in serving socially disadvantaged farmers and ranchers. The Biden-Harris Administration should immediately make this pilot program available to qualified intermediaries, especially to assure that results are available to farm families and to demonstrate to Congress the value of the program and the need for its full funding and permanent continuation.

Section 12607 of the 2018 Farm Bill also created a Farmland Ownership Data Collection Initiative with the purpose of analyzing trends in farmland ownership, land tenure (including the incidence of farmland held in undivided interests), generational transitions, and barriers to entry for beginning and socially disadvantaged farmers and ranchers. The analysis is critical to inform and guide all levels of agricultural policy making that concern the critical dynamics of heirs' property and absentee land ownership in farming communities. The \$3 million authorized annually has not yet been funded.

We urge the Biden-Harris Administration to request full funding for both Section 5104, and 12607. We further urge the Administration request full funding for the state mediation programs that are no authorized to help farm families navigate and resolve complex succession issues.

12) Relationship of Heirs Property and Insecure Land Tenure to Resilience – As the Biden-Harris Administration shapes its climate and economic plans, we would emphasize the importance of including practical equity focused solutions that have a potentially larger impact on improving resilience. Insecure land tenure renders hundreds of thousands of properties, farm, residential and

forested, unable to recover from growing disasters including floods and fires. The Federal Reserve Bank of Atlanta identified the issue of heirs property as a critical factor that impeded recovery in New Orleans in particular following Hurricane Katrina. A colleague with a national actuarial firm we have worked with to understand these issues noted that less than 5% of homes in New Orleans were covered by flood insurance. Homes that lack documentation are likely ineligible also for USDA and HUD programs to repair and improve housing.

We worked with the offices of Rep. Marcia Fudge and Senator Doug Jones to investigate coverage of heirs property by flood insurance and FEMA. We discovered that the National Flood Insurance Policy Office is itself uncertain if heirs properties are eligible to either purchase or have claims paid by the Flood Insurance Program.

The insurance issue is especially complex as insurance, including sale of flood insurance, is regulated at the state level. Even more glaring than the gaps in flood insurance is the lack of property and casualty insurance to help families recover in the face of growing disasters. Improving resilience of communities to disasters is essential, and this starts with a focus on identifying and crafting solutions to some of the most critical issues that impede progress. One of those is access to insurance and the ability to rebuild homes, replace equipment and other farm structures, and clear land following disasters. Along with the crises faced by un- or under-insured families facing medical insurance, lack of ability to recover for natural disasters remains an unaddressed issue with massive implications for the goal of building wealth and resilience of communities.

The unavailability of risk protection for vulnerable families also has broad implications for the availability and quality of rental housing. As families unable to solve succession issues succumb to disasters and predatory lenders, their land is often purchased at below market rates by outside and often predatory investors who rent to poor and immigrant families at high rates with little enforcement of any regulations to protect the quality of their dwellings, a factor of particular concern related to manufactured housing and farmworker housing.

While we understand that the issues raised in this point are not ones that can be resolved in the first 100 days, we urge the Biden-Harris Administration in its plans to underscore the importance of protecting and building land and housing tenure and the right to safe and affordable housing are fundamental core of any effort to repair racial wealth gaps.

We will have additional recommendations to share as the new USDA team comes on board but here please find a few additional items.

Data Collection and Civil Rights Analysis- Collecting demographic data is imperative to restoring equity in agricultural program participation and application. To streamline the process for both farmers and USDA Service Centers and the Office of Civil Rights, we recommend that the USDA establishes a uniform system for data collection by using the Services Center Information Management Systems (SCIMS) to capture data directly when a farmer registers with FSA and provides available information on race and gender for use by the Office of Civil Rights and other relevant agencies. We have just submitted comments which can be downloaded [here](#).

Research – The whole research framework and the career employees of the Department have been under siege. We urge the Agency Review Team to begin conversations of what changes are essential to assure critical research and staff capacity is restored and leadership with a vision for the future be recruited to lead in this critical area.

USDA Career Staff- We urge that entire career staff of USDA be valued and supported in tangible ways and the USDA work to increase cross agency collaboration between and among staff of different mission areas, and to restart collaboration with community-based organizations and other critical partners.

Outreach and Technical Assistance – Funds for outreach and technical assistance must be directed to support the kinds of collaborations that are essential with particular attention to including excluded communities including farmworkers, socially disadvantaged producers, and rural, urban and tribal communities, especially those seeking to end persistent poverty.

Forestry, Energy, Industrial Hemp, Rural Jobs of the Future – there is more to say and that we will share with you and the incoming team.

USDA STRUCTURES AND AUTHORITIES

Restore Rural Development Mission Area at USDA- The coronavirus pandemic has exposed the inequities and neglect of rural communities. Within the USDA, the Biden Administration must prioritize appointing an Undersecretary for Rural Development and reestablishing Rural Development as a USDA Mission Area that helps “improve the economy and quality of life in all of rural America by providing financial programs to support essential public facilities and services as water and sewer systems, housing, health clinics, emergency service facilities and electric and telephone service.” USDA must take immediate actions to prioritize investments infrastructure development to include broadband development, housing and community anchor institutions assistance,

increase and support for rural healthcare and health facilities, and support for local businesses and cooperatives.

Office of Tribal Relations – The Office of Tribal Relations must be restored as a self-standing entity in the office of the Secretary with adequate funding and representation in the subcabinet.

Farmworker Coordinator/Office - The USDA needs a real office to assure representation of farmworkers in decisions that affect their lives. The Office should also include liaisons with other key federal offices including but not limited to the Environmental Protection Agency, the Department of Labor, the Federal Emergency Management Office, and others. USDA must consult with leaders of the farmworker community in shaping and locating this function.

Office of Advocacy and Outreach, and related functions – All these entities were damaged over the past years and diverted from their essential functions. We ask to be put in touch with anyone within the Biden-Harris administration who will be responsible for restoring these offices and assuring they are placed and led in the manner necessary to accomplish their critical functions.

RECOMMENDATIONS FOR PRESIDENT'S BUDGET

The following are our initial recommendations to Biden- Harris administration in order to move forward with its goals on equity include the following requests in their FY 2022 budget.

- 1) Emergency Assistance for Farmworker Housing and Food Access
- 2) Increased funding for the FOTO program, including Outreach and Assistance Program for Socially Disadvantaged and Veteran Farmers and Ranchers and Beginning Farmer Development program; as well as the LAMP and Urban Agriculture programs.
- 3) Full funding for the NASS Land Tenure Study
- 4) Full Funding for Heirs Property Relending
- 5) Full Funding for State Mediation Programs
- 6) Loan Forgiveness for Farmers
- 7) Rural Development including broadband and rural hospitals
- 8) Funding for 1890 and 1994 Research Institutions
- 9) Continued funding for the full range of nutrition programs.

PERSONNEL

We believe the USDA needs a skilled leadership teams that includes at high levels leaders who come from and are steeped in the wisdom of our diverse communities. We request that we be informed of the best way to share recommendations with those on the Biden-Harris transition team responsible for recruiting this leadership team.

CONCLUSION

We look forward to continuing our conversations and assisting this team and the Biden-Harris Administration to defeat the pandemic and build all of our communities back better to progress into an equitable and resilient future.



For further information contact: Lorette Picciano at lpicciano@ruralco.org, or DeShawn Blanding at deshawn@ruralco.org

November 30, 2020

Ruth Brown, Departmental Information Collection Clearance Officer
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250-0517

RE: USDA Race, Ethnicity and Gender Data Collection, FR Docket 2020-23956
OMB Control Number: 0503-0019.

Dear Ms. Brown,

The Rural Coalition has worked for 42 years on behalf of our diverse farmers, ranchers, and member organizations. We provide the following comments regarding the continuation of the data collection to determine the race, ethnicity and gender of farmers and ranchers who apply for and who participate in USDA programs and services. We support the continuation of the collection of this data and offer the following additional input.

As indicated in the Federal Register (FR) announcement per section 14006 and 14007 of the 2008 Farm Bill (7 U.S.C. 8701), the USDA is annually required to “compile application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the Department of Agriculture that serves agriculture producers and landowners (a) raw numbers of applicants and participants by race, ethnicity, and gender, subject to appropriate privacy protection, as determined by the Secretary; and (b) the application and participation rate, by race, ethnicity, and gender as a percentage of the total participation rate of all agricultural producers and landowners for each county and State in the United States.” Demographic data collection is imperative to ensuring equitable participation in USDA programs and access to services by not only collecting data but through the synthesis of the data to determine where additional attention, outreach and resources are needed.

The notice indicates that:

“Data will be collected on a voluntary basis through a questionnaire to determine the race, ethnicity and gender of farmers and ranchers who apply for and who participate in USDA programs and services.”



Congress has provided USDA with the authority to collect the required data by race, gender and ethnicity. In order to meet the requirements of Section 14006 and 14007, and related statutes, USDA must collect data using methods that allow it to report participation rates in all programs that serve farmers and ranchers who apply for and participate in programs. We do not believe that a voluntary questionnaire is a sufficient method to provide the necessary information.

USDA should instead incorporate the voluntary collection of race, gender and ethnicity data as part of the fundamental entry of information on producers when the register for farm and tract numbers in the Service Center Information Management Systems (SCIMS). USDA already reports data upon request on participation by race, gender and ethnicity. Any identification in SCIMS should be consistent with the voluntarily collected self-identification by the producer. Such data should be used for the purposes outlined in sections 14006 and 14007 and used only in a manner that assures “the data collection under this section shall not be used in the evaluation of individual applications for assistance.”

The SCIMS is the central system collection and maintenance of customer data for the Services Center Agencies - Farm Service Agency (FSA), the Natural Resources Conservation Service (NRCS), and Rural Development (RD). Connecting data on race, gender and ethnicity to the data in SCIMS is essential to carrying out the purposes of sections 14006 and 14007.

Section 14006 requires “using the technologies and systems of the National Agricultural Statistics Service... to compile and present the data compiled under paragraph (1) for each program described in that paragraph in a manner that includes the raw numbers and participation rates.” The categories for race, ethnicity and data collected in SCIMS and in any other way should be consistent with the categories used by the National Agricultural Statistics Service to allow comparisons to the county level on program applications and participation as related to farm production, value, and viability.

Reports on program applications and participation on race, gender and ethnicity should be shared with the Office of Civil Rights to accomplish the purposes noted in the Federal Register Notice, purposes which we strongly support:

“The data will enable the Secretary and the Office of the Assistant Secretary for Civil Rights and the agencies' outreach offices in reaching current and prospective socially disadvantaged farmers or ranchers in a linguistically appropriate manner to focus resources in a particular county or region where low participation is indicated by the data to improve the participation of those farmers and ranchers in USDA programs. The data is intended to be used as one indicator in targeting and designing outreach activities and in assessing compliance with civil rights laws in program delivery. The data may



also be used as an indicator in directing compliance reviews to geographic areas where there are indications of low participation in USDA programs by minorities and women, thus serving as an “early warning system” that warrants further investigations.”

Per section 14003 of the 2008 Farm Bill and subsequent statutes, USDA is required to provide current or prospective landowners and producers “Receipts for Service or Denial of Service that includes “(1) the date, place, and subject of the request; and (2) the action taken, not taken, or recommended to the producer or landowner.” We urge USDA to integrate data collection systems in such a way that the program agencies and the Office of Civil Rights will be enabled to analyze the data in the receipts for service with regard to the quality and timing of services provided to producers by race, gender and ethnicity, and can review situations where there are disparities in the adequacy and timing of service.

The orderly, comprehensive and consistent collection and release of information are important to assure equity at every level at USDA. These systems are also essential in understanding the current demography of participation and application and determining where there is low participation in USDA programs and services by women and socially disadvantaged farmers and ranchers. Only by identifying such areas will it be possible to focus efforts to improve the quality of service.

We agree that *“Failure to collect this information will have a negative impact on USDA’s outreach activities and could result in an inability of the agencies to equitably deliver programs and services to applicant and producers.”* We strongly support the continuation of this data collection and urge USDA to do all it can to assure these data are collected in a manner that allows the data collection to achieve the purposes outlined in the statute.

Please contact us if we can provide additional input of use to you.

Cooperatively,

Rural Coalition

Cc: Sarah Campbell, National Beginning Farmer and Rancher Program Coordinator

Latrice Hill, USDA Farm Service Agency

Winona Scott, USDA Office of Civil Rights



August 13, 2021

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Re: [Docket Number: USDA-2021-0006](#) – Request for Information: Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA

Dear Secretary Vilsack,

The National Young Farmers Coalition appreciates the opportunity to comment on President Biden's Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, 86 Fed. Reg. 7009 (Jan. 20, 2021) (the "EO") and the USDA's request for information on Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA, 86 Fed. Reg. 32013 (June 16, 2021), Docket No. USDA-2021-0006.

We look forward to continuing dialogue, partnership, and action on the advancement of racial equity at the U.S. Department of Agriculture. We encourage the Department to engage in further stakeholder consultation following this comment process. We also affirm support for comments submitted from our BIPOC-led and -serving partner organizations, including The Rural Coalition. If you have any questions regarding our comments, please contact Vanessa Garcia Polanco, Federal Policy Director, at vanessa@youngfarmers.org.

Sincerely,

Sophie Ackoff & Martín Lemos
Co-Executive Directors

NATIONAL YOUNG FARMERS COALITION

PO BOX 1074 / HUDSON, NY 12534 / (518) 643-3564 / YOUNGFARMERS.ORG

Overview

The National Young Farmers Coalition (Young Farmers) applauds the establishment of Executive Order 13985 and the mandate that agencies develop a plan for addressing any barriers to full and equal participation in programs and procurement opportunities. We appreciate the intention of the U.S. Department of Agriculture (USDA) to comply by identifying barriers through a robust assessment process informed by the experiences of farmers and the analysis of organizations committed to racial equity in agriculture. We extend our full support for the implementation of recommendations derived from the lived experience of farmers of color and the Department's resolve to make equity "a core part of management and policy making processes."

Young Farmers is a national coalition of farmers and ranchers who steward the struggle to transform agriculture. We envision a just future where farming is free of racial violence, accessible to communities, oriented towards environmental well-being, and concerned with health over profit. Our mission is to shift power and change policy to equitably resource our new generation of working farmers. The Coalition consists of 200,000 supporters across the country, 50 farmer-led chapters, and over 2,500 dues-paying members. We submit these comments to support the USDA's efforts to advance racial justice and equity and support for underserved communities.

The food and farm system administered by the USDA is characterized by racial inequity. Ninety-eight percent of U.S. farmland is owned by white farmers.¹ Full-time white farmers see an average of \$17,190 in annual farm income, while a full-time black farmer receives on average \$2,408.² White farmers received nearly 97 percent of the \$9.2 billion provided by October 2020 through USDA's Coronavirus Food Assistance Program.³ Communities of color throughout the U.S. are at higher risk of food insecurity and hunger, largely because of structural and institutional racism.⁴ These disparate outcomes in our food and farm systems are the result of discriminatory federal policy-setting as well as implementation. The USDA bears responsibility for these outcomes, and accountability to racial equity will require a concerted and long-term effort to eliminate racial inequities in farmland access, farm viability, labor protections, and food security.

To deliver on racial equity commitments, the USDA must undertake transformation through a sustained and intentional series of decisions, processes, and programs. Community consultation and stakeholder engagement processes are essential but alone are not sufficient to begin and sustain the momentum needed. As the request for information accurately asserts: "Equity must be a central component of the decision-making framework that all agency functions are routed through." Programmatic changes and "improvements" to the customer experience

¹ USDA, NASS, 2017 Census of Agriculture

² "[Progressive Governance Can Turn the Tide for Black Farmers](#)" Center for American Progress

³ "[USDA Data: Nearly All Pandemic Bailout Funds Went to White Farmers](#)" EWG

⁴ "[Racially equitable responses to hunger during COVID-19 and beyond](#)" Bread for the World Institute

will be insufficient without adequate accountability measures. Institutionalizing racial equity metrics will not bear desired outcomes without enforcement and alignment of incentives. Decision-making structures will perpetuate bias without community representation and participatory processes. Finally, near-term changes at the USDA are subject to reversal unless the USDA establishes long-term patterns of organization that make this commitment to racial equity integral to the Department's function and unassailable to potential future assault.

Below, Young Farmers provides recommendations to the specific questions presented by the request for information. We believe, however, that action on these specific recommendations should be pursued concurrently with structural and cultural changes at USDA that will not only facilitate the implementation of these recommendations but also support the sustainability of any enacted changes beyond this Administration. We believe that pursuit of structural and cultural change at USDA should be guided by the following broad recommendations on issues of internal governance and culture, accountability and metrics, and stakeholder engagement.

Recommendations: Governance & Culture

Requests for comments, advisory committees, and stakeholder engagement broadly are critical to the USDA's efforts to advance racial justice. However, these engagement efforts will only advance racial justice insofar as the leadership and staff at USDA commit to racial justice; the staffpower and time of compensated USDA employees affords the greatest opportunity for this racial equity transformation to advance. Additionally, USDA staff are best acquainted with the levers, funds, and powers the department can deploy to address racial disparities in program outcomes. As a result, directing and harnessing the human resources of the USDA toward the goal of racial justice will generate some of the most significant gains on how the department considers and acts on racial justice. The extent to which the USDA advances racial justice will correspond to the extent the department promotes an internal culture that incorporates a racial justice lens to policy implementation, aligns recruitment and retention processes to incentivize racial justice action, and fosters a continuity of vision that will center equity as a long-term project. The viability and sustainability of racial equity at the USDA depends on establishing equity as an unwavering cultural commitment.

The Department's success in inspiring this cultural commitment will directly correlate to its capacity to implement law efficiently and effectively as well as a commitment to representation. Cultivating a racial equity culture at the USDA will not be possible without setting goals for increasing representation of Black, Indigenous, and People of Color (BIPOC) at the department as a whole, in key political appointments, and in senior leadership career roles. Meeting these diversity goals requires intentional outreach and equitable pathways to entry for BIPOC hires, and commitment to retention strategies that address workplace bias and limits to promotion. The longer-term effort of building inclusion will be equally necessary, as will designing internal performance evaluation methods that track the impact of these efforts. For BIPOC communities to feel seen, heard, and equitably resourced by USDA, the Department must think beyond staff diversity, establishing specific measures for advancement that correct what is often institutional devaluation of shared experience with program beneficiaries, racial equity expertise, and relational organizing experience.

We strongly urge the USDA to embed demographic analysis of various intersectional identities into workforce analysis, set firm and enforceable near-term goals for the employment of staff from underrepresented backgrounds, and establish internal strategies assessed according to the retention and promotion of these staff. Efforts aimed at increasing representation are shown to have co-benefits of increasing productivity and innovation.⁵ Establishing racial equity as a core “way of working”, paired with accountability and metrics, will create a compelling “business case” that could prevent future erosion of these nascent efforts. This will necessitate continued training and leveling up of racial equity analysis, skills, and competencies at the USDA; it will require bringing more focus on language justice capacity and encouraging more recruitment and promotion of staff with the cultural proficiencies to deliver on commitments. And with the average tenure of federal public sector employees at approximately 8.2 years, recruitment efforts enacted in earnest among BIPOC and younger candidates can deliver on the longevity and sustainability of USDA racial equity efforts.

Specific recommendations include:

- In service of establishing an unwavering cultural commitment to equity, constitute the USDA Equity Commission by October 2021 and empower this Commission to examine barriers to recruitment, hiring, and advancement of BIPOC applicants and staff and to make recommendations to the Office of Personnel management, e.g., reform of the five core principles for Pathways Programs⁶, the nine Merit System Principles⁷, and the Executive Core Qualifications⁸ and Fundamental Competencies⁹ for the Senior Executive Service;
- Task the USDA Office of Human Resources Management with a comprehensive review of racial and ethnic diversity to establish benchmarks and set recruitment, retention, and promotion goals for staff from underrepresented backgrounds;
- Provide annual public reports on racial and ethnic demographics, and retention and promotion data, for each government regulated pay scale level used by USDA;
- Undertake an annual evaluation of employee handbooks with reviews focused on considerations toward incentivizing racial equity analysis and enforcing accountability for non-compliance with new standards for inclusion and professionalism;
- Establish a senior-level taskforce, chaired by the USDA Secretary, to serve as a counterpart to the Equity Commission to be in dialogue with that external and disseminate racial equity best practices across the organization.

Recommendations: Accountability & Metrics

⁵ ["Diversity wins: How inclusion matters" \(McKinsey & Company - May 2020\)](#)

⁶ [OPM, Report on Special Study of the Pathways Programs, FY 2016](#)

⁷ [MSPB, The Merit System Principles: Keys to Managing the Federal Workforce, October, 2020](#)

⁸ [OPM, Guide To Senior Executive Service Qualifications, September, 2012](#)

⁹ [OPM, Policy, Data, Oversight, Senior Executive Service, Fundamental Competencies](#)

To advance equity internally, accountability must be established as core principle at all levels, as expressed in EO 13985. The 2016¹⁰ and 2018¹¹ Federal Employee Viewpoint Survey results for USDA point to a lack of confidence in reporting issues without fear of reprisal. Conversely, survey results indicate that staff have a strong sense of how their work relates to agency goals, and strongly agree that they will be held accountable to achieving results. The difficult, complicated, deeply personal work of racial equity transformation will place stress on internal communications and reporting structures at the Department. For employees to feel fully supported in developing a cultural commitment to advancing racial equity, they will need greater confidence in how they can hold themselves and their peers accountable to this work, not only to progress as defined by traditional program metrics.

This commitment is inseparable from a commitment to data-driven decision-making. Unfortunately that link is obfuscated if not severed by the incidences of bias in data collection, algorithm development, survey construction, program design, and data misinterpretation. The USDA's efforts to advance racial equity will likely meet resistance based on supposed "data-based" information that fails to account for poor outreach to communities of color and distrust among target communities that dampen participation in surveys and USDA engagements, and various less-perceived challenges to true data collection. USDA data collection, analysis, and dissemination processes require moderation from staff with a strong racial equity lens to minimize these mistakes. Hiring for staff with racial equity competences will remediate these challenges as will more formal and department-wide procedures to review research for racial bias.

Without a commitment to transparency the Department will struggle to deliver on commitments to accountability and equitable data processes. Program reporting processes need to be revised to significantly increase public transparency on USDA programs, providing regularly updated data as well as annual reports, and all incorporating a commitment to racial, ethnic, gender, and intersectional demographic data. The USDA's annual report from the Commodity Credit Corporation, for example, demonstrates the robust public documentation of a specific USDA effort. The USDA's Coronavirus Food Assistance Program (CFAP) dashboard demonstrates capacity for continually updated and accessible data presentation. We should expect the USDA to expand these presentations to the entirety of USDA programming and we should expect demographic data to be included in all this reporting. Finally, the USDA should commit to independent analysis of program data to assess for racial disparities in program delivery and outcomes.

Specific recommendations include:

- Provide transparency on USDA's FY22 goal to "incorporate a racial equity lens into internal Department operations and the design and administration of federal nutrition assistance"¹²;

¹⁰ [USDA, Federal Employee Viewpoint Survey, 2016](#)

¹¹ [USDA, Federal Employee Viewpoint Survey, 2018](#)

¹² [2022 USDA Annual Performance Plan](#)

- Task the Office of Budget & Program Analysis (OBPA) to collaborate with the Assistant Secretary for Civil Rights to establish racial equity goals alongside budget and compliance reviews of USDA regulations and programmatic functions;
- Conduct a full review of the Office of Civil Rights so the office's performance is linked to the detection, escalation, and amelioration of discrimination complaints and not incented to protect USDA and its staff from such complaints;
- Establish training for research divisions toward increasing intentionality about the ways USDA collects and uses data, involves the communities described in research, and aims to benefit those communities;
- Make USDA survey data and the data backing USDA research products open-source and publicly accessible;
- Create an annual racial equity report to establish accountability on racial equity commitments and integrate feedback processes (similar to this comments process) for the purposes of continual improvement.

Recommendations: Stakeholder Engagement

Advancing racial equity at the USDA will require a long-term commitment to robust stakeholder engagement modified to increase community participation in USDA program design, outreach, implementation, and redesign. Internal cultural and governance changes will ensure these stakeholder engagement processes are conducted by staff with the necessary cultural competencies and connections to encourage community participation. Accountability and metrics strategies aligned with racial equity commitments will increase community trust in the USDA's efforts. In effect, stakeholder engagement is the third component toward the racial equity transformation necessary for the USDA.

The most cost-effective and strategic approach to stakeholder engagement and outreach in the near-term is for the USDA to partner with and compensate community organizations with principal focus on relationship building. We believe that in the long-term the USDA should support staffing structures that allow for more local responsiveness and specific demographic focus with specific state-level roles aimed at supporting farmworker populations, BIPOC farmers, and other target underserved populations as defined by responsible research data. There is a need for significant action in the interim to ensure more BIPOC farmers are receiving the benefits, guarantees, and support that the USDA can lawfully provide - this work will depend on connecting with the existing networks of support for BIPOC farmers. In 2020, Young Farmers made 3,638 calls and emails to young farmers to ensure they knew about the CFAP2 program and to encourage them to apply. We reached 900 young farmers: 30.6% had not heard of CFAP2 and 14.7% had misconceptions about the program. Without hearing from an organization they trust, they likely would not have applied for this needed aid.

The USDA needs to commit to a partnership path with farming networks, acknowledging these networks emerge in defense against historic USDA discrimination and fully compensating these networks to assist this nascent USDA effort to advance racial equity. An intentional partnership strategy that recognizes the values of these networks and commits to long-term

action is essential; and this strategy would manifest in changes that revise USDA grant-making for outreach by embedding community participation in grant design, providing ample application periods to foster collaboration and network approaches, and minimizing administrative burdens.

Following on the recommendation for a more equitable data approach, the USDA must do more to define its stakeholder populations in line with the data. Specifically, the USDA needs to be accountable to and responsive to the needs of farmworker populations. The 2017 Census of Agriculture survey identified 3.4M producers in the U.S.; we have no comparable census process for farmworkers other than semi-annual NASS Agricultural (Farm) Labor Survey derived from employer-input and the Department of Labor's National Agricultural Workers Survey. Analysis on these data sources suggests in a time-frame comparable to the 2017 Census of Agriculture, approximately 2.4M farmworkers supported the 3.4M producers identified by that survey.¹³ Approximately 75% of this population are immigrants, 83% identify as "Latino/Hispanic", and Spanish is a comfortable language for approximately 77% of this farmworker population. We also know this population data is impacted by the phenomenon of "immigrant undercount" and immigrant populations are "hard to count."¹⁴ An inventory of USDA products, programs, and services that specifically support farmworkers, are readily available in Spanish, and are considerate of immigrant culture would result in few, if any, results. The USDA cannot advance on equity and our food system will not be sustainable without significant federal investment in farmworker wellbeing.

Stakeholder engagement will ultimately determine the success of programs to advance racial justice and equity. While this consultation requests "customer experience" testimony, we know far too well that adoption of USDA programs is skewed along racial and ethnic lines. In our own small sample of CFAP2 applicants (263 survey respondents), Black, Indigenous, and People of Color farmers applied for CFAP2 at lower rates, were funded at lower rates, and had a lower median payment compared to White farmers. We know farmworkers will have few tactical recommendations on "customer experience" because they more broadly have not been perceived or respected as the USDA's customers. And legacies of discrimination means significant portions of underserved populations refrain from participating in the USDA "customer experience" in order to avoid anticipated harm and further discrimination. A customer experience and user design approach is important but insufficient to advance racial justice and equity. The intention for testimony and input is valuable, however, and we recommend the USDA create more formal, long-term processes to engage with organizations that hold histories of supporting underserved farm populations. These organizations can provide meaningful feedback for the purposes of advancing racial justice and equity by providing insight on the range of changes (structural, programmatic, logistical) needed to increase participation from BIPOC producers and farmworkers. We strongly urge the formation of the planned Equity Commission as a means of organizing this partnership strategy.

Specific recommendations include:

¹³ [Selected Statistics on Farmworkers \(2015-16 Data\)](#) - Farmworker Justice

¹⁴ [Immigrant Undercount](#) - National Network for Immigrant and Refugee Rights (NNIRR)

- Eliminate match requirements in USDA grant opportunities intended to fund community outreach on USDA programs (e.g. 2501 program);
- Proceed with the Equity Commission as a long-term component of USDA governance with compensated advisory positions allocated to young BIPOC producers and farmworkers, or members of representative organizations;
- Establish training on and processes for language justice integration across USDA programs;
- Fund state-level staff tasked with increasing USDA program adoption among BIPOC farmers and generating recommendations for service improvement;
- Minimize grant application requirements for outreach grants, establish common application practices to minimize administrative burden for organizations applying for multiple grants, and consider rolling acceptance as well as longer application periods.

We provide specifics on general questions below, and welcome more discussion with the USDA on this effort. We acknowledge that many of our recommendations may be currently enacted or in progress within the USDA - we also praise the recent evidence of commitment to racial justice and equity across the organization. We look forward to working alongside the USDA on this effort and are available for more discussion, dialogue, and collaboration on our shared goal to improve governance, culture, accountability, metrics, and stakeholder engagement at the USDA, building toward a Department that models a commitment to racial equity.

Responses to Selected General Questions¹⁵

4. Are there USDA policies, practices, or programs that perpetuate systemic barriers to opportunities and benefits for people of color or other underserved groups? How can those programs be modified, expanded, or made less complicated or streamlined, to deliver resources and benefits more equitably?

Our overview proposed organizational wide changes that will allow for more frequent detection of systemic barriers and create a culture of accountability that will identify and resolve discrimination. Below is a non-comprehensive set of specific programs, policies, and practices that need modification to meet the USDA's racial equity goals:

- **Comprehensive Review of Program Handbooks:** Program handbooks across USDA agencies provide the tools and guidance that staff need to implement program authorities and activities. We urge the Department to thoroughly review program handbooks, prioritizing those guiding implementation of FSA, NRCS, and AMS programs providing direct service or support to individuals and organizations.
- **Equitable Application Forms and Processes:** The USDA needs to modernize its program and loan application forms and the application criteria upon which applicants are assessed. The [Microloan Program Application](#), as an example, requires attestation of no convictions for controlled substances. Individuals who have been disproportionately impacted by the criminal justice system and who are seeking to enter

¹⁵ Questions numbered to coincide with question numbering in the RFI.

farming, could be temporarily or permanently ineligible for federal assistance under this provision. There is documented evidence that these discriminatory impacts have targeted BIPOC communities in the US. Within the constraints of federal law, the USDA should consider removing or amending this requirement to avoid excluding otherwise eligible applicants. Citizenship status should not be a mandatory question on these applications unless required by law for the implementation of programs. Additionally, applications should be readily available in translation and be reviewed for adoption of gender-inclusive language.

- **FSA Loan Preapproval:** FSA is typically the most cost-effective source of credit for young and BIPOC farmers, and can often be the only lending option that a farmer qualifies for. But two key challenges are preventing farmers from accessing this credit for land purchases, and are particularly impacting farmers of color:
 - The timeline on which FSA is able to lend is not competitive in the general real estate market.
 - FSA will not grant pre-qualification or pre-approval of farm purchase loans based on a potential borrower's credit.

The USDA should prioritize FSA loan preapproval processes to make these valuable financial tools more impactful and successful.

- **EQIP Program:** The vast majority of EQIP (Environmental Quality Incentives Program) dollars go to large farms owned by white producers. The EQIP program, however, is an incredibly useful tool that can and should benefit a much broader population of producers. We suggest that the USDA work on cooperative agreements to increase EQIP applications from BIPOC and under-represented producers. The USDA should eliminate out-of-pocket or reimbursement payment models for those producers it defines as “historically underserved” and provide 100% advance payment to such producers; additionally, the USDA should consider modifications on the 90-day window for expenditures given instability in supply chains. The USDA should consider a “micro-EQIP” program that prioritizes conservation practices on small acreage farms as a way of distributing program funding to those producers working on such a scale.
- **Conservation Reserve Program – Transition Incentives Program (CRP-TIP):** CRP-TIP provides retired or retiring landowners with two additional annual rental payments on land enrolled in expiring CRP contracts, on the condition that they sell or rent this land to a beginning, socially disadvantaged, or veteran farmer or rancher who agrees to use sustainable practices. In effect, CRP-TIP creates a pathway for these farmers to access land. It also provides additional income to retired or retiring producers. Congress should assist USDA in developing a better system for matching program participants and provide more direct technical assistance to farmers entering the program to help start production on land previously enrolled in CRP.
- **FSA County Committees:** FSA's county committees have been the site of many discrimination complaints, particularly as these committees once had the power to make loan decisions and were almost exclusively comprised of White farmers. Still, these committees make decisions about local FSA programs and outreach. Without BIPOC representation on the county committees, FSA will never increase participation in programs by BIPOC producers. The election process of these committees reinforces

majority representation. These locally elected councils should be dramatically restructured to be accessible to young and BIPOC producers, including shifting the committees away from local elections to appointed representation, mandatory representation quotas, and compensation to those who serve. Since BIPOC producers are less likely to be actively engaged with USDA and the FSA county committees help determine eligibility for programs, farmers should be eligible to serve regardless of whether they are currently participating in a USDA program.

5. How can USDA establish and maintain connections to a wider and more diverse set of stakeholders representing underserved communities?

In our overview we discussed the necessity of a robust stakeholder engagement process at the USDA, and we include these additional recommendations for establishing and maintaining connections:

- Seeking out organizations led by people whose lived experiences reflect those of the communities they aim to serve, and the communities who have historically been most marginalized from decision-making processes related to programs and policies.
- Seeking out organizations for cooperative agreements who can demonstrate a record of service to communities who have historically been most marginalized from decision-making processes related to programs and policies.
- Set expectations, beginning with political leadership, that informal consultation with these groups is as important as informal consultation with groups who have traditionally held the most power and influence over programs and policies. This dialogue should not be limited to formal, occasional spaces, and should not be limited to program and policy areas specifically designed to serve “historically underserved” producers. The Department should invite dialogue especially regarding programs and policies that are less accessible to “historically underserved” producers.
- This RFI states that “the Racial Equity Commission may choose to seek additional input to meet its goals and objectives”. We urge the Department to pursue such additional input and to continue to do so with regularity so that effective dialogues and trusting relationships can be established over time. This type of sustained dialogue will be necessary to fully meet the intent of Executive Order 13985.

6. Please describe USDA programs or interactions that have worked well for underserved communities. What successful approaches to advancing justice and equity have been undertaken by USDA that you recommend be used as a model for other programs or areas?

The Coronavirus Food Assistance Program 2 (CFAP2) had a program structure that was more effective at serving socially disadvantaged farmers than the Coronavirus Food Assistance Program 1 and several aspects should be brought to scale across USDA programs.

- **Payments based on past sales.** Many USDA programs are designed to benefit large-scale commodity growers. Many young, BIPOC farmers and ranchers do not have the land or capital resources to grow to scale. The first CFAP1 program was out of reach for

these growers who desperately needed assistance but whose diversified, direct-to-consumer models did not match the commodity-by-commodity approach. Payments did not include premiums for local or organic products. CFAP1 was simply not worth the hassle of applying for. CFAP2, however, provides farmers with payments based on 2019 sales. This simplified approach that was accessible for diversified farmers was much more effective at serving our young BIPOC farmers.

- **Streamlined application.** Most USDA programs are out of reach for young socially disadvantaged farmers who lack the time and expertise to successfully apply. CFAP2's streamlined application is a model for future USDA programs. Still, many farmers struggled with the accompanying forms required of all FSA programs and these should be continued to be refined and increased support offered to new farmers to complete.
- **Indefinitely extended application cycle.** Many farmers of color are owner-operators and time spent on applications is time away from running their farm businesses. Of the farmers we surveyed, 26% of farmers who did not apply for CFAP2 said the primary reason they did not apply was because the application was too complicated, or they ran out of time. Farmers described how they couldn't afford to take time away from their farm, especially during the growing season. Longer application windows would help ensure that more farmers who are interested in applying can budget the time needed to successfully do so. CFAP2's extension has made it possible for organizations like ours to do outreach and provide technical assistance to ensure that every producer who would like to apply can apply. USDA must extend application windows and create opportunities throughout the year to apply so growers in different geographic regions can use their slow season to apply (including grants like Value-Added Producer Grant)
- **Cooperative agreements** for organizations with trusting relationships with underserved communities. As mentioned above, distrust of the agency prevents many underserved farmers from applying to USDA programs. Community organizations with trusted relationships with BIPOC farmers are the best at encouraging and empowering farmers in their networks to apply for USDA programs. They should be leveraged as key partners across USDA programs like they have been with CFAP2 cooperative agreements.
- The CFAP **dashboard** demonstrates capacity for continually updated and accessible data presentation.
- **Grants instead of loans.** Supporting socially disadvantaged farmers with forgivable loans or grants is a proactive way for the agency to repair past harm and make assistance accessible.

Room for improvement:

- **Set-asides for socially disadvantaged farmers.** CFAP2, while a better design to serve BIPOC farmers, does not include set-asides or prioritization for these producers. The effect is that the funding disproportionately benefits white farmers. In order to address historical inequities in funding from USDA for socially disadvantaged farmers, there should be funding specifically set aside for young farmers and farmers of color.
- **Increased training of FSA loan officers.** FSA staff should make an effort to reach out to all farmers in their service area equitably, and should have thorough training in order to guide all types of farmers through the application process.

9. Are there data-sharing activities in which USDA agencies should engage, so that repetitive collections of the same data do not occur from one USDA component to the next?

The Racial Equity Commission should include data collection processes in its review of the Department. We encourage the USDA to seek out opportunities to reduce the burden of data collection on program applicants, especially “historically underserved” applicants and organizations serving “historically underserved” communities. At the same time, we urge caution against requiring organizations to share farmer information with the Department, particularly information regarding the legal status of farmers.

10. How can USDA use technology to improve customer service? Do you have suggestions on how technology or online services can help streamline and reduce regulatory or policy requirements? What are those technological programs or processes and how can USDA use them to achieve equity for all?

Generally, current processes require farmers to turn in application forms in person, which can compound the time and expense required of farmers, particularly in rural areas. Creating a full-service online portal would give program staff more flexibility to work directly with farmers and rural residents, putting agencies (especially FSA) on track to attract the customers of the future. For older and low-resource farmers, and until broadband has reached every rural county in the U.S., the USDA must, of course, maintain critical in-person and on-paper services. In many cases, and for many functions, USDA staff in the field are irreplaceable, and we should ensure they have the resources to continue their work and build long term relationships in the communities they serve, particularly as they strive to reach historically underserved farmers. Further, the Department should assess the impacts of annual budget constraints following the Budget Control Act of 2011, with particular attention to how annual reductions have impacted the Department’s ability to meet its constituents where they are, and work with Congress to strategically improve field staffing levels¹⁶.

While technology will not resolve racial discrimination in the USDA customer experience and may even limit access for “customers” without sufficient internet access, expanding the options for online customer experience will support a new generation of young and BIPOC farmers engage in USDA programming and utilize USDA services. USDA should invest in a fully online experience option for farmers so that customers from historically harmed communities have the option to get a neutral servicing experience that could, potentially, eliminate the bias encountered through in-person service. Online experiences can be designed for racial equity and to eliminate programmed biases, and the USDA should invest in customer experience reviews to identify and address bias present in the online experience model. Part of this design should focus on creating processes such that the intention of increasing service to BIPOC farmers is the default option. As an example: when a farmer says they meet a qualifying definition for an EQIP grant, the processes should require a technician to actively deny the

¹⁶ [CRS, Staffing Trends in the USDA Farm Production and Conservation Mission Area, March, 2020](#)

options that give them advance payment they're qualified for rather than requiring a technician to approve that option. Such design principles will make programs' support for BIPOC farmers automated and will also make detection of discrimination a more visible and trackable phenomenon.

11. Are there sources of external data and metrics that USDA can use to evaluate the effects on underserved communities of USDA policies or regulations? If so, please identify or describe them.

Since soon after the Department's founding, it has been recognized as "the people's department", touching the life of every American.¹⁷ With a stated mission to "provide leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on public policy, the best available science, and effective management," the Department has a clear mandate to set policy in service of the public good.¹⁸ As the USDA considers external data and metrics that it may use to evaluate the effects of policy on underserved communities, we urge the Department to think broadly about the communities its policies directly or indirectly impact, and how those policies invest in and nourish land and people, or extract from and deplete land and people, including federally recognized and unrecognized indigenous communities. USDA should, for example, consider increased interagency collaboration and data sharing with other agencies that set policy and or collect information on land stewardship, the economic and physical health of rural and urban communities, and climate resilience.

12. What suggestions do you have for how USDA can effectively assess and measure its outreach and inclusion of underserved groups and individuals?

Our overview provided general and specific recommendations towards aligning USDA metrics, evaluations, and reporting with its racial equity comments. Additionally, we suggest:

- **Redesigning methods for gathering, analyzing, and making publicly available, program application and participation rates:** The USDA should commit to a culture of transparency, accountability, and equitable data processes that is rooted in facilitating racial equity outcomes, rather than in legal compliance. Beginning in 1990¹⁹ various Farm Bill provisions have set expectations for Departmental reporting on race, ethnicity, and gender statistics, to illuminate gaps in and show progress on outreach and participation in USDA programs by socially disadvantaged groups. Departmental Regulation 4370-001²⁰ facilitated establishment of the REGstats online tool²¹ and set agency expectations for gathering and reporting on data. The focus of the regulation is centered on "civil rights compliance". An enduring commitment to advancing racial equity will require a dramatic shift in this approach. Together with evolving the purpose of demographics data collection by the USDA, the Department must invest in more

¹⁷ [USDA, Secretary's Column: "The Peoples' Department: 150 Years of USDA", February, 2017](#)

¹⁸ [USDA, About the U.S. Department of Agriculture, August, 2021](#)

¹⁹ [Govinfo, PUBLIC LAW 101-624—NOV. 28, 1990](#)

²⁰ [USDA, OClO, Departmental Regulation 4370-001](#)

²¹ [USDA, REGStats: USDA Race, Ethnicity, and Gender Program Statistics, August, 2021](#)

accessible data reporting and deeper analysis of that data. The REGstats tool is not easily accessible and offers no analysis. Further, we encourage USDA to work with Congress and relevant stakeholders to reform and align the existing farm bill provisions that define the demographics USDA is required to collect.

- **Restore Data Collection for the National Agricultural Statistics Service Agricultural Labor Survey:** We urge the USDA to reverse a previous directive²² for the USDA National Agricultural Statistics Service (NASS) to cease collecting data on agricultural wages, hours worked, and wage rates, and to not publish the biannual Farm Labor report. The USDA cannot adequately assess its impact on farmworkers without this data.

13. How can USDA remove or reduce barriers that underserved communities and individuals face when they participate or attempt to participate in agency procurement and contracting opportunities?

The USDA operates under constraints in the design of grant programs and contracting processes. However, the design of grant programs significantly impacts projects proposed, limiting their accessibility to under-resourced organizations, and ultimately limiting their potential. Recommendations to reduce barriers to impactful projects include:

- The USDA should work to release applications in batches of multiple grant-cycles so potential applicants can benefit from longer proposal development, partnership agreement, and grant-writing periods for these important and often oversubscribed grants. There is often no visibility on applications beyond the current application cycle and multiple grant cycles published simultaneously will allow for more and more intentional proposals.
- The USDA should review the current de minimis overhead rate of 10% as it is an obsolete and incorrect calculation for many organizations working in agriculture - the USDA should provide a greater de minimis rate for organizations and proposals specifically addressing racial equity.
- Match requirements are a major limitation to the proposal development process; these requirements should be eliminated or significantly deprioritized in the review process.
- The USDA should provide more transparency on the review processes for these grant programs and continue to provide compensated reviewer positions to BIPOC producers, farmworkers, and representatives of organizations working with these communities.
- The USDA should allow for re-submission of unapproved applications where possible and consider eligibility for for-profit farm enterprises in programs where such an enterprise may conceivably provide an equal or greater impact than a non-profit counterpart.
- The USDA should also publish data on all open application processes to support continual improvement towards benefits to BIPOC and socially-disadvantaged farmers.
- Requirements for SAM.GOV registrations should not be eligibility criteria and instead be requirements that can be met within a longer and post-approval time period. Too often, new programs will be introduced with quick turnaround times and brief application

²² [Federal Register, Notice of Revision to the Agricultural Labor Survey and Farm Labor Reports by Suspending Data Collection for October 2020](#)

periods that require SAM.GOV registration. Given that registration can take months depending on the organization, this requirement immediately disadvantages those organizations and entities not currently contracting with the government.

- Previous experience implementing a USDA grant or contract should be deprioritized as an evaluation criteria and/or specific set-asides for new contracting entities should be established for programs



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coalition

1029 Vermont Ave NW Suite 601
Washington, DC 20005
Phone: 202-628-7161 Web: <http://ruralco.org>
www.facebook.com/RuralCoalition
Twitter: @RuralCo

For further information contact: Lorette Picciano at lpicciano@ruralco.org, Quinton Robinson at Quinton Robinson, quintonrobinsonlaw@gmail.com, or DeShawn Blanding at deshawn@ruralco.org

January 6, 2022

Comment Intake—Section 1071
Small Business Lending Data
Collection David Uejio
Acting Director
Bureau of Consumers Financial Protection
1700 G Street NW
Washington, DC 20552

RE: Comments of the Rural Coalition re Docket No. CFPB-2021-0015, Small Business Lending Data Collection Under the Equal Credit Opportunity Act (Regulation B)

By electronic mail: 2021-NPRM-1071@cfpb.gov

Dear Mr. Uejio:

The Rural Coalition writes in strong support the Consumer Financial Protection Bureau (CFPB) proposed rule on Small Business Lending Data Collection under the Equal Credit Opportunity Act (Reg. B) (Docket No. CFPB-2021-0015).¹ The Rural Coalition, founded in 1978, is a diverse coalition of over 50 of community-based organizations with decades of share experience in working for equity with particular focus on structural transformation to eradicate discrimination in agriculture and farm programs and assure access to credit for the Black, Indigenous and People of Color producers we serve.

We provide the following comments to underscore absolute need to include agricultural credit in the section 1071 rule to remediate fair lending in agriculture for socially disadvantaged farmers and ranchers. Agricultural creditors have a history of discriminatory exclusion and subordination of Black, Indigenous, and other farmers of color in agricultural lending, appraisals, and loan modifications. We

¹ [86 Fed. Reg. 56356 et seq.](#) October 8, 2021.

support the inclusion of agricultural creditors in the amendment of Regulation B by the Consumer Financial Protection Bureau (CFPB) as it would provide the evidence needed to underscore the continuous and unequivocal discrimination in loan origination, rejections, modifications, and appraisals against farmers of color and provide the needed data to dispense the adequate resources to our farmers.

As noted in the Federal Register announcement in Section 1002.104(A), “the share of minority representation in farming, particularly that of Black farmers, has declined sharply over the last 100 years.” Such a decline is due in no small part to credit discrimination by agricultural lenders.

A. Summary of Comments

As proposed, the rule lacks clarity as to its applicability to the farm ownership and farm operating credit extended by the U.S. Department of Agriculture to family farmers operating as individual and small business entities. The Dodd Frank legislation does not have language specifically prohibiting the inclusion of data from the Farm Service Agency. A rulemaking pursuant to section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) would modify the Regulation B prohibition for certain loans, including possibly some agricultural loans.

Section 1071 amended ECOA, requiring financial institutions to report information on credit applications made by women-owned, minority-owned, and small businesses. The Equal Credit Opportunity Act’s (ECOA) definition of business credit specifically includes agriculture. For example, Regulation B states: “Business credit refers to extensions of credit primarily for business or commercial (including agricultural) purposes, . . .” **See 12 C.F.R. 1002.2(g)**. The rule should be modified to be more specific with a definition that includes the Farm Service Agency, which makes more than \$3 billion in loans annually to farm operations, as a covered entity.

The rule should also clearly require data collection for lending by the Farm Credit System, all guaranteed loans, and all other covered forms of lending as they utilized by small farms, and some of the modifications we have proposed in these comments pertinent to ag lending should apply to other lenders as well. The data collection requirements should also be modified to recognize the intersection among these lenders. For example, Farm Service Agency is required to graduate borrowers after a certain period of time (usually 10 years). The rule should specifically require data on the purpose of a refinance to capture data when a lender refinances a loan for a borrower seeking it due to graduation from FSA.

Further, the rule should, in clear terms, collect data on verbal and written agricultural loan modification or restructuring requests made by farmers to the Farm Service Agency pursuant to **7 USC 2001**.

B. Introduction

Minority farmers and ranchers are among the 2 million farm and ranch operations nationwide who require loans to buy agricultural real estate, make capital improvements and purchase supplies and equipment. **See GAO-19-539 – Credit and Outreach to Socially Disadvantaged Farmers and Ranchers Is Limited**. In the GAO surveys conducted between 2015-2017, Socially Disadvantaged Farmers and Ranchers (SDFRs) represented an average of 17 percent of primary producers in the survey, but SDFRs accounted for 8 percent of outstanding total agricultural debt. Loans to purchase real estate accounted for most of SDFRs’ outstanding debt (67 percent).

Producers defined as Socially Disadvantaged Farmers or Ranchers (**7 U.S.C. 2279 (a)**) have long suffered discrimination, as demonstrated by the over \$4 billion in loan discrimination claims in 4 major settlements against the Department of Agriculture. The courts in these settlements upheld the application of the Equal Credit Opportunity Act to FSA direct loans, as well as waiver of sovereign immunity contained in ECOA to allow payment of damages to producers in these cases. While the litigation was first filed in 1998, successful claimants did not receive settlement payment for many years, with final payments made in 2015.

However, the socially disadvantaged producers saw covered only a small fraction of the losses incurred over many years. The community-based organization who comprise the membership of the Rural Coalition include many organizations with decades of experience on the front lines of work with socially disadvantaged producers. Our leaders have assisted thousands of producers to seek the USDA loans and other program benefits all farmers and ranchers need to succeed. They have also help thousands of producers file claim packages in the discrimination settlements against USDA. Many claims were denied because producers were unable to produce evidence of how they were treated differently years before as compared to a similarly situated white producer-evidence that is very difficult to produce due specifically to the lack of any other form of data to quantify the results of disparities in treatment with access to loans.

Moreover, the producers we have worked with over the years have often contended that lenders, especially USDA Farm Service Agency and its predecessors, made loans to them with the specific intent of pushing them into acceleration and foreclosure with the express purpose of removing them from their land. These producers were left vulnerable by weather related disasters, market disruptions, family emergencies, accidents on the farm, and many other risks factors endemic to agriculture. However, Black, Indigenous and People of Color Farmers included in the Socially Disadvantaged definition in 7 U.S.C. 2279 (a) were more at risk, because frequently they were not told about or given fair access to the many other farm program that benefit white farmers, decreasing their capacity to cash flow and repay their loans.

They were also at risk because other farmers wanted their land. Without data, there is very little way to clearly show how the often very closed circle of farmers sometimes called “the old boy’s network” intersected with those who were represented on farmer elected FSA County Committees who are charged with hiring the County Executive Director who runs the local FSA office. While USDA eliminated the previous local farm loan committees and required lending to be handled by designated loan officer in each office, there remains a clear trend in hundreds of counties. The loan officer and the CED have some level of control also about whether, for example, the child of a SDFR is deemed eligible for a beginning farmer loan on the same terms as the child of a white farmer. They also have some ability to slow walk the completion of loan application and to delay the final approval of a loan. A loan that made available to the producer early in the season instead of after planting time can be the difference between a successful year and poor one. All these factors have led to clear pattern where over time, in many counties, the acreage of white-owned farms has grown larger, while black-owned farms in particular have remained smaller and become fewer.

We have seen the same patterns repeated over and over. A socially disadvantaged farmer encounters the same kinds of risks as many other farmers and requires modification, but the new terms are disparately disadvantageous to the continuation of the farm operation. Or there are strings, often born of conflicts of interest, attached to the modification and the farmer is in danger of losing their farm, with the land going to another local farmer, including to relatives or associates of the staff of local offices. Disclosure of the loan terms, the collateral requirements imposed, the changes in valuations of assets in appraisals, and many other factors lead to disparate treatment that has long, and continues, to separate these farmers from their land.

Rural Coalition with its members has since 1987 worked to secure new requirements for data collection in numerous sections of the farm bill, with the goal of data collection to the county level for loans and all other programs for farmers. USDA has long encountered difficulties in developing the electronic systems necessary to collect, publish and utilize the data they are required to collect and disclose. As such, the agency has long been hampered in its ability to conduct regular compliance reviews and to impose any system of accountability that is a critical basis of assuring fair service everywhere within its system.

The application of this rule to agriculture lending would be a sea change in at last allowing the comprehensive data collection and disclosure essential to incentive the equitable service in USDA programs that we have long sought. It would provide a comprehensive data

Comprehensive data on Socially Disadvantaged Farmers and Ranchers' outstanding agricultural debt are also not available because regulations generally prohibit lenders from collecting data on the personal characteristics of applicants for loans other than certain mortgages. In many cases, the lenders have sought or protected these prohibitions because they allow the lender to mask the actual practices of the lenders. The extent of the proposed Consumer Financial Protection Bureau (CFPB) final rule would and should modify farm loan data collection prohibitions for certain loans, possibly including some agricultural loans. The undersigned organization write to express our views on ensuring the clear application of the rule the U.S. Dept. of Agriculture's Farm Service Agency, the Farm Credit System, all lenders making FSA guaranteed loans, and the full range of other entities that provide credit to small farm businesses.

C. Essential Role of Family Farmers as Small Business Owners

Family Farmers and Ranchers make up a unique economic system of small businesses. Farm operations play an essential role in ensuring the sustainability and viability of an abundant supply of food, fuel, and fiber. The COVID 19 pandemic informed Americans of the weak links in food production, supply, and price. Farmers take active roles in preserving our environment and strengthening our National Defense. The CFPB rule on small business data collection must produce a final rule that recognizes the importance of farmers as small businesses needing data collection to assure fairness in access to the credit that all small-scale producers need to survive the very tight margins in the agriculture sector.

Inclusion of agricultural creditors in providing reportable data would aid in showcasing and addressing the exclusion of farmers of color, or of a pattern of making in a manner that increases the risk the farmer incurs, such as a loan not funded to the farmer until late in the planting season. Data on when in the season a loan is made as compared to other farmers is also critical, as is the data on the geographical location of the lending. Thus, in a particular county, data would be available to discover and address disparate treatment in the timing of loan approvals.

Therefore, we support the application of section 1002.107 to agricultural creditors, especially the following provisions in the section.

- (a) (13) The gathering of agricultural lending data by geographical locations to the census tract level is important to ascertain where loans are being approved and denied in order to determine fairness for socially disadvantaged farmers. Credit lenders, including the farm

credit system, have historically avoided certain areas of marginalized communities, creating inequitable credit distribution.

(a)(2), (8), and (10) Data collection for agricultural lending that includes loan processing dates from loan origination to the date the farmer received the loan is particularly critical to ascertain in each location patterns where late lending may increase loan risks. Credit lenders have a legacy of delaying loan approvals for farmers of color compared to White farmers.

D. Family Farmers and Risk Management Strategies

Although related small businesses compete with market challenges, generally farmers – in a different more challenging way, (i) compete with strange weather patterns, (ii) unpredictable pests, (iii) market price fluctuations and institutional unlawful discrimination in loan making and loan servicing. The unique risks associated with farming require evenhanded **reasonable flexibility loan servicing** in order to respond to unplanned, unexpected weather patterns or market disruptions like those related to COVID 19. [Subpart C - Loan Servicing Programs \(§§ 766.101 - 766.116-766.150\).](#)

Non-minority farmers are more likely to experience better rates and terms during loan making and loan servicing transactions. During disasters and other market disruptions, non-minority farmers enjoy favorable loan modifications and restructuring while minority farmers are burdened with default, acceleration, bankruptcy, and foreclosure. Small business data collection under the authority of this CFPB rule can be used to build a database of disparities and best practices used by government and other lenders. This data base will ensure a fair, even handed loan servicing transactions for all farmers regardless of race or national origin. The data under the final CFPB rule will assist in the orderly maintenance of the family farm system, known to rural America, before and during natural disasters. Farm loan eligibility standards encourage the Secretary of Agriculture to conduct an emergency loan program in a manner that will foster and encourage the family system of agriculture. **See 7 USC 1961(c)**. A viable family system of agriculture that is free of discrimination is only possible when there is real meaningful access to farm loan small business data.

The ability to replant, cultivate, process and market during or after disasters or pandemics is not just difficult but prohibited by costs and the dictates of mother nature. However, Congress, through emergency legislation, has made attempts to alleviate these difficulties with time limited lending authorities for farm related businesses. The CARES Act at 15 USCS 9009 (a), (b), and (c), provided additional, enhanced authority for farmers and farm businesses privileges and rights to participate in the U.S. Small Business Administration's Economic Injury Disaster Loan (EIDL) program. This CARES Act farm lending authority is not exactly understood by the U.S. Department of Agriculture where use of funds and security requirements are concerns. The lack of CARES Act understanding resulted in unwarranted, severe administrative sanctions against minority farmers. Program implementation sanctions provide additional impetus for farmer related small business data collection.

Farm Loans as Risk Management Tool - Real Options

Flexible, fair loan servicing options in the form of debt write down, restructuring or modifications is essential to the maintenance of the family farm system. **See Reg. B, 12 CFR pt. 1002.4-1; 7 CFR 762.141**. Therefore, it is important for all agricultural lenders to collect data, through the CFPB small business data collection final rule, on farm loan servicing practices and methods that meet the needs of all farmers in time of financial or environmental crisis such as COVID 19.

Easy access to data relevant to loan making and loan servicing informs government, industry and farm loan borrowers on the best practices utilized to advance equitable farm loan services. Data can assist government and lenders in efforts to identify areas of known farm loan discrimination. This data will be essential in administrative efforts at the U.S.D.A. to set up polilt lending and servicing programs designed to increase equity and uniformity in loan modifications and restructuring.

E. Known Discrimination in the Farm Loan System

Congress has recognized some of the challenges SDFR face with respect to fairness in loan making and loan servicing. In response, certain statutes require the USDA to collect data on how loans made by race, gender and ethnic, and to establish target participation rates as goals in each county for making loans to socially disadvantaged farmers and ranchers in programs that make direct loans or that guarantee loans made by private lenders. However, USDA has not made this limited data which includes only numbers of loan applied for, made and denied to the county level easily available to the public. The data collected is much less comprehensive than proposed in this rule. The data collection and targeting of agricultural loans to SDFRs is a method of collecting data on loan making but does nothing to collect data on loan servicing, an action covered by the ECOA. In our long experience in working with producers on securing thousands of loans and submitting thousands of discrimination claims on their behalf, we have found that loan servicing is where most of the discrimination occurs with respect to farm loans. **See GAO Report July 2019 at page 1 to 2. See ECOA Regulation B, 12 C.F.R. 1002.2(n)** (*Discrimination against an applicant means to treat an applicant less favorable than other applicants*).

Under regulation B, rules designed to implement the Equal Credit Opportunity U.S.D.A., like all lenders, is prohibited from discrimination in loan servicing. **See 12 C.F.R. 1002.2(n)**. Nevertheless, some farmers face serious discriminatory loan transactions designed to end in foreclosure and business operations. The known discrimination takes on many different forms. Producers may face additional collateral requirements and the need to demonstrate their value. Appraisers in a small rural community may be more generous or less stringent with some farmers than with others and may also have inside information or close relationships with FSA or bank staff that could influence appraisals in a way that benefits some producers over others. In many instances, the agricultural lender does not realize that certain transactions are discriminatory by nature and design. The problem is that minority farmers most often carry the burdens of discriminatory farm loan transactions. Farmer related small business data will serve as an educational tool for agricultural lenders who knowingly and unknowingly carryon patterns and practices of farm loan discrimination that have disparate impacts or disparate treatments on the operations of minority farmers. There discriminatory actions violate the following provisions of Regulation B of the Equal Credit Opportunity Act. **Farm Loan Data Collection - Prohibited Basis - 12 C.F.R. 1002.2(z):** "Prohibited basis means race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program; or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any state law upon which an exemption has been granted by the Bureau." **12 C.F.R. 1002.2(z)**.

Farm Loan Data Collection - Prohibited Basis. 12 C.F.R. 1002.4(a). *Discrimination.* "A creditor shall not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction." **12 C.F.R. 1002.4(a)**. The phrase "any aspect of a credit transaction" includes farm loan servicing and should be understood as such. As mentioned earlier, farm loan servicing is the state of the loan transaction where minority farmers endure the most discriminatory terms and conditions. Particularly, loan servicing during a disaster related request places the farmer in a position that requires the farmer to accept the burdensome terms and conditions or face

foreclosure. Some renegade farm lenders push farmers into unlawful farm foreclosure after the farmer complains verbally or in writing about consumer rights violations. This practice must be recorded on a consistent bases in order to increase Department of Justice investigations and civil actions against wrongdoers. According to **15 U.S.C. 1691 (a)(3) and Regulation B, 12 CFR 1002.2(z)** a farm loan lender may not discriminate against an applicant because the applicant has in good faith exercised his or her rights under various federal consumer protection laws. **See 15 U.S.C. 1691 (a)(3) and Regulation B, 12 CFR 1002.2(z)**. The final language of the proposed CFPB rule must include data collection consumer whistleblower complaints so that retaliation against farmers can be eliminated through strong enforcement actions.

Farm Loan Data Collection - Prohibited Basis. 12 C.F.R. 1002.4(b). Discouragement. “A creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.” **12 C.F.R. 1002.4(b)**. The undersigned organization are aware of discriminatory terms and conditions that relate to oral and written statements that discourage minority farmers from making loan applications or requesting loan servicing request. For example, young minority farmers are told to accept the same discriminatory terms and conditions: **(a)** loan approval based on mandatory acceptance of same harsh terms placed on farm loans of parents more than 20 years in the past; **(b)** loan approval based on buying farm equipment from the lenders family member; and **(c)** loan servicing based on farmer making a private, personal loan to the loan officer, **(d)** completion of a loan application of beginning farmer returning to take up the operation of the farm he grew up on when ownership was transferred to him is made contingent on him providing a certified lease to allow a neighboring farmer to collect farm benefits on a crop grown on the beginning farmer’s land, despite the fact the younger farmer had sent a cease and desist order to his neighbor-and he is also told not to report this situation to superiors as it might “get the previous CED in trouble”, **(e)** a SDFR farmer seeks an operating loan to cover costs of spring planting with a plan that includes specific application of treatments to improve his land, but the loan is delayed until it is too late for these treatments to be effective but he is require by the loan agreement to incur these costs, **(f)** a farmer seeks the release of lien on his farm in order to secure a loan from a private lender, but FSA suddenly discovers a \$30,000 value to the 100 year old barn he is seeking to remove and replace with a facility to process meat at the beginning of the pandemic, despite the fact that no value for the old barn had been reflected in the appraisal for the original loan, **(g)** a military veteran who grew up on a farm and participated in the operation returns from a deployment and seeks a loan to start farming again. The local office staff member looks at his application in his folder, then throws the folder at his head and tells him not to return “until he can demonstrate three years of experience. Such practices must end. Data collection is a proven way to document and address such discouragement in loan making, discouragement that often is at the core of disparate treatment based on race and ethnicity.

Small Business Farm Loan Data Decreases Instances of Discrimination and Other Unfair Lending Practices

- (i) Data Driven Pilot Lending Programs.** Pursuant to **7 U.S.C 1983d.**, the Secretary of Agriculture may conduct farmer loan pilot projects of limited scope and duration in order to evaluate processes and techniques that may improve the efficiency and effectiveness of the programs carried out under subchapter I through this subchapter. **See 7 U.S.C 1983d.**
- (ii) Data Driven Loan Servicing Decisions.** Farm loan data collected under the CFPB final rule can be used to assist the Secretary of Agriculture in decisions concerning the grant of specialized loan servicing. Specialized loan servicing can be granted to a farmer when the Secretary

makes a determination that default, acceleration and foreclosure are options that are more expensive to the taxpayer. Data driven decisions concerning loan servicing helps to assist in the transition of family farms from one generation to the next. **7 CFR 766.401(a)** and **(b)** states: “On an individual basis, the Agency may consider granting an exception to any regulatory requirement of policy of this part if: **(a)** The exception is not inconsistent with the authorizing statute or applicable law: and **(b)** the Agency’s financial interest would be adversely affected by acting in accordance with published regulations or policies and granting the exception would resolve or eliminate the adverse effect upon its financial interest. **See 7 CFR 766.401.** Title 7 Subtitle B – Regulations of the Department of Agriculture – Chapter VII – Farm Service Agency, Department of Agriculture.

F. The Farm Service Agency Must be Included in the Covered Entity Definition of the CFPB Small Business Data Collection Rule

The proposed rule should be strengthened where farmer borrowers are concerned. The proposal should specifically require data collection on farmer official requests for loan servicing that include loan modifications. Loan servicing often requires modifications in the form of formal applications covered by the Equal Credit Opportunity Act (ECOA). Methods of uniformity in serving, and therefore data collection must be employed among all servicing actions regardless of race and sex. Adequate data collection is essential.

In the experience of the undersigned organization, the failure to adequately process existing loan servicing applications is the number one reason for defaults, accelerations and farm foreclosures. The undersigned present a few real live examples to paint true picture of economic devastation.

Example 1. Data to Assist in Farm Transition

Small Business Data and Farmland Transition. Pursuant to **Section 12609(b)(2)** of the 2018 farm bill, there is established a commission to be known as the Commission on Farm Transition. That Commission is authorized to conduct a study on issues impacting the transition of agricultural operations from established farmers and ranchers to the next generation of farmers and ranchers, including (1) access to, and availability of (A) quality land and necessary infrastructure, (B) affordable credit, (C) adequate risk management tools . . .” See **Section 12609(b)(2) (2018 Farm Bill Conference Report).**

Example 2. Data Designed to Track Inaccurate Loan Servicing Information

Minority farmers are often provided with inaccurate loan making or loan servicing information. The inaccuracy of the loan related information force minority farmers into terms and conditions that are less favorable than information provided to nonminority farm loan borrowers. Applicable lending regulations prohibit such practices. For instance, **24 C.F.R. Section 100.120(b)(1)** prohibits lending practices that fail or refuse to provide to any person information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, handicap, familial status, or national origin. **See, 24 C.F.R. Section 100.120(b)(1).**

The USDA National Appeals Division recognizes that FSA’s employees have a greater understanding of program requirements. Administrative Law Judges recognize and understand that “while a program participant is responsible for exercising due diligence in understanding the requirements of a program, NAD case decisions recognized that it is not reasonable to expect a program participant

to have greater understanding of program requirements than FSA's own employees. The issues of the mandatory receipt for service are important to understand what farmers are told by FSA staff. It is also important to note that the receipt for service reveals what the farmer was not told in terms of program benefits and services. See National Appeals Division (NAD) Case No. 2018E000577; and NAD Case No. 2013W000271.

Example 3. Coordination with Other Agriculture Programs

7 USCA 2279a.(a) base acres discrimination as connected to Receipt for Service. The U.S. Department of Agriculture must engage in immediate and effective implementation of 7 USCA 2279a.(a) *Fair crop acreage bases and farm program payments yields*. Effective implementation is important for all farmers, but the failure to implement is more defined among Native American producers who farm on Indian Trust Land, which is often rented to nonnative American farmers, especially in Oklahoma. When the lease of a non-native farmer expires with respect to production on Indian Trust Lands, the value of the base acres remains on the Indian Trust Land and inures to the benefit of the next farmer which may be a Native American farmer. It is common practice for FSA to allow the base program acres to travel to other land with the non-native farmer and not benefit the next Native American farmer on that land. In order to achieve full implantation of 7 USCA 2279a.(a), FSA must give adequate notice that the reconstitution or restructuring of base acres will inure to the benefits of the Indian Trust Land or reservation land.

A failure to appropriately process a farm loan application or assure correct allocation of base acres is deemed an adverse action within the context of a farm loan application or servicing transaction. **12 CFR 1002.9(a) (2)**. The express language of **7 USCA 2279a.(a)** is clear on the importance of calculating base acres during the loan application and loan servicing process. **7 USCA 2279a.(a) states in relevant part:** "If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with the title V of the Agricultural Act of 1949 (7 USC 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits." **7 USCA 2279a.(a)**. In many instances, **base acre payments** are used to determine agricultural credit repayment ability and loan restructuring viability.

Thus, the undersigned groups assert that the accurate and fair applicability of base acre payments are components of credit transactions that must be considered for collection of data in accordance with the CFPB small business data collection final rule. Regulation B provides for an expansive interpretation of credit transactions that necessarily includes base acre payment used to prove or deny a farmer's request for loan making or loan modification. **12 CFR 1002.2 (m)** states in relevant part: "Credit transaction means every aspect of an applicant's dealings with a creditor regarding an application for credit or an existing extension of credit (including but not limited to, information requirements; investigation procedures; standards of creditworthiness; terms of credit furnishing of credit information; revocation, alternation, or termination of credit; and collection procedures." See **12 CFR 1002.2(m)**.

Information regarding program benefits attached to base acres is valuable to minority farmers farm credit loan making and loan servicing. When FSA does not provide adequate information regarding base acres, FSA violates the principles of the receipt for service regulation and the information requirements of the Equal Credit Opportunity Act. See **Regulation B of the Equal Credit Opportunity Act, 12 CFR Section 1002.2(c)(1)(i)**.

Example 4. Expanding Pilot Lending Programs

Upon a petition by the farm groups showing that an area, group of farmers are defaulting on loans on a consistent and increasing rate with a similar pattern or practice of lending or loan servicing, the Secretary shall create a farmer Loan Pilot Project designed to prevent and restructure such loans under **7 U.S.C. Section 1983c**. In order for a loan pilot project to be considered under the section, the Petition must show: **(a)** Pattern of lender fraud; **(b)** Pattern of lender misstates; **(c)** Pattern of lender misrepresentations; **(d)** Pattern of lender conflict of interest; **(e)** Pattern of lender misuse of guaranteed loan program.

G. Covered Entity Definition of the CFPB Small Business Data Collection Rule as Applied to All Agricultural Lenders Should be Strengthened to Address the Aforementioned Circumstances Particular to Agriculture and Agricultural Lending

In our experience, other agricultural lenders, notably the Farm Credit System, lack the data or any system to comply with the Equal Credit Opportunity Act. We have included in the Appendix the comprehensive comments we provided to the GAO as they completed their study of Ag Lending. We detailed how farmers who felt their rights to equal credit opportunity were violated were instructed to bring their issue to a public affairs office, where there was no clear process to evaluate such a complaint. The requirement that these entities collect and report data is essential to help these entities evaluate their level of compliance with ECOA.

Moreover, many of the issues detailed here on the particular practices related to discrimination and disparate treatment in FSA loan programs also apply to other lenders.

CONCLUSION

Rural Coalition and its members have strongly and repeatedly called for increased transparency and accountability in federal farm programs, and fair access to credit for all producers. We have worked with policy makers to enact requirements to collect and release data to ensure equity in lending consistent with ECOA. USDA has not developed the data systems necessary to meet these requirements. The CFPB has the data systems and the independence needed to enhance data collection in a form that is useful and essential to allow analysis of the fairness in lending, and to help identify what type of actions are necessary to ensure the equal credit opportunity we have fought for decades to ensure a future for all farmers in this nation.

We urge the CFPB to assure the clear inclusion of agricultural lenders in the section 1071 rule. We further reiterate the need to modify or clarify data collection that may be necessary in order to identify forms of disparate treatment unique in small-scale farm operations that may differ from other small businesses. Farmers in general, and specifically small business related to food and fiber production, are unique. The risk management needs and techniques for farmers differ from many other small businesses. Although related small businesses compete with market challenges, farmers compete with weather, pests, and limited ability to replant after disasters or pandemics, a time when farmers have a greater need for debt relief and loan modifications.

In the experience of the undersigned organization, the failure to adequately process existing loan servicing applications is the number one reason for defaults, accelerations, and farm foreclosures.

The proposed rule would be strengthened by specifically requiring data collection on farmer official requests for loan servicing that included loan modifications.

We also emphasize the need for collecting data on collateral requirements, on differences in appraised value or loans or loan modifications rejected based on failure to appraise, on the refinancing of loan precipitated by required graduation from FSA loans, and data on all forms of loan modifications which have historically been a central factor in farm loss for farmers of color.

We have attached our comments to GAO on Agriculture Lending for further insight. We further express our support for the comprehensive general comments by Americans for Financial Reform Education Fund with respect to this rule.

ATTACHMENT I - Rural Coalition Comments to GAO on AG Lending



coalición
RURAL
coalition

1029 Vermont Ave NW Suite 601

Washington, DC 20005

Phone: 202-628-7161 Web: <http://ruralco.org>

www.facebook.com/RuralCoalition

March 3, 2019

The Honorable Gene L. Dodaro
Comptroller General
U.S. General Accounting Office
441 G Street NW
Washington, DC 20548

Re: **SEC. 5416. GAO Report on Credit Service to Socially Disadvantaged Farmers and Ranchers**

Dear General Dodaro:

I. INTRODUCTION

As the General Accounting Office prepares to fulfill its duties under Section 5416 of Public Law 115-334, the 2018 Farm Bill, the undersigned organizations representing the agriculture lending interests of minority and socially disadvantaged farmers and ranchers encourage the adoption of methodologies that examine and evaluate farm lending policies having a negative impact on minority farmers and ranchers. The study's methodology should examine, from our perspective, and evaluate certain "unique" lending patterns, practices and policies that reliable sources, academic and legal, verifiably document as contributors to farm loan default, acceleration and foreclosure within the minority farming community.

The undersigned organizations over the years have reviewed thousands of loan documents, and assisted minority farmers with loan servicing options. Before and after Keepseagle, Love, and Garcia Pigford Farmer settlements, the undersigned organization labored with minority and socially disadvantaged family farmers and ranchers in the areas of farm credit applications, collateral requirements, and loan servicing. As a collective of over 100 years of experience in family farm foreclosure prevention and farm wealth transition, we know firsthand the consequences of late loans, disparate treatment and disparate impact in loan servicing and other hidden farming lending discriminatory policies and procedures.

A history of loan service to our farmers gives us the knowledge and credibility to offer suggestions that will accommodate efforts to determine other appropriate details of the study's methodology. As you develop a methodology to gather and organize reliable report data to present to the House and Senate Agriculture Committee, consider farm loan practices from our practical and historical perspective.

As delineated herein, our methodology suggestions find general acceptance in 7 U.S.C. 1983c which authorized the Secretary of Agriculture to implement pilot loan programs when there is a finding of loan program irregularities. This study is much needed as it will point out farm lending irregularities for the purpose of improving credit for all farmers. Farmers appreciate the fact that the legislative language mandates a product completion within 120 days of December 18, 2018, the execution date of the 2018 Farm bill.

II. LEGISLATIVE REQUIREMENTS

The statutory language requiring of the study is general and purposely vague. We point out the vagueness of the language, not as a criticism, but to augment the necessity of a broader methodology that captures real irregularities faced by minority farm borrowers.

Essentially, Section 5416. of Title V of the 2018 Farm Bill requires the Comptroller General of the United States to conduct a study to (A) assess the credit and related services provided by agricultural credit

providers to socially disadvantaged farmers and ranchers; (B) to review the overall participation of socially disadvantaged farmers and ranchers in the services described in subparagraph (A); and (C) to identify barriers that limit the availability of agricultural credit to socially disadvantaged farmers and ranchers. Title 5416, Sec. 5416 of Public Law 115-334.

The language's general reference to terms like access, participation rates and barriers by implication suggests that the functionality of the methodology encompasses the time, place, manner of access, and foreclosures that may violate federal laws if the irregularities are found to be within the consumer protection prohibitions of statutes like the *Equal Credit Opportunity Act (ECOA)* – **15 U.S.C. 1691- 1691f**, *Fair Housing Act (FHA)* – 42 U.S.C. 3601 – 3631; *Dodd Frank Unfair Deceptive and Abusive Practices Act (UDAP)* - **12 U.S.C. Section 5531(d)**.

Even though not specifically mentioned, it is permissible that the study's methodology must be comprehensive to the extent that access, participation and barriers will be quantitatively and qualitatively articulated by examining or evaluating lending irregularities and discriminatory practices against relevant regulatory guidance of relevant consumer protection statutes. If a plain meaning interpretation of Section 5416 applies without permissible considerations, the data could be limited to the number of minority farm loans granted and denied and miss critical data on key issues such as lending patterns, policies and practices that have a disparate impact or serve as disparate treatment. Missing the real issues of farm loan irregularities and discriminatory terms and conditions may cause further extractions of land wealth from minority farmers while denying the same or similar viable, economically appropriate lending risk management tools offered to nonminority farmers and ranchers.

We understand that not every aspect of a farm loan transaction can be studied. But critical irregularities must be studied. The Congressional intent of Section 5416 reveals that the results must inform and

guide policy makers and practitioners on how to create program efficiencies while ensuring fair farm lending.

Reviewing overall farm lending participation rates does not address associated issues of barriers to participation such as fair and equitable participation. The fact that a minority farmer participates in a private or federal loan program does not automatically equal meaningful, fair participation. Some farm credit transactions run afoul of consumer credit statutes and we can attest to such examples evincing lending irregularities and discrimination. Therefore, participation in harmful discriminatory lending transactions is more detrimental economically than straight forward credit denial, especially when the loan is over collateralized, and a personal residence security interest is mandated but is unnecessary to secure the loan in question. Minority farmers understand that agriculture is a high economic risk industry and their reliance on fairness in credit transactions must be guaranteed by the lenders offering various credit options.

Farm lending, especially when directed by the government or guaranteed by the government, should be a consistent and evenly applied farm risk management toll. In accordance with 7 CFR 1779.63 and 7 CFR 4279.281 the U.S. Department of Agriculture and the Small Business Administration must make sure that lending irregularities and discrimination is not a part of any loan guaranteed by the government. Minority farmers confront the same floods, droughts, and market fluctuations as nonminority farmers. Inequities and irregularities within farm lending sector should not be held in the same farm risk category as natural disasters.

III. IRREGULAR AND DISCRIMINATORY LENDING PRACTICES

The data collected for analysis, under Section 5416, must include loan transactional components such as **(a)** excessive collateral requirements, **(b)** unwarranted late disbursement of loan funds, **(c)** misapplication or calculation of actual or average farm production, **(d)** evaluation of loan applications

based the association of credit risk identified with third party non applicants, **(e)** directing or requiring borrowers to purchased equipment or inputs from entities related to the transactional lender, **(f)** suggesting or requiring underfunded or over funded annual crop loans with the intent to gravely impact repayment ability, and **(g)** denying or forcing loan servicing options that diminish annual farm operations and loan repayment ability. While not exhaustive, this list is a compendium of discriminatory or irregular lending conduct that is prohibited by the Equal Credit Opportunity Act, the Fair Housing Act, and the Dodd Frank Unfair Deceptive and Abusive Practices Act. These aspects must be studied.

IV. DEVELOP A METHODOLOGY FROM APPLICABLE CONSUMER CREDIT; CIVIL RIGHTS; FARM

CREDIT STATUTES AND REGULATIONS

The goal of this study is to collect data on access to fair credit since the lack of access to fair credit is the same as a barrier to credit. **We recommend that the study examines 8 (eight) standards.**

- (a) **Effects Test** – The Equal Credit Opportunity Act and its implementing regulations found at 15 U.S.C. 1691, and 12 CFR 1002, Regulation B, may prohibit certain credit practices that are discriminatory in effect because the practice or policy has a disproportionately negative impact on a prohibited basis such as race, age, gender, etc. Under the effects test, the policy or practice of the creditor does not have the intent to discriminate. The lending practice, under the effects test, appears to be neutral on its face. It is the application of the policy or practice that presents the irregular, discriminatory disparate impact or disparate treatment problem for the minority or socially disadvantaged farmer borrower. For example, the lender informs nonminority similarly situated farm loan borrowers on the best and lowest price seed, tractors or fertilizer. Or the nonminority borrower may get detailed information on where to find low priced farm land for rental. In contrast, the minority farmer does not get the same “best source to purchase” advice. Another example is appropriate as is the “best source to purchase”

example. Consider a lender loan requirement specific to the minority farmer where a refinance of personal residence using a USDA guaranteed loan is mandatory for the closing of a farm operating loan. Under the “effects test” a disparate impact problem arises where, in contrast, the nonminority, similarly situated farm borrower is not required to refinance his personal residence and or use the personal residence as collateral for a farm operating loan. It is easy to see that the minority farmer, in these examples are subjected to disparate treatment. Granted, some lender policies or practices will pass muster if it meets a legitimate business need of the lender that cannot reasonably be achieved as well by means that are less disparate in their impact. *See Regulation B, 12 CFR Section 1002.2(c), (m), (n), (t) and (z).*

(b) **Deceptive and Abusive Lending** – Although less frequently, a lender may subject a farm loan borrower to terms and conditions that are designed to put the farmer out of business. A farmer may be subjected to coercive tactics whereby a farmer can be lured into a farm loan that is not affordable or guaranteed to result in foreclosure. Lender decisions to such abusive or deceptive tactics in loan making or terms and conditions may violate the Dodd Frank Unfair Deceptive and Abusive Practices Act (UDAP). In the farming area, like other consumer credit, a UDAP claim can be successful only when the lenders conduct shows the following: “**(1)** materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or **(2)** takes unreasonable advantage of - **(A)** a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; **(B)** the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or **(C)** the reasonable reliance by the consumer on a covered person to act in the interest of the consumer. *Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. Section 5531(d).*

- (c) Residential Real Estate** – In order to obtain a farm operating loan, a farmer may be required to offer his personal residence as collateral for such loan. On its face the offering of a personal residence can be a lender requirement that is based on the credit risk of the particular loan. However, Civil Rights statutes and implementing regulations such as 24 CFR Section 100.130 (a) prohibit a lender from imposing different terms or conditions for the availability of loans or other financial assistance because of race where the transaction is secured by residential real estate. **See 42 U.S.C. 3604(b); 24 CFR Section 100.130 (a); and 24 CFR Section 100.130 (b)(1)(2)(3).**
- (d) Excessive Collateral Requirements** - Whether minority farmers are required more frequently than non-minority farmers to tender excessive collateral in order to receive a farm loan or to acquire meaningful loan servicing through workout and loan modifications. **See Regulation B, 12 C.F.R. 1002.6(b)(4); Regulation B 12 C.F.R. 1002.2 (n)**
- (e) Discriminatory Loan Terms and Conditions.** - Whether minority farmers more frequently than non-minority farmers receive loan funds after April of any given crop year. Under the guidance of 12 C.R.R. 1002.6(b)(4) a lender cannot provide two different systems of credit application, loan pricing or loan servicing. **See Regulation B, 12 C.F.R. 1002.6(b)(4).**
- (f) Third Party Influence.** - Whether minority farmer loan application packages and lending decisions are unduly influenced by third party entities such as equipment dealers, agricultural input suppliers and or processors and millers of raw agricultural products. **See Regulation B, 12 C.F.R. 1002.2 (c); 12 C.F.R. 1002.4 (a)(b); and Unfair Deceptive Abusive Practices Act - 12 U.S.C. Section 5531(d).**
- (g) Lender Control Over Farmer Operations.** - Whether farm lender's more frequently exert control over the daily management of minority farmer operations in terms of acreage planted and equipment purchased. **Unfair Deceptive Abusive Practices Act - 12 U.S.C. Section 5531(d).**

(h) Intentional Lender Mistakes. - Whether certain lender decisions are implemented with intent to cause irreparable damage to the economic viability of minority farm operations. **Unfair Deceptive Abusive Practices Act - 12 U.S.C. Section 5531(d) (UDAP).** We do not infer that every farm loan, whether USDA Direct or USDA guaranteed, is made and designed with the intent to defraud or damage the farming operations of minority operators. But, history and experience, nevertheless, inform us that such problems like this do appear occasionally and have the intended effect of causing harm and failure to minority farmer operations. Again, we stress that these practices do not happen every day, but our farmers tell when they exist, and the farmers tell us when lenders make lending mistakes – intentionally or not. Having made a compelling argument to the U.S. Congress during the 2018 Farm Bill debate, the House and Senate Agriculture Conference Committee, responded proactively to provide a provision of “equitable relief” for farm loan borrowers in those circumstances where a FSA farm loan employee makes a mistake – knowingly or unknowingly - and that mistake causes a borrower to be in noncompliance on a USDA direct loan. Section 5304 of the 2018 Farm Bill conference report gives the Secretary of Agriculture the authority to offer a farm loan borrower a provision of “equitable relief” when a decision of a farm loan officer causes the borrower to be out of compliance with the loan program. Noncompliance with a loan term or provision can lead to default, acceleration, and foreclosure. The “equitable relief” provisions of Section 5304 are far afield from the fraud prevention provision of the UDAP. **12 U.S.C. Section 5531(d).** Lender mistakes whether intentional or not will cause economic damage to farm business operations. We mention the presence of “equitable relief” in Section 5304 to highlight the existence of a problem and the necessity that the GAO study look into irregular lending practices having a flavor of mistake or fraud. **Sec. 5304 of Public Law 115-334.**

V. INDUSTRY SPECIFIC CREDIT TRANSACTIONS: SUGAR CANE AND CONTRACT POULTRY

Although not often implemented by the U.S. Department of Agriculture, 7 U.S.C. 1983c permits the Secretary of Agriculture to conduct pilot loan programs in areas of lending irregularities, such as those endemic to industries such as contract poultry and sugar cane production. The existence of pilot loan programs under 7 U.S.C. 1983c provides additional credibility to the research questions and methodologies that we suggest be made a part of this study. Our suggested approach makes a valid attempt to explain farm lending irregularities whether they be historical and race based or neutral loan making business decisions that have a disparate impact on minority farm loan borrowers. Upon the general applicability of 7 U.S.C. 1983c, we urge a methodology that informs the Secretary of Agriculture of the benefits of frequent, effective utilization of 7. U.S. C. 1983c when presented with a petition by a farm group showing that an area, or group of farmers are defaulting on loans on a consistent and increasing rate with a similar pattern or practice of lending or loan servicing. Under 7 U.S.C. 1983c, a petition from a farm group requires the Secretary to create a farmer Loan Pilot Project designed to prevent and restructure loans in the area of concern. FSA direct and private guaranteed lending in the contract poultry industry presents a good example of consistent farm lending irregularities. For example, in the years 2004-2007, approximately, we worked with Hmong organizations and producers, holding focus groups and other reviews of the difficulties faced by Hmong farmers who had relocated to northwest Arkansas near Fayetteville, to purchase poultry operations. We reviewed practices and called these to the attention of the Secretary of Agriculture. Many of the families included parents who entered the US as refugees, and children who had worked in fields such as engineering. A group primarily from Wisconsin began to move to northwest Arkansas at the recommendation of respected people, who had served in public positions within USDA and elsewhere. They had some resources, and it appears the local real estate industry worked in cooperation with the banks to secure guaranteed loans to buy out poultry operations that were not economically viable for their former owners. The producers showed us that in many cases identical or nearly identical farm and home plans were

submitted to the banks for approval, and farmers were told they could secure certain conservation benefits used by previous owners. The prices of the farms rose as more producers moved in, and in most cases the families were not aware of the additional costs they must incur before the integrators would allow them to enter production. The loans provided were proving highly risky, and many of the new producers lost their operations. The “solution” recommended at the national level after Rural Coalition and many other groups called for action, was to pressure the Natural Resources and Conservation Service to engage trainers from groups who worked as farm advocates to teach producers how to better meet the requirements of the poultry integrators. The GAO should review the loan portfolios in that region over the past 15 years to examine lending practices. Producers told us that the bankers, the real estate agents, and many others benefited. The producers are left with debts most likely still held by the Farm Service Agency.

Minority and socially disadvantaged farmers and ranchers are often subjected to lending irregularities deemed “non business credit risk” loan terms and conditions. The following terms and conditions are deemed “non business credit risk” terms and conditions: **(i)** lender loan servicing mandate to sell borrowers existing income producing collateral and use the sales proceeds to buy new replacement collateral from a single tractor equipment source identified by the lender; **(ii)** farmer requirement to purchase a piece of farm harvesting equipment and immediately lease the equipment to a third party business; and **(iii)** consideration of the past bad debt of a parent or other family member. The outgrowth of these and related lending irregularities **fosters** barriers to meaningful access to farm credit for minority farmers.

VI. EFFECTIVE COMPLAINTS PROCESSING AND SETTLEMENT

We further note that the Farm Credit System lacks a specific system or methodology to act on civil rights complaints consistent with ECOA and related requirements and that one needs to be developed and implemented in order to assure fair implementation of guaranteed programs.

We have attached correspondence that we conducted with the Farm Credit Administration on behalf of a young African American producer in South Carolina, and correspondence between he and FCA in 2014.

We also have correspondence and many documents on the case of a Hmong woman who had an operation in Missouri with her husband, and how she lost her operation after he passed away. In these cases and many others, producers come to us at a point when it is very difficult to save their operations.

What is similar in all the cases we have mentioned is that there is substantial confusion not only for the guaranteed loan borrowers we have encountered, but also on the part of advocates, on how to secure the rights provided these borrowers under the Equal Credit Opportunity Act. The Farm Credit

Administration has not included equal credit opportunity under the protected rights it lists on its website, and to file a discrimination complaint, producers are told to write to the FCA Office of

Congressional Relations and Public Affairs. The questions asked and responses provided indicate there is no formal process to investigate claims under ECOA. There do not appear to be any statements or other information to tell farmers how to secure their rights. We urge you to review these attachments.

The GAO study should examine what system FCA and the banks that make guaranteed farm loans should have and how producers should be informed of and assured their rights. Thus, producers who encounter unfair treatment lose valuable time trying to figure out the avenues of protection they do have. The GAO should consider what measures are necessary to correct these deficiencies and assure guaranteed lenders abide by ECOA in loan making and loan servicing.

The study methodology should also take a look at the specific minority farmer lending practices within certain crops or industries such as poultry in Arkansas, North Carolina and elsewhere, vegetable crops in South Carolina and sugar cane crops in Louisiana. The study will be much more valuable if it examines

the lending practices in these industries as related to African American, Hispanic, Hmong and other Asian Pacific American, and Native Americans borrowers. A specific portion of the inquiry should address how the details of loan transactions may have caused or contributed to the exodus of minority and socially disadvantaged farmers from specific farm industries in specific areas, and who benefited and who lost in these areas.

VII. THE NEED FOR A SYSTEM OF COMPLIANCE MONITORING

Our Coalition has worked on the issue of compliance monitoring in direct lending and on the issue of equitable access to all federal programs for farmers and ranchers for many years. In particular, we have worked to assure the data is available to understand patterns and barriers that interfere with the assurance of equitable access and opportunities. Since 1987, we have worked to secure authority for the collection and analysis of program participation data by race, gender and ethnicity at the national, state and county levels. The Agriculture Credit Act in 1987 required the calculation of target participation rates for lending to the county level for direct and guaranteed loans. Farm Service Agency and its predecessor, the Farmers Home Administration, has done so for years. These data are available to guaranteed lenders and the Farm Credit System. Over the years, in each Farm Bill we have added other authorities for data and documentation. Following the 2012 Census of Agriculture, we urged the National Agriculture Statistics Service to provide data to the county level on the demographics, economics and crop produced by race, gender and ethnicity. They complied, and this data is now available at

[https://www.nass.usda.gov/Publications/AgCensus/2012/Online_Resources/Race, Ethnicity and Gender_Profiles/index.php](https://www.nass.usda.gov/Publications/AgCensus/2012/Online_Resources/Race,_Ethnicity_and_Gender_Profiles/index.php).

We have seen no evidence that the Farm Credit System and other guaranteed lenders have any system to evaluate their lending to minority producers as compared to other producers, or that they collect the data they would need to proactively monitor their compliance with ECOA.

In 2011, Farm Credit Administration released for public comment a “Proposed Operating and Strategic Planning Rule, 76 Fed. Reg. 101 (May 25, 2011). Its recommendations were based on marketing practices related to addressing “diversity” in the marketing practices of the Farm Credit System Institutions, while avoiding the more central issue of compliance with ECOA. The following is an excerpt from our comments:

“The Rural Coalition, and other undersigned partners and allies, submitted detailed recommendations with respect to the proposed rule, which we share with you now as they are pertinent to the current report and merit re-examination for the outcomes achieved following the issuance of this rule:

The Final Rule Should Require the Federal Credit System Institutions to Engage Historically Underserved Farmers and Community-Based Organizations that Serve Socially Disadvantaged and Limited Resource Farmers in the Development of Their Marketing Plans.

According to Section 618.8440(b)(8), the marketing plans of Farm Credit System institutions would have to include, at a minimum, a description of the institution’s chartered territory by geographic region, types of agriculture practiced and market segment and the strategies and the actions to ensure the institution’s products and services are equally accessible by all farmers, with an emphasis on outreach to historically underserved farming communities. Furthermore, the proposed rule advises institutions to use an array of demographic information, down to the county level, to identify the characteristics and market segmentation of its territory (i.e., Websites of the Census of Agriculture, the U.S. Census Bureau, and the United States Department of Agriculture’s Economic Research Service).

In addition to these sources, the Farm Credit System institutions should also engage their state National Agricultural Statistics Service (NASS) Directors to generate data specific queries in order to obtain a deeper understanding of the farmers that the institutions are mandated to serve.

Additionally, institutions should also specifically work with the USDA to obtain the annual application and participation rate data mandated in Section 14006 of the 2008 Farm Bill, including numbers and percentages, for each county or parish and state in the United States, organized by race, gender and ethnicity, from USDA's Farm Service Agency and Rural Development programs. The Farm Credit should also look at this authority and other more recent authorities to generate their own data on participation in their programs.

Section 618.8440(b)(8), also advises that the "marketing plans of institutions include grassroots outreach activities and education efforts that market to underserved populations regarding business and financial planning and leadership and loan programs for persons who are creditworthy and eligible to borrow."

Although outreach to underserved farming communities is an essential component of an institution's marketing plan, the unique perspective and reality of the underserved farmer should be incorporated in the developmental process of the institution's marketing plan. Accordingly, the final rule should require institutions to include historically underserved farmers and community-based farming organizations that serve socially disadvantaged and limited resource farmers in the developmental process of the institutions' marketing plans.

In preparing our Coalition's comments to this proposed rule, we spoke to several members about the Farm Credit System and there exists a universal perception that the Farm Credit System institutions are not accessible to the underserved farmer and have failed to conduct outreach to these communities to educate them regarding the institutions' programs and services. In the words of a long-time Latino

farmer and advocate, “the Federal Credit System is further beyond the reach of the farmer than a commercial bank, we never felt this was a source of assistance.”

Moreover, institutions should work to develop meaningful relationships with the USDA Minority Farms Advisory Committee authorized in the 2008 Farm Bill and now established, community-based organizations that serve socially disadvantaged and limited resource farmers, 1890 and 1994 Land Grant Colleges and Universities, and grantees under the 2501 Outreach and Technical Assistance Program, as well as identify persons from these committees, institutions and organizations to assist in the development of marketing plans. Furthermore, the Farm Credit System Diversity Workgroup should also identify members from the aforementioned committees, institutions and organizations to assist in the development of its programmatic efforts to reach historically underserved farming communities. The development of such relationships is essential if progress is to be made in expanding credit to this growing market.

As required by Section 4.19 of the Farm Credit Act, Farm Credit System associations and institutions should continue to tailor credit programs and services to address the needs of Young, Beginning, and Small farmers and ranchers. Although these programs do not have the explicit objective of advancing customer diversity and inclusion, these programs should be used as essential outreach portals to socially disadvantaged farmers and ranchers. As mentioned in a previous section of these comments, the current participation rate data of the USDA Beginning Farmers and Ranchers Program serves as a cautionary illustration of how well-intentioned programs can neglect the needs of historically underserved farming communities, especially if these communities are not included throughout the program development process.

Moreover, the final rule should emphasize the importance of allowing institutions to use discretion in determining whether farmers are creditworthy and eligible to borrow. If the Farm Credit System

institutions want to make significant strides in serving historically underserved farming communities, these institutions must recognize that their credit requirements should not be rigidly enforced and should allow for case-by-case exceptions (i.e., waiver or lowering of collateral requirements). The language “creditworthy and eligible to borrow” should not be interpreted or implemented in such a manner to undermine the spirit of the proposed rule, which is to make the institutions more responsive to the needs to historically underserved farming communities.

The Final Rule Should Include Revisions to the Proposed Rule’s Working Definition of Diversity

Throughout the proposed rule, diversity is purported to be achieved through the inclusion of all individuals of varying race, ethnicity, sexual orientation, age, disability, social class, religious and ideological beliefs and not through a list of demographic criteria.

This working definition of diversity is problematic and provides a loophole for institutions to avoid implementing a marketing plan that actually promotes diversity and inclusiveness within the institutions’ borrower base. Demographic criteria should be given equal weight in determining whether institutions are in fact providing equal access to credit to all farmers.

*Consequently, an institution’s commitment to diversity and inclusion cannot be ascertained by an institution’s lofty mission statement (as suggested by the Farm Credit Administration’s Request for Comments) **rather by the institution’s actions and achievement of assessment benchmarks.** The final rule should include a revised definition of diversity to address these concerns and should also assure that the diversity includes actual borrowers or potential borrowers from the socially disadvantaged community who actually understand the issues, the history and the complexity of small rural communities and their racial, ethnic and gender dynamics and history.*

The Final Rule Should Require the Farm Credit System Institutions and Diversity Workgroup to Make Their Final Marketing Plans and Participation Rate Data Public

The Farm Credit System Diversity Workgroup was established in 2006 to increase diversity awareness, promote understanding of inclusiveness, and serve as a diversity resource within the Farm Credit System. Since its inception, the Diversity Workgroup is purported to have sponsored a diversity conference, several trainings workshops, speakers, outreach and communications. Despite the laudable efforts of the Diversity Workgroup, the effectiveness of the Workgroup's efforts to achieve a more inclusive workforce and borrower base must be evaluated through various assessment and accountability benchmarks. For example, some pertinent questions that must be addressed by the Diversity Workgroup [and at the current time by the Farm Credit System and lenders in General]:

(1) How many farmers from historically underserved farming communities have applied for and received loans from Farm Credit System institutions;

(2) Are the institutions' borrower base reflective of the market segmentation of their chartered territories? If not, what specific steps has the Workgroup recommended to the institutions to ensure they adhere to their mandate of providing equal access to credit to all farmers.

The final rule should require the Farm Credit System institutions and Diversity Workgroup to make their marketing plans as well as their assessment and accountability findings public. Moreover, if there are egregious shortcomings in the marketing plans efforts to respond effectively to the needs of historically underserved farming communities, these plans must be revised to address these gaps in services. In essence, the institutions should view their marketing plans as fluid plans that can be amended as necessary to be more responsive to the institutions' diverse borrower base.

... Farm Credit System institutions should take affirmative steps to ensure that data systems are in place to record the important demographic and participation rate data of all borrowers to allow comparisons and track progress.

The Final Rule Should Require Farm Credit System Banks and Associations Board of Directors to Appoint Directors From Historically Underserved Farming Communities or Community Based Organizations that Serve Socially Disadvantaged and Limited Resource Farmers

Reiterating Farm Credit Administration Bookletter BL-009, the proposed rule encourages all Farm Credit System Institutions' Board of Directors to appoint directors to serve on the Board that would further the aim of facilitating diversity, when feasible. Again, the discretionary language of the proposed rule (i.e., "encourages") will not bring about transformative change in the corporate culture of the Farm Credit System institutions. In order to bring about substantive change in the corporate culture of these institutions, the final rule should mandate that at least one appointment to the institution's Board of Directors be a member from a historically underserved farming community or a community-based organization that serves socially disadvantaged or limited resource farmers.

Now in 2019, we further recommend a review of racial, ethnic and gender diversity among the directors and staff of the lending institutions of the Farm Credit System.

While some statutes have been updated since our recommendations in 2011, we see no evidence FCA has changed their systems to comply with ECOA and to assure fair service to all borrowers and potential borrowers. The GAO report should address these fundamental issues of the ability of the Farm Credit System and guaranteed lenders to assure fair service to all producers, as ECOA requires them to do.

VIII. CONCLUSION

The results and findings of a comprehensive study could assist lender and government agencies with the legal mandate to offer the same loan products and loan servicing options offered to each and every farmer regardless of social status. The success of highlighting irregular farm lending patterns, and lack of systems to address these patterns, will be instructive to all farmers, lenders and reduce the overall costs of farm lending transactions while preventing questionable or unlawful family farm foreclosures.

Farm Credit Administration

1501 Farm Credit Drive
McLean, Virginia 22102-5090
(703) 883-4000



December 18, 2014

[REDACTED]
Email Address: [REDACTED]

Re: Document No. [REDACTED]

Dear [REDACTED]

We are writing to acknowledge your November 21, 2014, email sent to Info-Line@fca.gov and your November 25, 2014, conference call with members of the Farm Credit Administration (FCA) staff advising us of your concerns with the operations of AgSouth Farm Credit, ACA (AgSouth or Association). In your email, you inquired about filing a discrimination complaint against AgSouth. In your conference call with FCA staff also explained that you were facing foreclosure. We have initiated a review of the servicing of your loan and will respond to you as soon as our review is completed.

This process generally requires several weeks to complete. If we have not completed our review within 30 days of the date of this letter, we will notify you by email of the status of our review. Please understand that in the process of conducting our review, we may contact AgSouth to obtain information regarding the issues you raised. While we do not share with the Association details of our telephone conversation with you, we may need to reveal your name and certain details to resolve your complaint.

Before concluding, I would like to briefly explain who we are and the authorities that we have. The FCA is an independent Federal agency that regulates and examines Farm Credit System (System) institutions. We also ensure that System institutions operate in a safe and sound manner and in compliance with applicable laws and regulations. Although part of our mission is to evaluate borrowers' concerns of wrongdoing by institutions like AgSouth, we can intervene in those institutions' business decisions only if their decisions violate applicable laws or regulations. We also cannot mediate disputes between those institutions and their borrowers. Please note that there are limitations on what we can do:

- We cannot act as a court of law.
- We cannot give you legal advice.
- We cannot become involved in complaints that are in litigation or have been litigated.

- We cannot intervene in business decisions of a Farm Credit System institution that do not violate laws or regulations, nor can we intervene in any way that would adversely affect the safety and soundness of the institution.
- We cannot mediate or adjudicate disputes between Farm Credit System institutions and borrowers.

Please include your document number (provided above) on any future correspondence you send us. If you have questions, please call us at 703-883-4056.

Sincerely,



Michael A. Stokke, Director
Office of Congressional and Public Affairs



coalición
RURAL
coalition

1029 Vermont Ave NW Suite 601
Washington, DC 20005
phone 202/628-7160, fax 202/393-1816
www.ruralco.org

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Markham Center, Montpelier, VT

Lorette Picciano, Ex-officio
Executive Director

*Executive Committee

December 19, 2014

The Honorable Jill Long-Thompson
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090

Dear Ms. Long-Thompson:

RE: Document No. 13184

We write to you on behalf of Mr. [REDACTED], a [REDACTED] year old African-America farmer in South Carolina who without immediate action faces the loss of his redemption rights to redeem the farm his grandparents owned and operated as a cattle operation in [REDACTED] South Carolina for over 65 years, and [REDACTED] acres of which they deeded to Mr. [REDACTED] in 2006.

In 2008, Mr. [REDACTED] began a long, tedious process to seek financing through AgSouth Farm Credit to purchase additional farm equipment, obtain a line of credit, and obtain financing to apply as a down payment on a [REDACTED] acre operating farm he purchased in [REDACTED] South Carolina.

He has since struggled to secure access to credit and NAP to operate both farms, and on December 1 of this year, his farms were foreclosed on. It is our understanding that he has until December 31, 2014 to exercise his right of redemption on the [REDACTED] farm his grandparents owned, a farm that is now in the possession of AgSouth Farm Credit.

Mr. [REDACTED] has communicated the details of his situation to the Rural Coalition, and has also filed a discrimination complaint with Farm Credit Administration. Your Office of Congressional and Public Relations has responded with a letter of December 18 that you are reviewing his complaint, referred to in Document No. 13184, noting that it may take up to 30 days to review his complaint and you will let him know if more time is needed.

We therefore urge Farm Credit Administration to advise AgSouth Farm Credit to postpone the scheduled sale of this land on December 31, 2014 until a full review is completed of all matters related to the servicing of this loan under the terms of the Equal Credit Opportunity Act and all other applicable statutes. We further urge FCA and AgSouth Farm Credit to advise Mr. [REDACTED] in detail exactly what redemption rights he has to reclaim this property before, during and/or after a final sale.

Mr. [REDACTED] has shared the details of his situation with the Rural Coalition and requested our assistance, which as of December 5, 2014 we have formally agreed to provide on his behalf. We have acted in support of and on behalf of Mr. [REDACTED] because we strongly believe that it is young producers such as himself that are critical to the future of all farmers and ranchers, and particularly African American farmers, in U.S. agriculture. As such, Mr. [REDACTED]'s case is of utmost importance to our Coalition, its members and farmers. The elder farmers of the Rural Coalition, including the leaders of our Farm and Ranch Team, have made the commitment to mentor and work with Mr. [REDACTED] to assure his future viability. If Mr. [REDACTED] fails in his desire to maintain land that has been in his family for generations and to secure a future in farming, then all of us have failed. Moving forward, we believe it would be most beneficial to all of us to figure out ways to work together to assure this future.

We are also writing to seek the assurance that Farm Credit Institutions such as AgSouth Farm Credit, that are accorded Preferred Lender Status and the guarantee of loans on the faith and credit of the United States through the USDA Farm Service Agency, value young farmers, and especially African American and other diverse farmers and ranchers, as important an asset as the value of their land. We understand there are fiduciary duties, and emphasize that one of them is to assure the terms of the Equal Credit Opportunity Act are met in letter and spirit in your lending policies, procedures and practices.

We believe that providing equal credit opportunity should also be viewed as an investment and market issue for FCA and Farm Credit System lenders. In the attachment to this letter, we have included our recent brief on how the sector of diverse producers that we serve is expanding. We believe that as our Coalition and others keep working for the transformation of systems and relationships, the sector has the potential to grow further, and each diverse producer that has a successful relationship with a Farm Credit System institution is a critical link to Farm Credit System's potential future market within this sector.

That being said, we turn to the question of the standard of service provided to Mr. [REDACTED] and the processes and procedures by which FCA and its members have observed this standard. We strongly feel the details of his case merit an

immediate and complete onsite review that also affords Mr. [REDACTED] the ability to more fully present his view of the matter.

We have observed that the processes by which the rights of producers are assured by both Farm Credit system lenders and the multiple agencies of the US Department of Agriculture, while intricately linked, remain confusing and profoundly unclear, and not only to those of us who have worked as advocates for many years. Mr. [REDACTED] has been left on his own to navigate a series of conflicting messages and unclear assurances of his rights and how they intersect between the many institutions, agencies and processes. Some of the advice he has received is not correct.

We believe that a review of Mr. [REDACTED] history with the AgSouth Farm Credit should begin with the question of whether he received the same service and standard of service as other producers at every step of the way from the time he first sought a loan. Mr. [REDACTED] has come to believe that on the basis of his race, he did not receive the same standard of service and assistance, and that is the basis of his complaint, which we support.

Mr. [REDACTED] has also told us that as he sought to bring a buyer before his land was foreclosed on December 1 of this year, he was told that AgSouth Farm Credit would not release the lien. Mr. [REDACTED] says that one reason communicated to him through his attorney was the fact that as guarantor, that USDA Farm Service would need to sign off and was likely not to wish to do so. Mr. Pressley was told at the same time that USDA did not have the authority to impose a moratorium on accelerated action on a guaranteed loan as it can when a civil rights claim is active on a direct loan. We seek clarification on how the rights of a farmer are protected and exercised in cases where both FSA and Farm Credit lenders have an interest. Thus, in Mr. [REDACTED]'s case, in what way was Farm Service Agency consulted, and did FSA in this or any other case have or exercise the authority or interest in rejecting this release of the lien?

As FCA moves forward with its review of this matter, we seek additional information on what process will be used to conduct this review, and under which statutes. We have observed that FCA has a comprehensive non-discrimination policy on Equal Employment Opportunity, and a person responsible to implement this policy. Similarly, there is a policy and structure related to ethics. With respect to Equal Credit Opportunity, borrowers are referred to the Office of Congressional and Public Relations. Similarly, those with complaints related to their borrowers rights are directed to the same office. However, among borrowers rights detailed on the website, non-discrimination is not listed. In a cursory review we were also not able to find an affirmative non-discrimination statement on Equal Credit Opportunity similar to the policies on Equal Employment Opportunity.

We request information on what process and capacity reside in the Office of Congressional and Public Relations to conduct either a borrowers rights or

equal credit opportunity review, why this office is assigned the responsibility for this review, and whether this review will include all relevant statutes including those related to equal credit opportunity. What ability does Mr. [REDACTED] or any borrower have to provide information to this process? On the website and in your communication to Mr. [REDACTED], there are numerous disclaimers about the authority of Farm Credit Administration to enforce these rights or to intervene if equal credit opportunity is not duly observed.

The information on the website seems to suggest that the borrower will have to resolve these issues directly with the lender. But on the AgSouth website, borrowers are told that if they have a concern related to Equal Credit Opportunity they should take those concerns to Farm Credit Administration. What authority and process does Farm Credit Administration or AgSouth Farm Credit have to resolve Equal Credit Opportunity Claims, and can it do so in a manner that is designed to protect the rights of the borrowers as well as those of the institution? Where and how can such claims be reviewed and with what protections to the borrower? If the above is not a resolution process, what process is open to Mr. [REDACTED] and other borrowers and by what method can their rights be secured?

We ask the above questions with reference to what has already happened. In Mr. [REDACTED]'s first contact to your office, the Assistant Director of the Office of Congressional and Public Relations and Mr. Eric Ovsiew, whom we understand is an attorney, were the first to whom Mr. [REDACTED] was directed, and following their conversation, rather than providing some neutral format or procedure to file a complaint, they wrote back on November 26, 2014 with very specific questions that we would wish to assure would be in a borrower's interest to answer. How will such information be used, and how would it contribute to the ability of FCA to assure that Equal Credit Opportunity is afforded to Mr. [REDACTED] and any other borrower by AgSouth Farm Credit or any other Farm Credit System lender?

We believe protections are especially important because in our experience working with thousands of diverse producers, we have found disparities in treatment at many levels, but especially in the use of appraisals to value land. We are especially concerned that the appraised value of the property in question has sharply declined, and Mr. [REDACTED] stands to be held liable for many thousands of dollars of repayments of the guaranteed farm loan loss claims while others might obtain his land at a fraction of the assessed value for which he was first provided financing, while any risk to the lender is absorbed by the government and the borrower through the guaranteed process.

We have already raised with USDA the need to assure that much clearer information is provided to Mr. [REDACTED] and all other producers of their borrowers rights and their right to equal credit opportunity under both direct and guaranteed loans both separately and as they intersect. We have urged USDA, and raise also to you the need, to clarify the process to secure these

protections and to secure them in the timely manner necessary to avoid the foreclosure and losses that Mr. [REDACTED] and others have incurred.

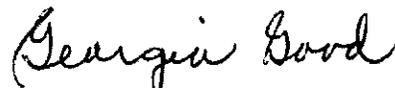
We cannot afford to lose another generation of African American producers to the same systemic inequities we have worked so hard to root out and eradicate. The leadership of Farm Credit Administration has stated its commitment to diversity and inclusion. We seek to understand how this commitment operates in practice. Immediate action is essential to assure Mr. Pressley's future in agriculture, and his future and that of his generation of farmers and ranchers matters to all of us.

We urge you to see the sale on December 31 is halted until such time as a fair review is completed and Mr. [REDACTED]'s equal opportunity, borrower and redemption rights are assured. We may be reached at the address above, or by contacting Lorette Picciano by email at lpicciano@ruralco.org. An alternate phone number when our office is closed is 703-624-8869.

Sincerely,



John Zippert
Chair Person



Georgia Good
Vice Chairperson



Lorette Picciano
Executive Director
lpicciano@ruralco.org



Willard Tillman
Board Member

The Rural Coalition, born of the civil rights, indigenous rights, and anti-poverty rural movements, has worked since 1978 to assure that diverse organizations from all regions, ethnic and racial groups, women and men, and youth and elders, have the opportunity to work together on the issues that affect them all. The foundation of this work is strong local, regional and national organizations that work to assure the representation and involvement of every sector of this diverse fabric of rural peoples.

Cc: [REDACTED], Farmer

Kenneth A. Spearman, Board Member, Farm Credit Administration
Leland A. Strom, Board Member, Farm Credit Administration
Charles R. Rawls, General Counsel, Farm Credit Administration
Michael A. Stoke, Director, Office of Congressional and Public Affairs, Farm Credit Administration
Charles C. Rucks, Chairman, AgSouth Farm Credit, ACA

William T. Robinson, Vice Chairman, AgSouth Farm Credit, ACA
Walter W. Douglas, Outside Director and Member, Governance and Ethics
Committee, AgSouth Farm Credit, ACA
Ken Auer, President and CEO, Farm Credit Council
Tom Vilsack, Secretary, United States Department of Agriculture (USDA)
Val Dolcini, Administrator, USDA Farm Service Agency
Chris Beyerhelm, Deputy Administrator for Farm Loan Programs, USDA
Farm Service Agency
Joe Leonard, Ph.D, Assistant Secretary for Civil Rights
Benny Bunting, Advocate
Savonala Horne, Esq., North Carolina Association of Black Lawyers Land
Loss Prevention Project
Alfonzo Abeyta, Farmer and Co-Chair, Rural Coalition Farm and Ranch
Team
Ben Burkett, Farmer and Co-Chair, Rural Coalition Farm and Ranch Team

Attachment:

*"The Census of Agriculture Shows Progress in Maintaining Diverse Producers in
Agriculture,"* prepared by Rural Coalition, October 2014



American Society of Agronomy • Crop Science Society of America • Soil Science Society of America

5585 Guilford Road, Madison WI 53711-5801 • Tel. 608-273-8080 • Fax 608-273-2021
www.agronomy.org • www.crops.org • www.soils.org

February 22, 2022

Dr. Jewel Bronaugh
USDA Deputy Secretary of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

Mr. Arturo S. Rodriguez
United Farm Workers President Emeritus
29700 Woodford-Tehachapi Road
Keene, CA 93531

Re: USDA Equity Commission and Subcommittee on Agriculture Meeting

Publication Date: 02/14/2022

Document Citation: 87 FR 8227

Document Number: 2022-03074

Dear Dr. Bronaugh and Mr. Arturo:

Thank you for the opportunity to offer comments to the U.S. Department of Agriculture (USDA) to provide recommendations to the USDA Equity Commission and Subcommittee on Agriculture on policies, programs, and actions needed to address racial equity issues within the USDA and its programs.

The American Society of Agronomy (ASA), Crop Science Society of America (CSSA), and Soil Science Society of America (SSSA) represent more than 8,000 scientists in academia, industry, and government, over 13,000 Certified Crop Advisers (CCA), and 620 Certified Professional Soil Scientists (CPSS). We are the largest coalition of professionals dedicated to the agronomy, crop, and soil science disciplines in the United States. USDA researchers and USDA supported graduate students and postdoctoral scholars are among the members of ASA, CSSA, and SSSA.

Our societies have made the commitment to enhancing the experiences, opportunities, and safety of all members through creating a diverse, inclusive, and equitable environment in our scientific fields of study and throughout the Societies. We applaud USDA for taking this important step forward to address inequities through the formation of the USDA Equity Commission, and we welcome the opportunity to comment.

Based on our Societies' DEI research efforts, we have provided the USDA several recommendations to consider when analyzing current organizational programs, policies, systems, structures, and practices. We encourage the Equity Commission to take the time and resources necessary to hear the needs of farmers and ranchers, as well as USDA employees, understanding that reducing barriers will not be the same for all underrepresented people. We also encourage the Equity Commission to expand upon the Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government to include equity for all underrepresented groups. Below, we aim to use the work we have done in our Societies to support our recommendations to the USDA Equity Commission.

Understand the challenges facing underrepresented individuals in agricultural research

We are committed to enhancing the experiences, opportunities, and safety of our members and affiliated practicing professionals by creating a diverse, equitable and inclusive environment in our scientific fields of study and throughout the Societies.¹

We define equity as follows:

Equity is providing various levels of support and assistance depending on the specific needs or abilities of individuals to ensure all can succeed. Equity is different from equality in that equality implies treating everyone as if their experiences are exactly the same. Being equitable means acknowledging and addressing structural inequalities—historic and current—that advantage some and disadvantage others. Equal treatment results in equity only if everyone starts with equal access to opportunities.

We define diversity as follows:

Individual diversity is a unique collection of attributes and life experiences that make us each who we are. These include, but are not limited to, national origin, language, race, color, political viewpoints, disability, ethnicity, gender, age, religion, sexual orientation, gender identity, socioeconomic status, veteran status, career stage, and family structures/backgrounds. Collectively, the diversity of our members helps guide our missions, provides innovative ideas to solve the problems facing our communities and our planet, and provides a richer connection to each other.

We define inclusion as follows:

Inclusion is to pursue deliberate efforts to ensure that our organizations welcome differences, respectfully listen to diverse perspectives and make every individual feel welcome, empowered, accepted and that they belong.

To address longstanding inequities in agriculture, it is important we understand the many ways in which diversity can present itself. Additionally, creating an inclusive environment is often the first step needed to recruit and retain diversity within an organization. Diversity, equity, and inclusion should be intertwined and include many other values, such as accessibility and justice.

In 2021, as part of the phasing of the Diversity, Equity, and Inclusion (DEI) cross-Society initiative for ASA, CSSA, and SSSA, a survey was developed and conducted across the full membership of the three Societies.² The survey assessed members' understanding of DEI concepts, DEI-related issues members face, and awareness of DEI resources within the membership. Based on our survey results, the following DEI challenges were identified as impacting the agricultural research workforce:

1. Implicit bias and gender bias

For those who have experienced discrimination, implicit bias and gender bias were identified as the most prevalent DEI challenges. Additionally, Asian, Hispanic, and Black or African American

¹ <https://www.agronomy.org/files/DEI/acs-dei-statement-2021.pdf>

² <https://www.agronomy.org/files/DEI/dei-survey-summary-report-06252021.pdf>

members are more likely to consider “racial discrimination” the most prevalent issue people in their position face when compared to Caucasian or White members.

2. *Recruiting diverse candidates*

Though both men and women consider “recruiting diverse candidates” a prevalent issue, women tend to consider this a more prevalent issue than men. Early, mid, late, and retired career members consider “recruiting diverse candidates” more of a prevalent issue than graduate students. One reason could be early career and later members are more exposed to hiring and the challenges faced with recruiting and retaining diverse talent.

3. *Understanding other perspectives*

According to our data, “understanding other perspectives” was considered an equally prevalent issue across man, woman, non-binary, and prefer not to answer gender demographics. Having this knowledge demonstrates that our members are eager to learn from one another and the diversity they offer, especially diversity of thought. It also demonstrates that there isn’t enough opportunity to hear and respect the perspectives of others.

USDA can take steps to address the challenges facing the agricultural research workforce by promoting diversity – supporting accessible exchange of knowledge, bolstering the student pipeline, expanding educational programs and grants, supporting mentorship and sponsorship, and expanding resources for early career researchers – and by facilitating collaborations with diverse stakeholders to address existential threats, such as climate change.

Create and foster diversity through support, access, and mentorship

It is important to have a diversity of voices at all levels, from the scientists choosing which research projects to pursue to the technical advisers who can reach underrepresented farmers. Barriers of all kinds prevent people of color from pursuing careers in science and agriculture, and this needs to change. What is needed are inclusive research institutions, accessible conferences, a deep assessment of the challenges faced by researchers of color, and discipline-wide plans to address them.

Support accessible exchange of knowledge in agricultural sciences

Frequent conferences where researchers and technical advisers share challenges, opportunities, information, and experiences are fundamental to the development and dissemination of agricultural research findings. Equally fundamental is making sure underrepresented technical advisers and producers can participate and access the tools, techniques, information, and technologies that agricultural researchers provide. This can happen through accessible publications, research that applies to farms of all kinds, and conferences that specifically invite and cater to the needs of underrepresented groups through relevant sessions, invited speakers, and practical locations, including virtual conferences. USDA can support researchers, technical advisers, and producers in accessing information and tools by providing financial support for conference and workshop participation. More specifically, USDA should consider offering grants to support caregivers.

Bolster the student pipeline

To bolster the pipeline of technical advisers from underrepresented backgrounds, training and recruitment could start with the Biden Administration’s proposal for a Civilian Climate Corps. Recruits could be trained in conservation and climate-smart agricultural practices with clear pathways to careers in technical assistance or academic study.

Equitable access to agricultural science also depends upon the types of questions under investigation. The graduate student cohort of the Agronomy, Crop, and Soil Science disciplines is the most diverse cross-section of our membership, and they have the potential to elevate issues important to underrepresented groups throughout their scientific careers—issues like environmental justice, climate action, culturally significant crops, and the challenges of small or diversified operations. Unfortunately, there are systemic barriers and inequities in place that discourage students of color from achieving their potential, resulting in a much less diverse cohort of professors leading our fields. USDA can start by bolstering the student pipeline.

In bolstering the student pipeline, USDA can also provide resources to help students develop soft skills, such as leadership, communication, conflict management, and time management. For the past 8 years, ASA, CSSA, and SSSA have hosted a graduate student leadership conference at their annual meeting to provide students with intensive professional development training. In the sciences, soft skills help to reduce the talent gap and promote career success for all students.

Expand USDA's educational programs

USDA's Agriculture and Food Research Initiative's (AFRI) individual investigator grants may provide funding for student work, but their 2- to 3-year duration is too short, the award amount too small, and the success rate too low to maintain graduate student interest and involvement. Those who come from disadvantaged backgrounds are less likely to choose a field with unreliable funding. USDA should double AFRI's budget for direct funding for graduate student research and programs, including student fellowships, from 1.5 to between 3 and 5% of its total funding. This will give financial security to students and the ability to choose their own research projects. Additionally, by expanding USDA's current educational programs, such as the Education and Workforce Development Initiative and National Needs Graduate and Postgraduate Fellowship program, and integrating them with USDA's 1890 National Scholars Program, talented students at the 1890s Historically Black Colleges and Universities (HBCUs), student members of diverse professional scientific organizations such as Minorities in Agriculture, Natural Resources and Related Sciences (MANRRS) and the Society for the Advancement of Chicanos/Hispanics and Native Americans in Science (SACNAS), as well as other minority serving institutions (MSIs) would have a streamlined path towards fellowships in the agricultural sciences.

Funding students and focusing on disadvantaged groups will still not be enough to counter the systemic challenges faced by Black, Hispanic, Indigenous, and other scientists of color. Challenges these scientific cohorts face should be assessed at each stage of advanced study to identify and remove roadblocks. Universities should collaborate to undertake discipline-wide analyses of biases and barriers and propose reforms to their tenure tracks that eliminate inequities and encourage a broad range of activities that stimulate mentorship, quality teaching, civic engagement, and local outreach. The value of a diversity of voices cannot be overstated, and their continued absence is an incalculable loss to science and to the planet.

Support mentoring and sponsorship throughout USDA

Within the agency, USDA should expand mentoring and sponsorship programs, such as Project Sync through the Agricultural Research Service (ARS). Mentorship programs should be widely available and publicized to all employees. However, special emphasis should be placed on reaching out to women, racial minorities, and other underrepresented groups, especially those just entering their career with USDA and looking for guidance to succeed. This could include workshops focusing on preparing nomination portfolios for awards and other recognition. However, mentoring may prove insufficient if

not accompanied by active sponsorship (i.e., routinely and sustainably create opportunities for participation, extend invitations keynote speakers, nominate for leadership positions and awards).

Expand resources for early career researchers

Early career researchers (professionals within 7-10 years of their terminal degree) face unique challenges during an important career transition after college or graduate school. These researchers are expected to meet high productivity demands while often working in several subsequent temporary (1-2 year) postdoctoral appointments before finding permanent, equally rigorous research positions. These demands can be even more pressing on underrepresented individuals who face systemic racism and other implicit bias in the workplace.

USDA can support early career researchers who are employed at USDA research agencies and those who receive funding from USDA research grants. Postdoctoral positions should be extended beyond a 1-year timeframe to allow scholars more time to onboard, conduct research, and present findings of research projects. Early career researchers should also be supported with better pay that considers the standards of living and potential opportunities for growth and promotions. Transitional resources, including workshops on grant writing and application process, funds for publishing research findings, professional development funds, and more, should be accessible for all USDA-funded early career researchers and late-stage graduate students. Finally, the promotion and advancement guidelines for researchers at USDA may unintentionally discourage principal investigators from empowering underrepresented students and mentees to get research experiences (e.g., publishing first author research articles). USDA should consider flexibility in the research promotion process and support early career researchers in mentoring students of color and other underrepresented individuals in agriculture research.

Encourage diverse collaborations for people, profit, and the planet

It is similarly useful to diversify the types of organizations working together to tackle the most pressing challenges in agricultural sciences, such as climate change. Unusual collaborations can have unexpected benefits. For example, Ceres Solutions is a farmer-owned cooperative delivering services to farmers in central Indiana and Michigan, and, recently, personnel from its Templeton, IN, location participated in a Soil and Water Conservation District (SWCD) watershed working group. This led Ceres to make a large donation of consulting hours through NRCS's Regional Conservation Partnership Program. Ceres staff leveraged their relationships with farmer customers to improve the use of nutrient management practices and successfully encouraged participation in NRCS Environmental Quality Incentives Program (EQIP) contracts.

In this case, the SWCD understood that Ceres Solutions had trust and influence among producers. Across the breadth of the nation, however, different organizations will have the trust of different farmers of diverse backgrounds and locations. Direct influencers include seed suppliers, crop nutrient and protection suppliers, consultants, bankers or lenders, equipment suppliers, feed suppliers, local Farm Service Agency (FSA) staff, and crop insurance agents. Bringing these groups to the table is the best way to win the trust of the farming community to support conservation practices that mitigate and enable adaptation to climate change.

Certified Crop Advisers (CCAs), extension agents, and Sustainable Agriculture Research and Education (SARE) officers will play a critical role in promoting equity throughout agriculture. They have the closest relationships with growers, are the interface between science and practice, and can integrate transdisciplinary research. They serve growers through public extension, private company agronomy

services, and retail channels including all the above examples of direct influencers. Stakeholders such as these will be important contributors to conversations on equity and play a key role in implementing action. Minority serving groups, such as Minorities in Agriculture, Natural Resources, and Related Sciences (MANRRS), the Society for the Advancement of Chicanos and Native Americans in Science (SACNAS), the National Black Food and Justice Alliance, and the Northeast Farmers of Color Land Trust, are also valuable partners that bring a different perspective and hold the trust of groups often left out of traditional means of communication.

Lastly, multi-institution coalitions that include these groups and others will be vital for delivering essential information about ecosystem services and conservation practices. While coalitions need not include every organization, careful consideration of all the various stakeholders in the food and agricultural system should be given. A supermarket chain, for instance, may not seem like an obvious partner in the development of a research project. Retailers may simply not be interested in the science behind a practice. But it may be useful to include a marketing perspective as the project progresses. Including these groups at the onset promotes a sense of ownership and collective dedication to the projects' goals.

Thank you for the opportunity to provide comments to the Equity Commission and we extend our knowledge and resources to the Commission. By expanding your collaborations on these efforts, you will certainly strengthen the diversity, equity, and inclusion throughout our sciences and within your programs. We look forward to breaking barriers with you for our agricultural and environmental communities.



August 13, 2021

Secretary Thomas Vilsack
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Vilsack,

The Food Research & Action Center (FRAC) appreciates the opportunity to respond to USDA's request for information: "Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA." FRAC commends USDA's efforts to ensure agency policies equitably serve all eligible communities and fully supports the formation of a Racial Equity Commission.

FRAC applauds USDA's quick actions during the pandemic to increase benefits, increase flexibility, and facilitate innovation in the federal food programs. Without these actions, millions more families would not have had enough to eat; however, hunger rates remain far too high, and disparities exacerbated during the pandemic have persisted. Families of color have been disproportionately impacted. Improvements to the federal nutrition programs must be guided by data and principles of equity so historically and currently marginalized groups are not left behind as the nation recovers from the pandemic.

FRAC has a long history of advocating for the federal nutrition programs, including the Supplemental Nutrition Assistance Program, National School Lunch Program, School Breakfast Program, Afterschool Nutrition Programs, Summer Nutrition Programs, Special Supplemental Nutrition Program for Women, Infants, and Children, and Child and Adult Care Food Program. FRAC's advocacy work would not be possible were it not for strong partnerships with a diverse network of thousands of state and community organizations from across the country that are allied with us in the pursuit of greater justice for the vulnerable and disenfranchised. This comment letter draws from our work and partnerships. Responses focus on General Questions 4, 5, 6, 7, 9, 10, and 12.

Sincerely,

Luis Guardia
President

Geri Henchy
Nutrition Policy Director

Allison M Lacko
Senior Researcher

FRAC's recommendations focus on methods and policy changes within existing rules and current leading practices. Recommendations include strategies to promote equity among all underserved groups as well as those that specifically impact the well-being of Native Americans and immigrant communities.

FRAC also respectfully submits a list of recommended program improvements to increase equity, including policy and legislative proposals in two documents attached to these comments, [*"This is the Time to Heal in America,"*](#) and [*It Begins with Addressing Hunger*](#) and [*Child Nutrition Reauthorization: Priorities to Improve and Strengthen Child Nutrition Programs*](#). While not within the bounds of this request for information regarding USDA "policies, regulations and guidance," it is worth noting that FRAC's legislative recommendations would greatly enhance equity in the programs. FRAC calls on Congress to strengthen SNAP and the Child Nutrition Programs, including Healthy School Meals for All, Summer P-EBT, an additional meal for children in full-day child care, and extending WIC certifications and fruit and vegetable benefit increases.

4. Are there USDA policies, practices, or programs that perpetuate systemic barriers to opportunities and benefits for people of color or other underserved groups? How can those programs be modified, expanded, or made less complicated or streamlined, to deliver resources and benefits more equitably?

4.A. Invest in program administration and streamline the application process to increase access. Negative experiences during enrollment or program use can dissuade eligible individuals and families from participating in programs. Long wait times, burdensome paperwork, and lack of transportation have been consistently cited as top barriers among participants and outreach workers.^{1,2} Barriers that exacerbate lost work time and wages are especially burdensome for communities of color. Systemic injustices, like discrimination in hiring and job segregation, have led to disproportionate representation in low-wage jobs that require in-person work and have fewer flexibilities and time off,³ as well as higher rates of unemployment, which increases the urgency of maintaining a job.⁴ COVID-19 has exacerbated these disparities.⁵ In addition, lack of control over one's time and program resources leads to disempowerment. In one study with predominantly Black women,⁶ participants perceived that programs were quick to sanction and punish while reinstating benefits was a bureaucratic and lengthy process.

Recommendations for streamlining administrative systems are focused on the following three strategies: improve customer service; simplify applications and enrollment; and expand options for streamlining automatic eligibility for the federal nutrition programs (e.g., school meals) based on eligibility in other public assistance programs.

(1) Improve customer service. Supporting and, when necessary, improving customer service are essential to equitable program access and participation.

Actions

- Partner with community groups to gain feedback on customer service issues that could help inform equity assessments and civil rights compliance reviews. Conduct telephone, virtual, or in-person visits to local SNAP offices or WIC clinics to observe and assess customer service. For example, the DC Office of Human Rights regularly assesses the accessibility of programs to persons with limited English proficiency.⁷
- Provide adequate funding for local agency offices to hire enough staff and provide training. When agencies are under-funded, they become understaffed, thus decreasing available assistance and increasing wait times for participants.
- Establish staff accountability for customer service (e.g., performance reviews and client feedback), provide training and skills development, and empower local staff to offer recommendations for system improvements.
- Collaborate with state administrators to test notices, messages, and technology tools with participants and community-serving agencies prior to implementation.

(2) Simplify applications and enrollment. In partnership with The Food Trust and local anti-hunger organizations, FRAC has convened several task forces across the country to assess barriers and solutions to enrolling participants in SNAP.^{8,9,10,11} FRAC's WIC recommendations are based on a multi-year investigation of the barriers to WIC participation and benefits, and effective strategies for maximizing WIC participation and the use of benefits. FRAC conducted a comprehensive background research and literature review; an in-depth analysis of WIC participation, WIC coverage, and related factors; and discussions with national, state, and local stakeholders.¹² There is broad consensus that simplifying the application process and integrating online and telephone services increase enrollment.

Actions

- State and local SNAP, WIC and child nutrition agencies should be allowed to offer a full range of application options, including online, by phone, and in person.
- Offer easy-to-use, appealing, and informative websites and apps with clear, brief, and easy-to-read material in multiple languages. Include digital options for appointment scheduling, pre-screening tools, applications, and submitting documentation.

(3) Expand options for streamlining automatic eligibility for the federal nutrition programs that are based on eligibility in other public assistance programs. Expanding streamlined eligibility for school meals, WIC, and other child nutrition programs to more families will encourage more people to apply, reduce red tape, and free up school, child care, and WIC resources. Using automatic income eligibility mechanisms, such as direct certification, community eligibility, and adjunctive eligibility, makes eligibility determinations more reliable and closely connects the nutrition and health programs that marginalized and underserved families need.

Actions

- Enhance school meal direct certification options. All school districts should be allowed to use income data from Medicaid to identify students for free and reduced-price school meals without a separate application. USDA should build upon the success of the Medicaid pilot for direct certification by piloting additional programs and intersections that allow for direct certification.
- Expand the use of the Community Eligibility Provision (CEP) to overcome the barriers to school meals applications, and instead, offer free school meals to all, ensuring all children have access to the breakfast and lunch they need to learn and thrive. USDA should partner with the U.S. Department of Education (DOE) to overcome any perceived barriers tied to education funding and the loss of data related to a student's free or reduced-price status. USDA and DOE should also work together on outreach to implement CEP in schools with limited resources, which too often include schools that serve communities of color.
- Allow all states to use direct certification for CACFP by using SNAP and other program participation data to establish eligibility for free and reduced-price school meals. (Head Start participation confers automatic eligibility for CACFP.)
- Streamline WIC enrollment and certification by ensuring that all staff providing services remotely or in local clinics can establish adjunctive eligibility for applicants via online access to state Medicaid, SNAP, and other relevant public assistance program data.¹³ Participants in SNAP, Medicaid and some other public assistance programs are automatically “adjunctively” income-eligible for WIC. Incompatible state computer systems or State agency reluctance to provide access to data are common barriers for WIC State agencies and clinics. USDA should mandate state SNAP agencies share data and work to establish system interoperability, and they should negotiate with the Department of Health and Human Services to offer the same for Medicaid and other programs.
- *For additional details please see responses to question 6 and 9.*

4.B. Ensure that participants have physical access to program resources.

The ability to access resources is an important factor in measuring the equitable impact of programs. Whether a participant can access resources impacts their cost-benefit decision when enrolling.

- ***Evaluate geographic access and ensure that SNAP offices, WIC clinic locations, and school and summer meal sites allow access to all participants.*** WIC clinics, SNAP offices, summer meal sites, and schools that have adopted community eligibility should be strategically located to extend the programs' reach to vulnerable populations. Mapping software can be used to compare these program sites to having access to transportation, to the locations of other social services, and to demographic information, including income, race and ethnicity, language spoken at home, infant and maternal mortality, and overweight and obesity rates.

For example, co-locating WIC clinics with maternal and child health services offered in clinics and hospitals allows coordination of appointments and reduces the number of separate trips. An effective example in Maryland and D.C. is Mary's Center,¹⁴ a

community health center with a WIC program, which operates a community outreach van, also known as the Mama and Baby Bus. The WIC program relies on the trained Mama and Baby Bus staff to do WIC outreach on an ongoing basis.

- ***The federal government should work with state and local governments and other stakeholders to ensure sufficient SNAP and WIC retailer options for all participants.*** A successful WIC or SNAP shopping experience is central to program participant satisfaction, continued participation, and maximizing benefits. The shopping experience can be intimidating, confusing, and result in people opting out of the program or not using their benefits. Distance to authorized retailers can limit access to participation or full use of benefits. For WIC specifically, lifting unnecessary state WIC agency moratoriums on new vendors gives stores the opportunity to apply to become authorized to redeem WIC benefits. States should employ appropriate and reasonable “vendor selection” requirements to qualify stores in underserved areas and offer a clear, timely, and practical authorization process for stores. Small vendors in underserved areas should be provided strong vendor training and technical assistance for store staff in order to ensure both commercial viability and that minimum stocking requirements and quality are maintained.

4.C. Reduce the stigma of participating in the federal food programs.

Stigma is a key driver of inequities¹⁵ and operates at individual and structural levels.^{16,17} First, stigma affects the behaviors and well-being of groups being targeted. Anticipation of stigma may cause individuals to engage in behaviors to conceal stigmatized characteristics, like adults refusing to enroll in federal programs or youth refusing free school meals. Second, stigma between individuals manifests as prejudice (e.g., discomfort with or dislike of people in poverty), stereotypes (e.g., people in poverty are lazy and take advantage of the welfare system), and discrimination (e.g., unfair or unjust treatment of individuals, such as the failure to offer healthy foods due to the belief that people with low income dislike fresh fruits and vegetables). These interactions may be a result of explicit and implicit biases.

Importantly, people may live with a range of overlapping stigmatized identities, including race, gender, and poverty, which means that stigma disproportionately impacts racial minority groups. Black adults report higher levels of interpersonal stigma for participating in welfare programs (e.g., from family, friends, service providers, program administrators) than White adults, particularly Black adults who live in communities with few racial groups represented.¹⁸

Stigma has been shown to reduce enrollment and participation in federal nutrition programs.^{19,20} For example, in WIC, shoppers often encounter stigma when purchasing food due to confusion over eligible items in the WIC food package, discrimination, or both,²¹ resulting in reduced benefit redemption or program dropout.²² This confusion is compounded for participants with limited English proficiency. As another example, school-age children may experience shame for relying on free or reduced-price meals or for having unpaid school meal debt, leading them to forgo breakfast or lunch.^{23,24,25}

Several strategies have been shown to reduce stigma in the federal nutrition programs. Providing electronic benefit transfer (EBT) cards has reduced stigma for participants in SNAP and WIC, which has increased enrollment.²⁶ Having time for all students to participate in school breakfast after the bell has increased participation in free and reduced-price breakfast.²⁷ School breakfast and community eligibility are successful strategies that are discussed further in response to General Question #6.

Actions

- SNAP should preserve the dignity and choice of beneficiaries. One of SNAP's core strengths is that it runs on the regular rails of commerce: via authorized retail food outlets and EBT processing. These promote cost effective operations, obviating the need for the government to set up and pay for its own food distribution system. Moreover, they allow SNAP participants to shop and purchase food in a manner similar to other customers. In contrast, proposals to limit SNAP participants' food choices or to add photo identification to EBT cards undermine the mainstream nature of the SNAP transaction and entail unwarranted complexity and costs. Food choice is particularly important for people to obtain foods that are culturally appropriate.
- For WIC, participants should receive adequate training and easy-to-use options to determine if a food is WIC-eligible.
- Encourage school districts to implement breakfast after the bell programs to support greater access to school breakfast. USDA could provide technical assistance and conduct a school breakfast campaign that engages the U.S. Department of Education as well as anti-hunger and education stakeholders.
- Reduce obstructive bureaucracy (long wait times, complex application processes, etc.) and eliminate punitive processes, which cause federal programs to be perceived as deliberately penalizing.²⁸
- Address implicit biases and discrimination among program staff. Recommended strategies include providing anti-racist and cultural competency training, particularly those that provide information to refute common stereotypes.
- Cultivate organizational cultures of equity, diversity, and inclusion. Use environmental cues, such as photographs and art, to communicate respect and inclusivity towards members of stigmatized groups.
- Increase diversity of program staff and hire with language access/cultural competency in mind. Staff working with program participants should be representative of the population they are serving.
- Support service providers who are from the community. For example, immigrant families often cite family child care as the best choice for receiving culturally relevant care.²⁹
- For individuals confronted with stigma for participating in federal nutrition programs, incorporate stigma-reducing tools (affirmation interventions, social support) within existing interventions, such as nutrition education programs.³⁰
- Engage in public campaigns to reduce stigma and track shifts in public opinion.^{31,32} Encouraging stigmatized people to share their stories, particularly influential leaders who may have had to access program benefits at some point in their lives, is one strategy that can be incorporated into a campaign.

4.D. Eliminate arbitrary barriers to SNAP eligibility and improve other benefit computation rules. FRAC recommends that eligibility for SNAP should be expanded at the federal level, including eliminating time limits for certain unemployed and underemployed people who are unable to document sufficient weekly work hours, bans for former drug felons, and the five-year bar that disqualifies many adults with legal permanent resident status. In addition, college students who meet income criteria should be allowed to participate and USDA should simplify eligibility for students and increase outreach to colleges and universities.³³ Food insecurity is higher among college students who are people of color, yet few students apply due to lack of awareness or complexity of applying.³⁴

Expanding federal income and asset eligibility would also help households located in areas with higher costs of living and working families with significant out-of-pocket expenses for child care and shelter. Raising asset limits under broad-based categorical eligibility in SNAP has been associated with an increase in assets.^{35,36} Since people of color have historically faced barriers to accumulating wealth, stricter asset limits perpetuate systemic barriers to accumulating savings and wealth.³⁷

4.E. Increase SNAP benefit adequacy. Benefits for most households are not enough to get through the entire month without hunger or being forced to sacrifice nutrition quality. Reasons include the lag in SNAP benefits keeping up with inflation; households' shelter costs that consume income that SNAP rules incorrectly treat as available for food purchases (therefore reducing SNAP allotments); the cost-time tradeoffs in maintaining a nutritious diet; and the inadequacy of the current Thrifty Food Plan market basket.^{38,39}

These factors disproportionately affect people of color. Due to systemic injustices in housing practices, Black and Latinx renters and homeowners are more likely to be cost-burdened.⁴⁰ Due to discrimination in hiring and job segregation, people of color are disproportionately represented in low-wage jobs that require in-person work and have fewer flexibilities and time off.⁴¹ Therefore, inadequate benefits perpetuate disparities in financial stability and food security.⁴²

FRAC has long called for replacing the Thrifty Food Plan with the Low-Cost Food Plan.⁴³ The latter plan is generally in line with what low- and moderate-income families report they need to spend on food, as opposed to the lower amount provided by the Thrifty Food Plan. The Low-Cost Food Plan also allows for greater food variety and choices to support a healthful, palatable diet. In addition, there are multiple policy solutions from advocates and researchers on how to improve benefit adequacy.⁴⁴ For further detail on the Thrifty Food Plan, see the attached comment that FRAC submitted to Secretary Vilsack regarding the evaluation of the Thrifty Food Plan.

4.F. Child nutrition program agencies should streamline program participation requirements and target outreach to recruit providers for CACFP in underserved communities. Thousands of child care programs across the nation do not participate in CACFP due to systemic barriers. Many child care programs do not participate in CACFP because the benefits are inadequate, the program is wrought with burdensome paperwork, and the losses and penalties are too detrimental

to child care providers that operate on razor-thin margins. These barriers disproportionately impact communities of color, providers, and parents with few resources, contributing to gross inequities in child care quality and nutrition. FRAC recommends reducing unnecessary paperwork, including increasing the use of direct certification, revising the serious deficiency auditing process, increasing benefits, and making the area eligibility waiver permanent.

When appropriate, CACFP can extend eligibility to license-exempt family child care homes that meet federal, state, or local approval standards. Many of these homes serve children from low-income families and receive child care subsidy funds. Many low-wage working families use license-exempt family child care because of the flexibility that it provides households with demanding work schedules. Immigrant families often cite family child care as the best choice for receiving culturally relevant care.

4.G. Create a more comprehensive and timely system of collecting and fully utilizing race and ethnicity data in the federal nutrition programs.

The reliable and timely collection of race and ethnicity data across programs is essential to deliver resources equitably. However, collecting missing race and ethnicity data can be a sensitive issue. Filling in missing race and ethnicity data by visually identifying a person's race or ethnicity is a civil rights issue because of the risk for misclassification. Racial misclassification can disproportionately impact racial and ethnic minority groups. Recently, USDA took the important step of eliminating the process of program operators visually identifying children's race, ethnicity, or both as a back-up measure when forms were not completed. This creates an opportunity to improve the system for collecting this information. FRAC commends USDA for eliminating the use of visual identification to determine race and ethnicity.

To inform equitable policy strategies in the federal nutrition programs, several shortfalls need to be addressed. The new, more comprehensive system should produce reliable data in a timely manner that can be used to evaluate coverage rates, site locations, service discrimination, and other civil rights and equity issues. USDA should be given the funding and authority to create this system.

4.H. Monitoring food insecurity: Improve data collection and sampling structures to collect more detailed nationally representative data by race and ethnicity, including a nationally representative sample of Native American households.

There is no current comprehensive annual measure of food security for smaller marginalized populations, e.g. American Indian, Native Alaskan, Native Hawaiian and Pacific Islander. Due to small sample sizes, these populations are often reported in aggregate as an "other" category. Absence of data for these communities is common across federal agencies and policy makers and administrators often fail to secure meaningful data. Policies that leave these populations out of data collection efforts, data reporting, and analysis further exacerbate inequities.

Lack of data is part of the greater issue of erasure and invisibility which has existed for decades. The COVID-19 pandemic provided the most recent glimpse of this situation (e.g., lack of data on hunger or COVID-19 mortality in Native communities). FRAC

recommends an expanded mandate and an increase in funding for research on food insecurity and sovereignty among American Indian, Native Alaskan, Native Hawaiian, and Pacific Islander communities.

Actions

- Support researchers from Native-led organizations.
- Increase the funding and mandate for the USDA Economic Research Service to field annual and periodic surveys that include sampling frames sufficient to generate nationally representative estimates of these groups.
- Commission an interagency task force to address these issues of data collection and availability.

4.I. In immigrant communities, ensure that families and individuals, regardless of immigration status, have access to programs. Some immigrant families face unique barriers to federal programs due to language barriers, discrimination, fear of deportation, and misinformation about eligibility.

A report released by FRAC in partnership with the National Immigration Law Center found that the 2019 Department of Homeland Security (DHS) public charge rule had a chilling effect on program enrollment in nutrition programs among Latino families.⁴⁵ This included SNAP, a program directly covered by the public charge rule, as well as programs not covered, like WIC, school meals, and Pandemic EBT. For example, more than one-quarter of the immigrant parents who were surveyed reported that they stopped using SNAP or other food programs in the last two years due to immigration-related concerns, which was echoed by nutrition service providers. Concerns stemmed from an unclear understanding of whether applying for any of the federal nutrition programs would count against them under the 2019 rule, which they did not.⁴⁶

FRAC's findings are confirmed by other research linking uncertainty about the public charge law to reduced enrollment in nutrition assistance programs⁴⁷ and reduced enrollment of children in Medicaid before the rule even went into effect.⁴⁸

Actions

- USDA can require state agencies, governments, and local school districts to issue clear, affirmative messaging on immigrant family access to programs. Succinct messaging on how eligible immigrant families can safely access programs without fear of public charge consequences can help combat misinformation. Examples of state SNAP agencies that have publicized how the public charge rule does not apply to SNAP include California;⁴⁹ Massachusetts;⁵⁰ and New York City.⁵¹
- Create and distribute materials, in multiple languages, to ensure all families are able to access the programs, especially if there is an application.
- Build relationships with immigrant communities and immigrant-serving organizations.⁵² This ensures that families hear about programs in accurate and easy-to-understand terms that are culturally appropriate, in a language they are familiar with, and from those they trust. Partner with trusted organizations to craft and disseminate information about services and program enrollment.
- Implement, publicize, and monitor policies that help immigrants feel safer when seeking federal assistance.

4.I. In Native communities, center Native leadership and Native people’s needs in program enrollment and delivery. The collective historical and current traumas endured by Native Americans have led many to distrust U.S. government programs and interventions. Federal programs must consider the legacy in the design and delivery of programs.

One central issue is granting Tribes, as sovereign governments, the authority to directly administer the child nutrition programs, including school meals, out-of-school time meals, and CACFP. Tribes already have the option to run WIC. This is critically important for recognizing Tribal sovereignty and would ease the administrative burden on tribes, like the Navajo Nation, that straddle multiple states and must coordinate with multiple state agencies to provide school meals.

Another key priority is to support food sovereignty on Tribal lands by using food produced by Native farmers in the child nutrition programs. The current child nutrition food procurement and WIC vendor rules create significant barriers, favoring large producers and excluding Tribal producers. FRAC recommends creating easier pathways for Native farm products to be included in the school meal and out-of-school time meal programs and the Tribal child care programs (including Head Start), and to be allowed as WIC vendors redeeming the WIC fruits and vegetables vouchers.

FRAC also recommends allowing Tribal organizations to enter self-determination contracts to procure foods for Food Distribution Program on Indian Reservations (FDPIR) packages and to allow participants to use benefits from FDPIR and SNAP at the same time.

5. How can USDA establish and maintain connections to a wider and more diverse set of stakeholders representing underserved communities?

5.A. Partner on outreach with national and community organizations that represent all constituencies, especially those that are marginalized.

Programs must include culturally responsive and linguistically appropriate outreach, education, and enrollment to ensure that programs reach all eligible children and families and meet the diverse needs of communities. Outreach, coordination, and connections in a shared language and culture are meaningful, compelling, and necessary: in 2017, almost 26 million people reported being limited English proficient (LEP), including 60 percent who speak Spanish.⁵³ Effective outreach by community partners could broaden program reach and help overcome barriers to participation, including widespread misconceptions about eligibility, concerns expressed by immigrant families, and limited access to information about benefits, including how to apply.

Agencies should support state and local program offices with appropriate funding to support outreach efforts and provide guidance on prioritizing marginalized racial, ethnic, and other populations. For example, USDA recently released guidance for State

Outreach Plans for SNAP, which identifies four priority areas for outreach: racial equity, students, immigrant communities and mixed-status families, and veterans.⁵⁴ Federal matching funds reimburse state agencies for SNAP outreach, including for contracting with community partners. Funding community-based trusted messengers and leaders to connect people and communities to programs is particularly important for immigrant, Tribal, and other underserved communities with lower access to resources and often underfunded community-based organizations. Earlier in this century the Bush administration implemented 100 percent federally funded competitive grants to support innovative SNAP outreach that were launched by the Clinton administration. As FRAC and UnidosUS leaders have written to USDA, the federal government should again dedicate resources for such efforts.⁵⁵

An example of a successful partnership between a national and community-based organization reaching underserved communities is the collaboration between UnidosUS and the Latino Community Development Agency (LCDA) in Oklahoma. Using *Comprando Rico y Sano*, a program developed by UnidosUS that centers *promotores de salud* (community health workers), LCDA has become the primary agency responsible for assisting Latinos with SNAP enrollment in Oklahoma City. A UnidosUS report on community-driven strategies to reduce food insecurity includes details of LCDA's culturally responsive implementation strategy.⁵⁶

Actions

- Provide adequate federal funds for state agencies to partner with community organizations to conduct outreach and enrollment to immigrant, Tribal, rural, and other marginalized communities.
- Employ social media, web-based advertisements, and websites as updated marketing tools. Prioritize easy-to-use, inclusive materials in multiple languages.
- Engage the power of positive word-of-mouth recommendations.
- Give providers, like SNAP- and WIC-authorized food retailers, a role in outreach.

5.B. Invest in community coalitions. Local task forces or coalitions bring together stakeholders from a variety of organizations to strengthen social services. Coalitions can include nonprofits, state agencies, faith-based organizations, emergency food providers, community health centers, and more. These stakeholders should serve all populations, especially those that are marginalized, and regularly seek client feedback. Coalitions also provide opportunities for sharing information, training, and coordinating of services.

Coalitions lead to policy changes that promote equity. For example, FRAC's Maryland Hunger Solutions (MDHS) participates in a Governmental Access Workgroup, which facilitates the sharing of information from partners across various sectors. Through this coalition, language access was identified as a barrier to inclusive customer service, particularly during the pandemic with rapidly changing programs (e.g., how to receive school and summer meals). The coalition has focused on helping member organizations hire bilingual staff, incentivize bilingual applicants to apply, and provide training on how to use translation services. MDHS has engaged with the Maryland SNAP agency to review their language access policy and provide recommendations for improvement. Other examples of community coalitions include the [Community Quality Councils](#),

established in 2004 by the Illinois Hunger Coalition and the Illinois Department of Human Services, and the [Community Partner Program](#), established in 2012 by the Texas Health and Human Services Commission.

Actions

- Fund community coalitions in order to support the expertise of community organizations that are often strapped for resources.
- Coordinate across agencies to create broad coalitions.

5.C. In Native communities, engage Tribal leaders through the consultation process. The Biden administration has recommitted itself to centering Indigenous voices through consultations;⁵⁷ these consultations will center on the needs of Tribal communities.

Actions

- Consultations with Tribal leaders and organizations must be in accordance with [E.O. 13175: Consultation Coordination with Indian Tribal Governments](#); and
- “Dear Tribal Leader” letters and other calls for consultation must be provided to Tribes, at a minimum, 30 days before the consultation is scheduled to take place. These announcements must be widely publicized.

6. Please describe USDA programs or interactions that have worked well for underserved communities. What successful approaches to advancing justice and equity have been undertaken by USDA that you recommend be used as a model for other programs or areas?

6.A. Data sharing to increase enrollment in multiple programs. Direct certification in school meals and adjunctive eligibility in WIC are two examples of data-sharing strategies. Such programs reduce barriers, such as language and literacy, with completing multiple applications. For example, direct certification has been one of the most successful strategies to ensure that eligible children are certified for free or reduced-price school meals.⁵⁸ The piloting of Medicaid direct certification has allowed more eligible children, particularly children who are immigrants and do not participate in SNAP, to be certified for free school meals. USDA can build upon this success by increasing the number of states that are able to pilot Medicaid direct certification and pilot additional programs and intersections that allow for direct certification.

Further details on improving data-sharing systems can be found in section 9.A. and in the attached direct certification letter sent to Secretary Vilsack on May 10, 2021.

6.B. Community Eligibility. The Community Eligibility Provision (CEP) has highlighted the value of offering meals at no charge to all students. It overcomes the barriers to school meal applications, helps eliminate stigma (that participation is for “poor kids”), and ensures that all children have access to the breakfast and lunch they

need to learn and thrive.⁵⁹ Children whose families are struggling, but do not meet the current eligibility threshold to qualify for free school meals, are more likely to participate in school lunch in CEP schools compared to non-CEP schools.⁶⁰

More schools could adopt community eligibility but face real and perceived barriers to participation. USDA should partner with the U.S. Department of Education to overcome perceived barriers (e.g., education funding and the loss of data related to a student's free or reduced-price status) and to increase outreach to schools, particularly those with limited resources, which too often includes schools that serve communities of color.

7. Does USDA currently collect information, use forms, or require documentation that impede access to USDA programs or are not effective to achieve program objectives? If so, what are they and how can USDA revise them to reduce confusion or frustration, and increase equity in access to USDA programs?

7.A. School meals applications can act as a barrier to participation.

Language, literacy barriers, and some of the required questions can limit participation. One strategy to support better and broader outreach is to allow state child nutrition agencies to assist with the application process by using a statewide application that any family in the state can complete. This would make it easier for grassroots and faith- and community-based organizations, and other trusted messengers, to assist families in submitting school meal applications. A statewide application also would help ensure that families have access to a school meals application in the appropriate language.

7.B. The paperwork required in order to operate more than one child nutrition program can impede participation. For example, schools and Summer Food Service Program sponsors are hesitant to provide afterschool meals through CACFP. Previously, USDA has provided opportunities for states to streamline some program requirements, but many states have not implemented these options. Additional technical assistance and encouragement would be incredibly helpful. In addition, Section 9(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(i))⁶¹ requires states to use a single agreement and common claims form (if the state agency houses multiple child nutrition programs). Most states have moved on the single agreement, but more could be done to ensure that states are using a common claims form and to use that flexibility to further ease the operating of multiple programs.

9. Are there data-sharing activities in which USDA agencies should engage, so that repetitive collections of the same data do not occur from one USDA component to the next?

9.A. Increase coordination between the federal nutrition programs and other social safety net programs regarding applications, outreach, and enrollment assistance. Many means-tested programs have significant overlap in eligibility criteria. Despite this, individuals and families enrolled in one program might not be enrolled in another due to burdensome paperwork, lack of awareness, and misinformation. Coordination across programs is critical because individuals often face multiple material insecurities, including income, food, housing, and healthcare.⁶² The history of U.S. slavery, segregation, migration, and social policies has resulted in disproportionately high rates of overlapping insecurities among communities of color.⁶³ For example, most adults and children who qualify for Medicaid, based on income eligibility, also will qualify for SNAP and WIC; however, in 2018, less than half (47 percent) of Medicaid enrollees also participated in SNAP and 54 percent of children under 5 years old who were enrolled in Medicaid also were enrolled in WIC.⁶⁴

Actions

- State agencies should streamline data matching and automatic eligibility.
 - Direct certification: School districts can use income data from Medicaid to identify students for free and reduced-price meals without a separate application. (see response 6.A.)
 - Allow all states to use direct certification for CACFP, using SNAP and other program participation data to establish eligibility for free and reduced-price meals.
 - SNAP, Medicaid, and Temporary Assistance for Needy Families (TANF) provide adjunctive income eligibility for WIC. A recent research brief describes how data sharing and matching with SNAP and Medicaid can be used to increase enrollment in WIC and includes key considerations for executing a data-sharing agreement across programs and agencies.⁶⁵
- Expand access to SNAP through Broad-Based Categorical Eligibility and raising gross income limits. Because other safety net programs use SNAP enrollment, this would increase awareness of and enrollment in other programs.⁶⁶
- Provide adequate funding. Increased collaboration between agencies will require investments in information systems and technical assistance.
- In addition to enrolling participants, collaboration across agencies should be leveraged to enroll providers. For example, child care licensing and subsidy agencies can be recruited to help raise awareness of CACFP, while the U.S. Department of Education can help eligible school districts qualify for the Community Eligibility Provision to offer free school meals to all students.
- Streamline the application process for multiple benefits. Examples include ONE Oregon;⁶⁷ Los Angeles County's YourBenefitsNow! Webpage;⁶⁸ and Your Texas Benefits.⁶⁹

10. How can USDA use technology to improve customer service? Do you have suggestions on how technology or online services can help streamline and reduce regulatory or policy requirements? What are those technological programs or processes and how can USDA use them to achieve equity for all?

10.A. Provide more flexibility in enrollment and recertification. Requiring in-person interviews disproportionately affects individuals and families with fewer resources, including time and access to transportation. Examples of external barriers include less flexible job hours, caretaking responsibilities, and the fear, among immigrant families, of being out in public.

COVID-19 has provided the opportunity to assess the effects of federal waivers that increase flexibility in enrollment and recertification. For example, the WIC program allowed participants to receive benefits remotely and complete enrollment and appointments from a convenient location over the phone. SNAP extended certification periods, waived period reporting requirements due to income changes between recertifications, eliminated telephone and in-person interviews, and allowed telephonic signatures on applications. These waivers have helped increase participation and ease benefit redemption.^{70,71}

FRAC recommends making permanent federal flexibilities during COVID-19 that have reduced barriers for the enrollment and recertification processes, such as allowing video and telephone appointments, and extending recertification periods.

12. What suggestions do you have for how USDA can effectively assess and measure its outreach and inclusion of underserved groups and individuals?

12.A. Use an Indigenous Self-Determination Evaluation Model to develop and assess equity among Indigenous peoples. The Urban Indian Health Institute has collected resources for Indigenous Evaluation in an annotated bibliography included as an attachment to this comment. Key highlights are below.

An Indigenous Evaluation Model includes

- centering the lived expertise of community members whose needs are being addressed so that program design and evaluation reflect their needs and values, rather than relying on external, non-Tribal evaluators;⁷²
- using an assets-based approach, rather than a deficits-based approach, to program evaluation;⁷³ and

- agencies should train Tribal members to be evaluators, researchers, and program staff to “design and implement evaluation on their own.”⁷⁴

12.B. Use sustainable strategies to engage individuals with lived expertise to help improve policies. It is crucial to foster dialogue around program strengths and opportunities for improvement from the perspectives of the diversity of current and past participants, as well as those who have been eligible for programs but never participated. Their expertise should be used to inform why disparities in enrollment or outcomes exist and how to improve policies and procedures. To do so, outreach tools should engage participants in a way that is authentic, values their expertise, and is minimally intrusive. Outreach efforts can be measured by response rates.

One example is soliciting feedback through apps that provide services for program clients. For example, Propel administers an app called “Fresh EBT” that helps SNAP participants monitor their EBT balance, receive important updates about program changes, and access linkages to other resources.⁷⁵ During COVID-19, the app has been used to field surveys to track hardship and access to programs among Fresh EBT users. Survey results can be disaggregated by gender, race, and ethnicity, and are published in reports and shared through monthly webinars hosted by FRAC. This type of rapid survey data could help coordinate efforts between agencies. For example, the May 2021 report found that about one-quarter of Fresh EBT households eligible for the Child Tax Credit will not receive it in July because they did not file their 2020 taxes.⁷⁶

Advocates in Pennsylvania and Georgia have focused on ensuring that WIC parents’ perspectives are heard and inform decisions on how WIC will operate.

- Just Harvest in Pittsburgh, Pennsylvania, works closely with community members, including WIC parents. They provide the parents with advocacy training to empower them to testify at WIC listening sessions and other opportunities.
- In Georgia, the Atlanta Community Food Bank conducted focus groups with WIC parents and parents who are eligible but are not participating. The participants represented the racial and ethnic makeup of eligible families in Georgia. The findings have informed the WIC state agency and a community coalition formed to promote WIC improvements.

Other strategies to solicit participant feedback about programs and inclusion efforts include [periodic summits](#), meetings, listening sessions, and/or task forces.^{77,78,79,80} These organized events provide forums to hear from providers, clients, those likely eligible for programs, and a full range of partners about the facilitators and barriers to participation and success. These efforts should center the needs, feedback, and leadership of individuals with lived expertise and employ a racial equity framework.⁸¹ Key findings and actions can be summarized and widely distributed at the regional and national level.

12.C. Expand opportunities to engage with policy makers by expanding the use of virtual town halls, listening sessions, and office hours after the pandemic is over. During COVID-19 virtual visits and other forms of engagement

have opened up opportunities to reach underserved communities and can serve as models for engaging program participants. For instance, FRAC's partnering state and local anti-hunger advocates have employed virtual lobby visits where they were able to incorporate advocates with lived expertise to speak to elected officials. In contrast, in-person engagement can have cost-prohibitive barriers (such as transportation, lodging costs, and taking time off work). These barriers prevent those who are experiencing hunger and poverty, and are critical to engage in policy solutions, from participating.

Still, access to virtual engagement must be examined to ensure that it does not have unintended consequences and exacerbate disparities. Virtual engagement should take into account language access and accommodations, like closed captioning, and availability of reliable and high-speed broadband in rural areas to overcome barriers to participation. In-person engagement and other forms of engagement are still important and may be more accessible than virtual participation depending on the community. Agencies should assess the barriers faced by communities and then work to address those barriers to maximize engagement. Public comments, like this solicitation, are also good opportunities, but the comment period should be 90 days in order to allow time for coalitions of community-based organizations and their constituents to respond.

12.D. Increase local agency capacity to track participation and utilization, evaluate progress, and adapt plans to expand access. FRAC recommends comprehensive methods of measuring program performance in order to measure a benefit program's outcomes or whether it has been implemented as intended.

State agencies administering SNAP and WIC can help local agencies maximize caseloads through caseload-based performance standards, tracking tools, and timely data. Local SNAP and WIC agencies can manage caseloads, examine the impact of their work, revise plans, and identify areas of unmet need among underserved populations through a variety of mechanisms. Methods include tracking participation and redemption rates based on demographics and equity indicators, needs assessments through data matching and geographic information services (GIS) mapping, and engaging families representing a variety of racial, ethnic, and other categories of identity in a dialogue.

FRAC is offering WIC as a more detailed example. Local agency caseload management and the need for robust caseload performance standards and monitoring have come under increased scrutiny as participation has declined for several years. To increase participation, it is important for state and local agencies to employ effective methods for maximizing caseloads through caseload-based performance standards, tracking tools, and timely relevant data. State agencies can use the data analytics functions of their management information systems to produce daily, weekly, and monthly data; trends; and analysis for local agencies. Most commonly, state agencies distribute monthly reports to local agencies, but local agencies can be given access to the system to create and download reports. Local agencies need to be empowered, funded, and given the necessary training to undertake effective daily tracking, as well as longer-term tracking, and needs assessment. This can be in partnership with the state agency.

WIC Caseload	WIC Benefit Utilization and Redemption	WIC Caseload and Redemption Analysis: Key Categories and Factors	WIC GIS Mapping
<p>Analyze and track:</p> <ul style="list-style-type: none"> • progress in meeting local agency performance standards for caseload targets; • no-shows; • the number of clients added to the program; • the number of clients exiting the program; and • the number of enrolled but not participating clients 	<p>Analyze and track monthly food benefit utilization/redemption rates, trends, and patterns*:</p> <ul style="list-style-type: none"> • the total value of redeemed and unredeemed WIC benefits; • the number of fully unredeemed monthly benefits; • redemption rates by type of participant and food benefit category; and • redemption by store. <p><i>*States should take advantage of the enhanced redemption data available through EBT.</i></p>	<p>Analyze WIC caseload and redemption data using:</p> <ul style="list-style-type: none"> • WIC categories: pregnant, breastfeeding, and non-breastfeeding postpartum women; and infants and children by age (1 year, 2 years, 3 years, and 4 years old); • equity-related characteristics in the WIC database, including race, ethnicity, income, and zip code; and • other potentially relevant variables available in the database, including the numbers and types of family members participating in WIC and other federal nutrition programs. 	<p>Create GIS maps using:</p> <ol style="list-style-type: none"> 1. WIC data: <ul style="list-style-type: none"> • clinic, store, and participant locations; and • area-level participation and benefit redemptions rates. 2. Equity indicators and metrics, including <ul style="list-style-type: none"> • Census Bureau data on race, ethnicity, poverty, language use, food deserts, unemployment, and health; and • structural drivers of health determinants, e.g., geographic distribution of life expectancy by zip code, rates of community disinvestment, and incarceration rates.⁸²

**Engaging a Diversity of Families in a WIC Dialogue:
State and Local WIC Agencies**

<ul style="list-style-type: none"> • Field WIC satisfaction surveys. • Ask WIC parents to recommend survey questions • Share survey findings <p><i>Survey results should be understood in the context of participants' category, race, ethnicity, and income.</i></p>	<ul style="list-style-type: none"> • Review comments and complaints submitted to WIC and those made on WIC's webpage and social media. • Establish ongoing feedback opportunities through websites/apps and local offices, e.g., "How are we doing?" 	<ul style="list-style-type: none"> • Conduct interviews via phone or in-person. • Conduct focus groups with current WIC recipients and eligible non-participants who represent the diversity of eligible populations. <p><i>Interviewers and facilitators should represent the surveyed group.</i></p>	<ul style="list-style-type: none"> • Host regularly scheduled online conversations. <p><i>At least one of the hosts should be able to communicate in the primary languages spoken in the state or service area.</i></p>	<ul style="list-style-type: none"> • Hold local or regional WIC listening sessions. • Promote opportunities for feedback. • Work with partners to get the word out (advocates can help prepare speakers). <p><i>Sessions can cover many topics, including the State WIC plan.</i></p>
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14. Have you made recommendations for improvement in the past to USDA? If so, please list or attach those recommendations.

FRAC Letters and Comments to the USDA (attached)

- Letter to Secretary Vilsack on Medicaid Direct Certification
- Letter to Secretary Vilsack on community outreach from FRAC and UnidosUS
- Comment to Secretary Vilsack on evaluation of the Thrifty Food Plan
- Memorandum to Deputy Under Secretary Stacy Dean from FRAC and Protecting Immigrant Families on supporting access to SNAP for immigrants
- Comment to FNS on WIC Listening Sessions

Additional recommended resources:

- UIHI annotated bibliography on Indigenous Evaluation (attached)
- Book: *Administrative Burden: Policymaking by Other Means*.⁸³
- Report: *Technology, Data, and Design-Enabled Approaches for a More Responsive, Effective Social Safety Net*⁸⁴

Inquiries regarding this comment should be directed to, Allison Maria Lacko, Senior Nutrition Research and Policy Analyst at alacko@frac.org.

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ALABAMA - Cynthia Brown
cynthiabrown254@gmail.com

ARIZONA - Rebecca
rebeccataylor111@gmail.com

ARIZONA - Maria Lucretia
marialucretia77@outlook.com

ARIZONA - K. Stachhouse
k.stachhouse@yahoo.com

CALIFORNIA - Maria Plata
mplat2018@yahoo.com

COLORADO - Terri Thorton
thortonterri@verizon.net

FLORIDA - Faith Clark
faithclark1984@gmail.com

GEORGIA - Wanda Whitehead
wanda.whitehead@gmail.com

HOUSTON - Isabella Medina
isabella.medina@outlook.com

ILLINOIS - Marilyn Cabral
m Marilyn.Cabral@gmail.com

INDIANA - Marilyn Cabral
m Marilyn.Cabral@gmail.com

KENTUCKY - Natalie Blue
natblue1984@gmail.com

MARYLAND - Loryne Joyce
lorynejoyce@yahoo.com

MICHIGAN - Marilyn Barber
mbarber1961@gmail.com

MINNESOTA - Donnyquist
donnyquist1984@gmail.com

MISSOURI - Tracy Barber
tracybarber1984@gmail.com

NEBRASKA - Nicole Warren
nicolewarren1984@gmail.com

NEVADA - Margot Loring
margotloring1984@gmail.com

NEW JERSEY - Candice Taylor
candice.taylor1984@gmail.com

NEW YORK - Kevin Foster
kevinfoster1984@gmail.com

OHIO - Britany Jones
britanyjones1984@gmail.com

OKLAHOMA - Jessica Fields
jessicafields1984@gmail.com

PENNSYLVANIA - Ms. Paula
paula1984@gmail.com

SOUTH CAROLINA - Lisa Miller
lisamiller1984@gmail.com

TENNESSEE - Ms. Vivian Williams
vivianwilliams1984@gmail.com

Texas - Wanda Lynn
wandalynn1984@gmail.com

UTAH - Julian Gray
juliangray1984@gmail.com

VERMONT - Elizabeth Cogg
elizabethcogg1984@gmail.com

WASHINGTON - Elizabeth Cogg
elizabethcogg1984@gmail.com

March 7, 2022

Chairman David Scott, House Agriculture Committee
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

Co-Chair, Arturo S. Rodriguez, USDA Equity Commission
Rural Community and Economic Development Committee
1400 Independence Ave., SW, Stop 0601
Washington, DC 20250-9821

**Re: RURAL COMMUNITY AND ECONOMIC DEVELOPMENT
COMMITTEE – Minority Women Farmers & Children Equality
Inclusion – 50 Chapters Nationwide**

Dear National Leaders:

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden’s executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant;



1701 N. Martin Luther King Avenue
Oklahoma City, OK 73111
Tel: 405-424-4623
Fax: 405-424-4625
Email: womeninag@gmail.com
URL: www.nwiaa.org
Dr. Tammy Gray-Steele, Director

"Growing Character, Health, & Income from the Ground Up"



3. the Rural Business Enterprise Grant;
4. the Socially Disadvantaged Producers Grant; and
5. Public, Private, Partnerships through Cooperative Agreements per 7 USC 2204b(b)(4).

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

Sincerely,

Dr. Tammy Gray-Steele
Director



- ALABAMA - Cynthia Brown
cynthiabrown250@gmail.com
- ALABAMA - Rebecca
rebeccagall17@gmail.com
- ARIZONA - Maria LaPorte
marialaportefirsttechie@aol.net
- ARIZONA - R. Stackhouse
rstackhouse@yahoo.com
- CALIFORNIA - Maria Parks
mp21051@yahoo.com
- CALIFORNIA - Terri Thornton
tthornton@riversequipment.com
- FLORIDA - Faith Clark
faithclark@gmail.com
- GEORGIA - Nerene Whitehead
nerene.whitehead@gmail.com
- ILLINOIS - Jeanette Briles
jeanettebriles@yahoo.com
- ILLINOIS - Marilyn Catalina
marilyn.g.catalina@gmail.com
- INDIANA - Marilyn Catalina
marilyn.g.catalina@gmail.com
- KENTUCKY - Patricia Blue
bluecreeper@gmail.com
- MARYLAND - Laryssa Joyce
Laryssa.joyce@yahoo.com
- MICHIGAN - Marilyn Barber
mbarber10@hotmail.com
- MINNESOTA - East Hyquist
easthyquist.daniel@yahoo.com
- MISSISSIPPI - Tracy Barber
tracybarber@gmail.com
- MISSISSIPPI - Nicole Vernon
Nicole.Vernon@pilotstatemutual.com
- MISSISSIPPI - Margaret Easley
margareteasley@aol.com
- NEW JERSEY - Sandi Taylor
sanditaylor@sigarcoking@gmail.com
- NEW YORK - Kevin Fudin
kfuadin48@gmail.com
- OHIO - Brittany Jones
brittany.jones4@rockwell.com
- OREGON - Jessica Finde
jessicafinde@yahoo.com
- PENNSYLVANIA - Mr. Poole
hpoole48@gmail.com
- SOUTH CAROLINA - Isaac Miller
isacmiller@yahoo.com
- TENNESSEE - Ms. Vivian Williams
viviawilliams@aol.com
- TEXAS - Mindra Lyons
mindralyons@quakertownassociation@gmail.com
- UTAH - Janel Trax
jtrax12@gmail.com
- WISCONSIN - Elizabeth Cogg
Elizabeth.Cogg@legis.wisconsin.gov



1701 N. Martin Luther King Avenue
Oklahoma City, OK 73111
Tel: 405-424-4623
Fax: 405-424-4625
Email: womeninag@gmail.com
URL: www.nwiaa.org
Dr. Tammy Gray-Steele, Director



March 15, 2022

Dr. Jewel Bronaugh
Deputy Secretary of Agriculture
Co-chair Equity Commission
U.S. Department of Agriculture

Arturo S. Rodríguez
President Emeritus, United Farm Workers
Co-chair, U.S. Department of Agriculture Equity Commission

Docket ID: 2022-03074

**RE: Comments of the Land Trust Alliance on Identifying Barriers in USDA Programs and Services;
Advancing Racial Justice and Equity and Support for Underserved Communities at USDA**

Dear Deputy Secretary Bronaugh and President Emeritus Rodríguez:

On behalf of our approximately 950 member land trusts, the Land Trust Alliance appreciates the opportunity to comment on ways the U.S. Department of Agriculture can advance racial justice and equity as part of its implementation of Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Founded in 1982, the Land Trust Alliance (the Alliance) is a nonprofit corporation and national land conservation organization based in Washington, D.C., that works to save the places people need and love by strengthening land conservation across America. We are the voice of private land conservation, unifying the American ideals premised on landowner empowerment and individual private property rights. Our members have worked with enthusiastic landowners, including farmers, ranchers and foresters, in their communities to conserve more than 61 million acres of land across our country, simultaneously boosting rural economies by helping to keep working lands in working hands.

Land trusts have long been committed partners with the USDA, regularly utilizing Farm Bill programs. We recognize the need to work in partnership to ensure that everyone has the opportunity to engage with the land and benefit from it – regardless of race, ethnicity, gender, gender identity, sexual orientation, socio-economic status, age, physical abilities, religious beliefs, political beliefs, and other dimensions of human diversity. Everyone has a right to connect with land and benefit from it. To that end, the Alliance has increasingly focused on supporting its member land trusts in exploring the myriad ways that conservation can and should better the lives of all people.

The Alliance is committed to supporting land trusts and the USDA in addressing systemic inequity and creating equitable pathways for historically underserved landowners to benefit from USDA programs. We are working with land trusts and the agency to identify and make policy recommendations to reduce barriers to Farm Bill programs. We applaud the creation of the Equity Commission. We were glad to provide brief remarks at the inaugural Commission meeting on February 28 and appreciate the opportunity for continued engagement through future commission meetings.

As the attached demonstrates, there is not equitable access to many federal conservation programs, including those administered by the USDA. We support the Commission's mandate to *"empower USDA to objectively confront the hard reality of past discrimination and its lingering harm; helping USDA build back better, and serve [its] customers more fairly and equitably."* We also encourage the development of accountability mechanisms and tools to build and sustain trust between the USDA and historically underserved landowners and communities.

As the Alliance works with the land trust community and stakeholders to advance our equity efforts, we applaud the agency's focus on this issue and will continue to engage and provide input as appropriate to the USDA and the Commission.

Again, thank you for the opportunity to offer the attached comments. We look forward to working with the Department to advance these important objectives. Please do not hesitate to contact me with questions.

Sincerely,

Lori Faeth
Senior Director of Government Relations
lfaeth@lta.org
(202) 807-8197

Land Trust Alliance responses to select questions in the request for comment on Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA

Customer Experience Questions

6. What are the barriers to applying for loan and grant programs? How can USDA make loan and grant processes easier to understand and more accessible to underserved groups?

- In many instances, underserved groups are not aware of USDA loan or grant programs. We encourage the Department to develop new outreach and education materials with a special focus on ensuring underserved groups have clear and actionable information about the programs that are available to help them conserve land.
- Even when underserved groups are aware of USDA programs, a documented and longstanding lack of trust in the USDA and the federal government is a significant barrier to participation in these programs. From our ongoing experience, developing equitable practices both internally and externally requires the commitment of time and resources. We applaud the USDA's establishment of the Commission and the allocation of dedicated staff to support the Commission's efforts. We encourage ongoing engagement of underserved communities and stakeholders, not only through the quarterly Commission meetings but through multiple forums, including online and in-person platforms and community-based meetings, to improve access and make space for hearing concerns and potential solutions.
- Many underserved communities lack the resources or relationships to hire experts to complete grant applications. We encourage the USDA to provide free technical assistance and training to help overcome this hurdle.

General Questions

4. Are there USDA policies, practices or programs that perpetuate systemic barriers to opportunities and benefits for people of color or other underserved groups? How can those programs be modified, expanded, or made less complicated or streamlined, to deliver resources and benefits more equitably?

- The process to apply for USDA conservation programs, such as the Agricultural Conservation Easement Program, is very complex and cumbersome. In addition, many underserved communities do not have the technology or resources needed to submit applications online. To reduce the complexity of the applications, the USDA should engage representatives of underserved communities in undertaking a complete review and revision of its applications for voluntary conservation programs. In addition, the Department should provide free technical assistance to aid landowners with the application process. Finally, the USDA should identify ways to overcome technology challenges.
- In many instances, underserved landowners own relatively small but important parcels of farm and ranchland, making it hard to compete against landowners with larger parcels for limited program resources. The USDA should increase or establish a percentage of funds dedicated to underserved landowners and communities in Farm Bill conservation programs. Another solution for consideration should be creating a separate unit focused on the unique needs of smaller operation

farmers, such as more USDA-approved mobile slaughter facilities, broadband expansion and health insurance.

- Matching funds create another barrier for underserved landowners to access these programs. The USDA should reduce cost-share requirements for underserved landowners in Farm Bill conservation programs.
- USDA disaster recovery programs should be open to all individuals who can document that they farm so as not to exclude those farmers in an heirs' property situation.
- The county committee structure of the Farm Service Agency perpetuates practices that exclude people of color and other underserved groups. Consider revamping the structure to include more people of color and individuals representing underserved communities on county committees.
- Farmers dealing with heirs' property issues can easily spend \$100,000 to resolve a title issue. While it is admirable that the USDA wishes to help these farmers, structuring assistance as a loan is problematic for smaller operation farmers who may fear taking on such debt, which could lead to financial hardship or foreclosure. We encourage the USDA to develop and expand equitable solutions for heirs' property issues through the engagement of affected communities and experts who are already leading in addressing and resolving these issues.

6. Please describe USDA programs or interactions that have worked well for underserved communities. What successful approaches to advancing justice and equity have been undertaken at USDA that you recommend be used as a model for other programs or areas?

Programs such as the Urban and Community Forest Program, which currently serves 200 million Americans in both underserved rural and urban communities, include diversity, equity and inclusion components. Other examples include the Conservation Stewardship Program and the Environmental Quality Incentives Program which both have special provisions for socially disadvantaged landowners. We encourage the USDA to increase funding for program models that provide realistic and equitable pathways for historically underserved landowners and communities to successfully apply and participate.

**Recommendations to Reduce
Barriers to Participation in USDA
Programs for
Socially Disadvantaged
Farmers and Ranchers (SDFR)**

March 2022

Recommendations to Reduce Barriers to Participation in USDA Programs for SDFR

Background

In response to Executive Order 13985 (E.O.13985) *Advancing Racial Equity and Support for Underserved Communities through The Federal Government* dated January 20, 2021, the Socially Disadvantaged Farmers and Ranchers (SDFR) Policy Research Center (the Policy Center) located at Alcorn State University conducted a review and submitted a “*Barriers to Participation in USDA Programs for SDFR*” to the department for consideration. The report found that overall, there are barriers to participation by SDFR in USDA Programs. Much of what is shown from this report was identified over 30 plus years ago. The work of the agency during the 1990s to address this communities’ needs, as well as the agreements made as part of [Pigford v. Glickman](#) class action lawsuit settlement have not been followed through on and/or has been dropped entirely. Based on a review of USDA Service Center Agency rules, policies, programs as well as subject matter expert interviews, following are the broad categories for barriers to racial equity in program delivery.

ISSUES

Farm Service Agency (FSA)

The barriers to racial equity in program delivery that existed in FSA program pre-[Pigford v. Glickman](#) still exist today. In fact, some would argue that the agency has moved further in the wrong direction when it comes to civil rights and equitable treatment for SDFR.

Organizational Structure and Culture – The FSA County Committee and County Office personnel system has been and continues to function as a “Good Ole Boy” operation. Agency program and personnel regulations, policy, and other guidance are written in a manner that decisions on program delivery, personnel and program participation are made by the local County Committee and those non-Federal (County Office) employees who are hired and accountable to that same County Committee. This system lends itself to selective targeting, nepotism, conflicts of interest, and/or discrimination in agency programs, personnel decisions, as well as program implementation and delivery.

FSA Programs – The programs that Congress authorizes for delivery through FSA have a considerable amount of flexibility in implementation because agriculture is not the same across the national landscape; farming in California is quite different than farming in Maine. Because of the flexibility granted in FSA programs, regulations, policies, and procedures for program implementation are written in a manner that final program delivery decisions are granted to the State or local county office. Thus, County Committees and county office personnel tend to take a more liberal interpretation of the regulations when applied to a “Select Few” farmers, and a very conservative interpretation of regulations when applied to SDFR. This is a perception across all program areas including Farm Loan Program (FLP) loans, Commodity Credit Corporation

(CCC) loans, CCC crop support programs, Conservation Reserve Program (CRP), and other FSA programs.

Civil Rights –For many local FSA County Offices, diversity goals are non-existent. If there are no goals, there is no accountability. Apart from some FSA FLP targeted funds for SDFR, there are no other program/goal requirement for FSA program implementation. As noted earlier in this report, in the 1990s, USDA's own investigations had shown widespread discrimination in the USDA programs implementation. Many of the findings of these investigations still exist today, yet accountability at the agency level or employee level is non-existent.

Natural Resources Conservation Services (NRCS)

NRCS has made efforts to improve access to financial and technical assistance for socially disadvantaged farmers. As examples, the Agency has implemented an advance payment to cover out-of-pocket costs for conservation practices, a higher rate of cost-share and adjustments to some ranking formula calculations to remove size as a factor. However, some barriers remain that challenge equity in program delivery. Those barriers fall into the following categories.

Organizational Structure and Culture – NRCS is a large, decentralized Agency. Guidance is developed and promulgated by the National office, however; State-level leadership has broad authority to address local natural resource issues and priorities. Policy dictates that State leaders cannot further restrict national guidance, but State Conservationists can add special initiatives or give additional weight to practices that address natural resource issues identified by local working groups. Lack of diversity on the local boards or Soil and Water Conservation Districts means that program access for socially disadvantaged and/or minority producers is not addressed. The locally led process leads to inconsistent program implementation across state and sometimes county lines.

Additional challenges that result in racial inequities are due to the *Farm Production and Conservation (FPAC)* reorganization. The procurement, fiscal management, strategic planning, accountability, and human resources functions now reside with the FPAC Business Center. NRCS is no longer able to control its performance management process, its cooperative agreements with partners or its fund management procedures. This hamper the Agency's ability to: make civil rights a priority in performance appraisals, target SDFR organizations for agreement funding or ensure that civil rights reviews are conducted according to Agency priorities.

Program Eligibility – Basic program eligibility for USDA technical and financial assistance begins with the requirement that a producer have a Farm Number as assigned by the USDA, FSA. Other eligibility criteria require documentation of land ownership or decision-making authority that presents challenges for SDFR because of heirs' property issues. Although waivers and alternatives exist in regulations and in NRCS policy, the knowledge of these options is not widespread within the Agency, or the farm community.

Program Ranking Criteria – NRCS develops ranking criteria to determine how to best deliver financial assistance (FA) to producers. Farm Bill rules direct agencies to implement programs

efficiently. Program managers seek to maximize environmental benefits per dollar of FA. This requirement, if not managed properly results in racial inequities.

Rural Development

USDA, Rural Development (RD) manages a number of programs designed to benefit rural communities. Socially disadvantaged producers and communities have more difficulty identifying opportunities, navigating the application process, and meeting application criteria. The barriers to racial equity for Rural Development fall into two categories.

Organizational Structure – USDA, RD has undergone restructuring and reorganization over the past two decades. The net result is a decrease in over 800 offices from the period of 1998 to 2012. <https://www.dvm360.com/view/usda-announces-closure-259-agency-offices> About 450 offices remain. With more than 3300 counties in the United States, these restructuring and consolidation efforts have significantly diminished RD’s presence as a service center level agency and increased the disconnect between RD and agricultural producers.

Outreach and Information – RD is responsible for more than 50 programs within three major areas: Rural Housing, Rural Utilities and Rural Business Cooperative. The programs are difficult to understand, and the applications are overly complex. It is difficult to determine which of the available programs are applicable to individual agricultural producers. With the exception of an “External Affairs” office, there is no centralized unit in place to encourage or develop specific outreach for socially disadvantaged producers.

Civil Rights

Civil Rights – USDA as an agency has not addressed historical civil rights violations. Even with internal—Civil Rights Action Team (CRAT) Report, Operations Reviews and external—Office of Inspector General (OIG), Government Accountability Office (GAO) review procedures in place, findings are not addressed timely, if at all. And, when complaints or findings are identified, the nature of the punitive response is not sufficient to deter future offenses. Training is the punishment of choice. This lack of full accountability for implementing Civil Rights laws exacerbates racial inequities.

Civil rights violations also continue because of inconsistent reporting and definitions. At USDA, Departmental and Agency definitions for “socially-disadvantaged” and historically underserved vary with categories and groups that are included. Beginning and veteran and limited resource are additional labels that can obscure reporting for racial groups within the socially disadvantaged category. Without clarity, it is difficult for the Agency to determine baseline conditions.

RECOMMENDATIONS

I. Recommendations to the US Department of Agriculture

FARM PRODUCTION AND CONSERVATION (FPAC)

When the Farm Production and Conservation (FPAC) Mission Area consisting of the Farm Service Agency (FSA), the Natural Resources Conservation Service (NRCS) and the Risk Management Agency (RMA) was established in 2018, administrative staff from the three agencies was combined into one agency and became known as the ***FPAC Business Center***, which was charged with providing administrative support to the three agencies. The actions taken were not officially approved by Congress and are not in accordance with current Farm Bill authority.

FPAC BUSINESS CENTER

FPAC Business Center –The FPAC Business Center was purported to be a first-of-its-kind organization at USDA, combining the talent of employees from all three FPAC agencies into specialized teams that serve employees and customers across the three agencies. The new business approach was established to help agencies improve operations and efficiency at USDA and boost support for America’s farmers, ranchers, and foresters. The result has been just the opposite—inefficient and ineffective in meeting the needs of producers and other customers.

TYPE OF ISSUE: Procedural

RESPONSIBLE OFFICIAL: Secretary of Agriculture

RECOMMENDATIONS:

- *Reverse the actions taken by the previous administration regarding establishment of the FPAC
 - *This mission area has not received direct funding under current legislation and pulls much needed authorized monies from other program areas. Establish a working group/team to begin dismantle this mission area and return the business activities conducted to pre-FPAC status.**
- *Once resources and funding have been restored to the agencies, fast-track the hiring process for the agencies to obtain the personnel needed to perform these tasks in more efficiently.*
- *Return administrative responsibilities critical for individual agency mission area success, including the processing of Cooperative and Contribution agreements to the respective Agency for processing, in particular the agreements needed by NRCS to conduct its conservation mission, provide technical assistance, and reach SDFR groups.*
- *Return Civil Rights compliance review process to the agencies. Hold Agencies accountable with reporting to the Department.*

FARM SERVICE AGENCY (FSA)

FSA Farm Loan Programs (FLP) – As identified in past reviews, the issue of delays in loan processing time for SDFR was raised. Delayed loan processing or failure to process an SDFR application continues to be an ongoing issue. There are inconsistencies in sending 10-day letters out to applicants, and the items needed to process a “Complete Application”. In addition to the inconsistencies for loan requirements during loan processing, there are inconsistencies once the loan is finally closed.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Administrator, FSA

RECOMMENDATIONS:

- *Review and establish clearly defined policies and procedures that eliminate locally led decisions that may influence who receives agency assistance from established programs.*
- *As reasonably possible, the process of loan programs should be consistent throughout the country. With reductions in County or State flexibility, the agency will reduce possibilities for inconsistencies in the service provided during program implementation.*
- *Update Loan making and servicing policy to include a stronger emphasis on communication to include SDFR on all agency processes, during loan processing as well as loan servicing. Require improved and open communication.*
- *Reinstate Agency civil rights compliance reviews at all levels, National, State, and local county/parish.*

FSA Commodity Credit Cooperation (CCC) Programs – Participation in FSA CCC Programs for SDFR is inconsistent throughout the country. Updating and Establishing Bases for Programs Crops becomes challenging at best for SDFR. FSA CCC Program Outreach Efforts for SDFR is inconsistent throughout the country. Better communication is needed for clarification of Landlord/Tenant Relationships. Although the agency has written policy directives, establishing a Farm Number, the Farm Operator, and/or Farm Ownership for FSA program eligibility is still listed as a major concern for SDFR. Inconsistencies exist in documentation of ownership or lessee requirements.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Administrator, FSA

RECOMMENDATIONS:

- *Review and establish clearly defined policies and procedures that eliminate locally led decisions that may influence who receives agency assistance from established programs.*
- *CCC programs should be consistent throughout the country, with minimum exceptions. With the elimination of the County or State flexibility, the agency will reduce possibilities for inconsistencies in the service provided during program implementation.*
- *Require CCC programs managers and field office personnel to conduct more outreach and make greater efforts in communication to include SDFR on all agency processes, during loan processing as well as loan servicing.*

- *Eliminate County committees from all decisions on eligibility and program base acreage determinations. Standard agency policy should set the data used for these determinations and the formula used should be consistent from producer to producer, and county to county.*
- *Reinstate Agency civil rights compliance reviews at all levels, National, State, and local county/parish.*

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

Outreach and Partnerships -Applications for outreach funds require multi-state, matching funds, approval by State leaders or new type of outreach assistance. A waiver is available should an entity choose to request consideration in the set-aside. SDFR entities are more likely to have limited access to capital and therefore have difficulty meeting these criteria. Effective outreach requires a local, direct approach; therefore, a “multi-state” requirement dilutes true outreach efforts. Further, equitable delivery of USDA Programs requires that information be disseminated, thoroughly, effectively, and consistently. Although requirements for outreach are part of NRCS policy, this requirement is not consistently implemented

Information about program sign-up periods is not clear and is not thoroughly disseminated in SDFR communities. Agency emphasizes online sign-up for program participation and information is shared via State NRCS websites. SDFR do not have the same access to internet--not consistently available in rural communities, and the application requires technically savvy computer users. *Not all local offices emphasize less traditional methods, as required by policy.*

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATIONS:

- *Eliminate the “across the board” requirement for multi-state area of consideration in cooperative or contribution agreements. Effective outreach should be tailored to needs at a local level.*
- *Eliminate the need to request a waiver from the funding match for any SDFR entity.*
- *Establish permanent full-time Outreach Ombudsmen. The position should provide on-the-ground intercession for SDFR in the request for and implementation of technical and financial assistance. The responsibilities for effective outreach go beyond information sharing.*

NRCS PROGRAMS

Environmental Quality Incentives Program (EQIP)

- Conservation Innovation Grants (CIG) require a match by partner organizations as a criterion for eligibility. Community based organizations and historically underserved (HU) entities that apply for CIG do not have networks as robust as non-HU organizations.

- CIG Program grants prohibit use of funds for administrative expenses. Community based organizations and other HU entities that apply for CIG face challenges meeting basic administrative expenses.
- “Abatement” of the requirement for federal match if the entity is HU requires additional approval by the Chief of NRCS or his designee. The “abatement” or waiver of the match requirement is a barrier and the amount of the match waived depends upon the discretion of the Chief of NRCS or his designee.
- Seasonal high tunnel initiative was eliminated. High tunnels or “hoop houses” are structures like greenhouses that extend the growing season for a producer. The initiative would allow vegetable producers to qualify for Financial Assistance for a single practice. Without the initiative, a seasonal high tunnel alone would not generate environmental benefits to qualify for financial assistance.
- Landowners cannot qualify for irrigation practices unless they can document irrigation history. If they cannot, they must request irrigation waiver. Waivers must be granted by the NRCS Chief. Requiring a waiver to get an exception to policy is a barrier. SDFR do not know they have the option/right to REQUEST a waiver. SDFR do not have the required history because they were not able to get assistance in prior years.

TYPE OF ISSUE(S): Administrative Policy
RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATIONS:

- *Delegate the approval of waivers or exceptions regarding SDFR to the State Conservationist **OR** eliminate the requirement for a formal waiver request and automatically grant exceptions to SDFR; especially when current deficiencies are the result of historical, racial, and economic bias, i.e., the inability of SDFR to qualify for irrigation assistance.*
- *Re-institute the Seasonal High Tunnel initiative*
- *Allow SDFR entities to request administrative funds (check statute)*

Agricultural Conservation Easement Program – Wetland Reserve Easements (ACEP WRE)

- Acreage amounts and whether or not those acres are contiguous are part of ranking criteria for easement programs. Requiring contiguous parcels and using size as a criterion limits SDFR participation.
- Easement program requires consideration of landowner financial contribution to restoration as a criterion. SDFR do not have same level of access to capital required to conduct wetland restoration activities in advance of program participation or without assistance.

TYPE OF ISSUE: Administrative Policy
RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATIONS:

- *Develop an exception to the scoring for contiguous acres for SDFR easement applications.*

- *Incorporate benefit calculations on a “per acre” basis instead of totals to improve representation by smaller parcels.*

Agricultural Conservation Easement Program – Agricultural Land Easements (ACEP-ALE)

- Ranking formula criterion biased to size of operation: *“ratio of parcel acres to average farm size.”* Using size as a criterion limits SDFR participation. *Develop an exception to the scoring for contiguous acres for SDFR easement applications.*
- Ranking formula criterion biased against heir property issues: *“farm succession plan in place.”* Heir property issues complicate development of farm succession plans.
- Ranking formula criterion biased against segmented farms: *“maximizing the protection of contiguous parcels”* SDFR operations are more likely to be segmented.

TYPE OF ISSUE: *Administrative Policy*
RESPONSIBLE OFFICIAL: *Chief, NRCS*

RECOMMENDATIONS:

- *Evaluate easement policy and eliminate size requirement or evaluate requirement to eliminate negative impacts to SDFR.*
- *Incorporate benefit calculations on a “per acre” basis instead of totals to improve representation by smaller parcels.*
- *Take advantage of available exceptions to land ownership requirements as allowed by FSA policy.*

Regional Conservation Partnership Program (RCPP) -RCPP agreements require substantial match on the part of eligible entities. Language states “significantly leverage non-federal financial and technical assistance.” Socially Disadvantaged CBOs or other non-profits will not be able to compete effectively with more established, traditional partners.

TYPE OF ISSUE: *Administrative Policy*
RESPONSIBLE OFFICIAL: *Chief, NRCS*

RECOMMENDATION:

- *Eliminate requirement for match for SDFR entities*

Natural Resources Conservation Service (NRCS) Ranking System- Applications for NRCS services are typically ranked in certain “ranking pools” established by the State or National Office. Within these “ranking pools,” there may also be targeted funds.

Due to limited resources, SDFR are usually focused on a specific problem or issue on their farm, Thus, SDFR applications score low when pooled with a farmer who has the resources and applied to complete a suitcase of practices. SDFR are commonly told, your application did not rank high enough to be funded in this funding cycle. Yet, the neighbor farmer that ranked higher may have included practices that are permitted to be completed two or three years down the road.

TYPE OF ISSUE: Administrative Policy
RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATIONS:

- *Allow additional ranking points for SDFR applications, similar to veteran's preference in hiring, "With limited funds, some exceptions or scoring considerations should be given to "Shovel Ready Projects" for SDFR."*
- *Establish additional set aside funding pools that focus on the immediate needs of SDFR.*

Other NRCS Programs - Barriers occur across all NRCS programs that provide technical and financial assistance to agriculture producers.

ISSUE: In order to participate in NRCS financial assistance programs, farmers must have a Farm Number on record with the Farm Service Agency (FSA). Heirs' property issues make clear title and definition of ownership or operating status a problem for SDFR.

TYPE OF ISSUE: Administrative Policy and Legislation
RESPONSIBLE OFFICIAL: Chief, NRCS and Congress

RECOMMENDATIONS:

- *Statute - Allow exception to Farm Number requirement as allowed by the statute.*
- *Policy - Practice payment schedules are based on "typical" practice costs. These amounts will differ from the actual practice costs.*

ISSUE: Higher payment rate is limited to 90 percent. Note that even though a higher rate of cost share (90%) is available for SDFR, the cost estimates may still result in substantial out-of-pocket expenses, a challenge for those with limited access to capital.

TYPE OF ISSUE: Administrative Policy
RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATIONS:

- *Extend the time for implementation. Start the clock after the practice has been implemented in order to allow for weather or vendor delays.*
- *Include addition financial incentives per acre to help encourage vendors to take smaller jobs.*
- *Develop cooperative agreements with SDFR entities who will identify and acquire vendors.*

ISSUE: Applications for financial assistance are complex and difficult to understand. A separate application is required for each program. Complexity is a barrier to SDFR.

The Conservation Assessment and Ranking Tool (CART) used to score and prioritize financial assistance applications is difficult to understand and to explain. A complex ranking tool makes understanding the process more challenging. Therefore, explaining ranking criteria to SDFR so they have access to special opportunities is also harder. Factors such as cost effectiveness, ability

to address multiple resource concerns and site vulnerability limits participation by Black Farmers.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATIONS:

- *Direct program managers to develop a one-page application for financial assistance.*
- *Develop training, include landowner perspective; use landowners to develop FAQs. Set aside funds for SDFR entities to conduct specialized training on NRCS financial assistance.*

ISSUE: Funding pools, particularly set asides, are managed at national levels. Without regional considerations, this can create limits to program participation incentives in areas with higher numbers of minority farmers.

Set-aside funds for special ranking pools are managed as a ceiling.

Although language says "at least" managers reach set-aside limits and feel goal is achieved. Set-aside funds, if not used, are not rolled over at the end of the fiscal year

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATIONS:

- *Delegate management of fund pools to State level.*
- *Increase set asides to a higher rate to accelerate diversity in program delivery*

ISSUE: Locally led conservation consists of a series of phases that involve community stakeholders in natural resource planning, implementation of solutions, and evaluation of results. It is based on the principle that community stakeholders are best suited to deal with local resource problems. Local working groups that inform conservation decisions, particularly the Soil and Water Conservation District Boards and State Technical Committees are typically not diverse.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Chief, NRCS

RECOMMENDATION:

- *Enforce diversity requirements on local boards.*

USDA TECHNICAL ASSISTANCE

USDA Technical Assistance - SDFR are asked to use the services of a third party, Technical Service Provider (TSP) for NRCS or an FSA loan packager for FSA Guaranteed Loans. These services come at a direct cost to the producer. SDFR already typically have limited resources, and this additional cost makes the situation worst. If fully funded, these services should be provided using personnel working through the USDA 2501 program.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Chief, NRCS and Administrator, FSA

RECOMMENDATIONS:

- *Review areas of the country that utilize the services of the of FSA approved loan packagers to process Direct and Guaranteed Loans. The agency should take measures to assist or directly pay these fees in cases of small, limited resource SDFR.*
- *If direct payment of loan packager fee by FSA is not an option, the agency should hire personnel to directly work with limited resource SDFR.*
- *As with FSA, States in NRCS promote the use of Private Contractors to sign up producers in the agency programs, such as Conservation Stewardship Program (CSP) and Environment Quality Incentive Program (EQIP). Review these areas of the country and provide appropriate agency personnel to perform these duties or provide additional monetary assistance to SDFR to cover these third-party processing costs.*
- *Fully fund the USDA 2501 program and provide appropriate training to university employees working through this program. Employees working in this program typically work with SDFR, and with proper training and certifications can be utilized to assist in processing of FSA loan applications and provide technical assistance for NRCS programs.*

RURAL DEVELOPMENT

USDA Rural Development does not emphasize outreach to underserved groups. “*Outreach would increase workload and programs are already ‘oversubscribed’ due to limited funding.*” Applications for RD programs are overly complex. *See Value-Added Product Grants*. SDFR and those who do not traditionally access RD programs have difficulty applying. Criteria include need for a business plan, economic analysis, etc. USDA office closures and reorganizations in 1998, 2012 and in 2018 have consolidated RD and have significantly reduced its visibility as a service center level agency. RD grant and agreement programs require matching resources and, in some cases, specialized skillsets.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL – Under Secretary, RD

RECOMMENDATIONS:

- *Re-evaluate the Agency’s Outreach Efforts in regard to SDFR and the communities being served. Deploy resources in those rural areas that show limited agency activity, but show they have the need for assistance.*
- *Given the number of consolidations and closures that have occurred with RD in the past, cease any other planned streamlining of personnel and offices. In addition, explore new ways to service the communities impacted by past closures.*
- *Join in with agencies such as FSA and NRCS to add funding to 1890 Institutions programs such as the 2501 programs. The agency should provide training to 2501 program personnel, which will enable them to prepare and assist SDFR with RD program applications.*
- *Establish a technical assistance process and funding for SDFR applicants that lack the resources to hire specialized services needed as part of the RD applications.*

Community Facilities Programs - Entities are required to have documented 501(c)3 status in order to be eligible. Community based organizations or entities in the minority serving communities do not have their articles of incorporation or other 501(c)3 criteria in place when applying for assistance.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL – Under Secretary, RD

RECOMMENDATIONS:

- *Provide outreach and program assistance to limited resource communities that continue to struggle meeting criteria for community-based organizations. Require review officials to provide clear and precise reasons for denials.*
- *In situations where applicants are not competing for limited funding, allow applicants to address review officials’ issues, and be encouraged to make an immediate resubmission.*

Rural Housing Service – Single Family Housing - Credit score is a criterion on application for the low interest housing loans. Financial literacy in SDFR communities lag behind the general population. Student loans, even though deferred, are included in debt-to-income ratio calculation for purpose of loan approval. Minority youth are more likely to incur student loan debt.

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL – Under Secretary, RD

RECOMMENDATIONS:

- *In addition to credit score, explore the use of other avenues such as “applicant reference letters,” and “family budgets” as evaluation tools in the test for credit worthiness. These were tools used in the past.*
- *Ensure that student loan debt, which includes the plan of repayment, is not being used to deny a low-income rural housing applicant.*

RISK MANAGEMENT AGENCY

One major component in farming is risk management/crop insurance subsidies. As federal crop insurance subsidies programs have increased, the “subsidy gap” has widened between White and Black farmers. Because crop insurance subsidies are based on the value of a producers’ crop, the larger subsidy premiums go to producers with the highest sales. The vast majority of farmers that receive the highest subsidies are White.

The 2017 USDA Census Report, indicates that slightly over 2,500 Black farmers had product sales for more than \$50,000, compared to 500,000 white producers. Almost 50% (16,891) of all (35,470) Black owned farms had less than \$2,500 in sales. With premium subsidies being linked to the value of the crop, it is a safe estimate that between 95-97% of crop insurance subsidies have gone to white producers. Congress and Congressional committees have an exhaustive record of “turning a blind eye” on decades of discrimination and has crippled the USDA from providing complete transparency. ¹

TYPE OF ISSUE: Administrative Policy

RESPONSIBLE OFFICIAL: Administrators, RMA and FSA,

RECOMMENDATIONS:

- *Require USDA to disclose all subsidy recipients, which includes but is not limited to crop insurance subsidy recipients, race of the recipient.*
- *Require (Noninsured Assistance Program) NAP to provide streamline crop pricing instead of relying on personal history or antidotal data. FSA state committees have the flexibility to use whatever information and data they can find, but they are often hesitant to take advantage of this flexibility and use all information available for fear of a negative audit or other repercussions from USDA headquarters (or Congress). Staff implementing the program at the county and state levels are therefore reluctant to take calculated risks that would result in better assistance to the most vulnerable farmers.*
- *Require NAP to provide trained personnel in all FSA County offices to help assist farmers with the NAP application process.*
- *Require NAP to develop and assess conservation assistance, adoption, and management models for diversified, specialty crop, and/or beginning farmers.*
- *Require NAP to increase payment limitation for assistance from \$125,000 per farmer and close loopholes that hinder SDFR from receiving the full amount of the assistance.*
- *Establish subsidies based on county averages for SDFR to counter the traditionally lower yields that result from historic and systemic discrimination in the agriculture industry.*

¹ 2017 Census of Agriculture, Race/Ethnicity/Gender Profile, USDA National Agricultural Statistics Service. [cpd99000.pdf \(usda.gov\)](#)

CIVIL RIGHTS

USDA Diversity (Programs and Personnel) - Diversity goals for program outreach, program participation, and employee hiring are not clearly defined and identified throughout the USDA agencies. Agencies' program and personnel goals are set at the National Office level and/or State Office level.

TYPE OF ISSUE: Procedural

RESPONSIBLE OFFICIAL(S): Secretary of Agriculture, ASCR and Agency Administrators

RECOMMENDATIONS:

- *Establish clearly defined diversity goals for Programs and Personnel in the Department and within all agencies.*
 - *Set up diversity goals throughout USDA at every level; Departmental, National, State, and local county/parish.*
 - *Make stated diversity goals specific to their area or community--division, department, county, and State. Hold each entity accountable. Achievements in diversity goals in one area of the country should not be used to balance out failure to achieve in other areas of the country.*
- *Update departmental policy and regulations to include specific oversight and evaluations of the civil rights and diversity goals. Identify and implement measures to be taken in the event of non-compliance.*
- *Include Civil Rights compliance in each employee's performance as an independent element, "critical" for Supervisors and Managers.*
- *Limit the role of the ASCR to Civil Rights to compliance and civil rights complaints processing, including civil rights complaint record keeping, intakes, investigations, adjudications, and settlements.*
- *Post progress in processing complaints from intakes, investigations, adjudications, and settlements on the ASCR web site.*
- *Require that the ASCR follow the timetables in its rules and regulations in processing CR complaints. If timetables are not met, complaints should be processed by others (such as EEOC or DOJ).*
- *Once complaints reach the ASCR, limit the role of Agency staff in processing civil rights complaints to fact finding.*
- *Conduct 10 or more field compliance reviews each year.*
- *Implement the 2008 Farm Bill requirements for reporting program services at the local level by race and gender.*

II. Recommendations to Congress/Farm Bill Legislation

U. S. DEPARTMENT OF AGRICULTURE (USDA)

Use of the term “Socially Disadvantaged Farmers and Ranchers (SDFR) – Many minority farmers take exception and some take offense to the use of the term SDFR to describe “a group of individuals whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.” While these farmers agree that they have been subjected to racial and/ or ethnic discrimination, they do not consider themselves as “socially disadvantaged”. There was not a current term that was acceptable to minority farmers, as a group, including *historically underserved producers* or *limited resource farmers*. The concern with use of the term *historically underserved producers* is that the term is too broad. Most of the population (80% or more) with the exception of a few white males would be included. There would not be targeted support based on the history of discrimination.

The preference is for the group to be identified by their racial or ethnic category, such as 1) Black, 2) Latino, 3) Native American or American Indian, and 4) Asian American Farmers. The reason for this distinction is that none of the groups of minority farmers have a shared history/ experience of discrimination. Native American or American Indian Farmers have a history of premium land being stolen from them. Black Farmers have a history of slavery and continued racial injustices. Latino Farmers have a history as migrant workers. This is highlighted because what typically occurs is that the history of Black Farmers is often used as background information for proposed resolutions for all categories of minorities. The desired resolutions and priorities are often very different.

TYPE OF ISSUE: Legislative-- Farm Bill

RESPONSIBLE OFFICIAL: Congress

RECOMMENDATIONS:

- *Eliminate use of the term **Socially Disadvantaged Farmers and Ranchers** to describe “a group of individuals whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.”*
- *When referring to minority farmers, use the appropriate socially defined term for race or ethnic origin, i.e., Black Farmers, Latino Farmers, Native American Farmers, etc., where appropriate to define the targeted services that you are proposing.*

FARM SERVICE AGENCY (FSA)

The Farm Service Agency (FSA) County Committee and the County Office Employee System – The FSA County Committee and county office employees who are not Federal employees are perceived as agents of discrimination. Historically, this system has been the source of documented discriminatory practices at USDA. Minority Advisors who serve on the FSA County Committee have no decision authority. FSA State and County Committees have outlived their usefulness.

TYPE OF ISSUE: Legislative-- Farm Bill
RESPONSIBLE OFFICIAL: Congress

RECOMMENDATIONS:

- *Eliminate the FSA County Committee System. Transfer functions performed by County Office employees to a full Federal system. Include new legislation and language that clearly defines the roles and responsibilities of all employees impacted by the change. Require that all FSA employees, specifically those transferring from the County Office system to adhere to all the performance, hiring, and diversity standards required for current Federal employees.*
- *Remove all County Committee decision authority for program eligibility and require new Federal employees to process Agency programs in accordance with appropriate policy standards as guided by Statute.*
- *If Congress deems County Committees are retained under a new Federal system, these committees should serve as Program advisors, only. They shall not be involved in personnel matters, including hiring and employee performance reviews.*
- *Conduct Program compliance reviews and Civil Rights Compliance reviews under the new System in accordance with Federal Statute.*

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

ISSUE: Higher payment rate is limited to 90 percent on Agency program implementation. Note that even though a higher rate of cost share (90%) is available for SDFR, the cost estimates may still result in substantial out-of-pocket expenses, a challenge for those with limited access to capital, disproportionately SDFR.

TYPE OF ISSUE: Legislation
RESPONSIBLE OFFICIAL: Congress

RECOMMENDATION(S):

- *Allow SDFR cost-share to be 90% of actual versus payment schedule average*

ISSUE: *Conservation Stewardship Program Threshold* -The Conservation Stewardship Program (CSP) helps agricultural producers maintain and improve their existing conservation systems and adopt additional conservation activities to address priority resource concerns. CSP pays participants for conservation performance—the higher the performance, the higher the payment. Meeting the stewardship threshold requires a producer to demonstrate that certain types of conservation practices are already in place. For SDFR who have been historically denied access to USDA assistance, this threshold is a barrier.

TYPE OF ISSUE: Legislation
RESPONSIBLE OFFICIAL: Congress

RECOMMENDATIONS:

- *Solicit input from SDFR and other conservation partners on alternatives to the current stewardship threshold.*

- *Analyze CRP program participation to document deficiencies for SDFR enrollment. Require program managers to interpret “stewardship” threshold more broadly in order to encourage participation by SDFR.*

**Recommendations to Reduce Barriers to Participation
in USDA Programs for Socially Disadvantaged Farmers and Ranchers (SDFR)
January 2022**

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
USDA	Departmental Policy and Process		Secretary of Agriculture	The Secretary of Agriculture should immediately begin reversing the actions taken by the previous administration regarding establishment of the FPAC.	High	High
USDA	Departmental Policy and Process		Secretary of Agriculture	The FPAC mission area does not receive direct funding under current legislation and pulls much needed authorized monies from other program areas. The Secretary should immediately set up a working group and team to begin dismantling this mission area and return the business activities conducted to pre-FPAC status.	Medium	Low
USDA	Departmental Policy and Process		Secretary of Agriculture	Once all FPAC resources and funding have been restored to the agencies impacted, the Department should fast-track the hiring process for the agencies to obtain the personnel needed to perform these tasks in more efficient manner.	High	Low
USDA	Departmental Policy and Process		Secretary of Agriculture	All cooperative and contribution agreements, critical for individual agency mission area success, should be returned to the agency for processing, in particular the agreements needed by NRCS to carry out its conservation mission, provide technical assistance, and reach SDFR groups.	High	High

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
USDA	Departmental Policy and Process	Civil Rights	Secretary of Agriculture	Civil Rights compliance reviews shall be a process conducted internally by agencies and reported to the Department. Accountability should be at the agency level.	High	Low
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	The Secretary of Agriculture must establish clearly defined diversity goals for Programs and Personnel in the Department and within all agencies.	High	Medium
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	The USDA diversity goals must be set up throughout the entire Department and agencies at every level; National, State, and local county/parish.	High	Medium
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	All divisions, departments, counties, and State must have stated diversity goals specific to their area or community. Agencies should not be permitted to utilize over-achievements in diversity goals in certain areas of the country to balance out the under achievements of other areas.	High	Medium
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	Departmental policy and regulations must include specific oversight and evaluations of the civil rights and diversity goals. The Secretary must identify and implement measures that will be taken for non-compliance.	High	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	Civil Rights compliance must be included in each employee's performance as an independent element, "critical" for Supervisors and Managers.	Medium	Low
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	The Secretary should limit the role of the ASCR to Civil Rights compliance and civil rights complaints processing; which should include civil rights complaint record keeping, intakes, investigations, adjudications, and settlements.	Medium	Low
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	The ASCR web site should post progress in processing complaints from intakes, investigations, adjudications, and settlements. ASCR should be required to follow the timetables in its rules and regulations in processing CR complaints. If timetables are not met, the complaints should be taken from ASCR and processed by others (EEOC or DOJ or others).	High	Medium
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	USDA agencies should have a limited role in processing civil rights complaints once the complaints reach the ASCR. Agency role should be limited to fact finding.	Medium	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	The ASCR should be required to conduct ten or more field compliance reviews each year.	High	Low
USDA	Departmental and Administrative Policy	Civil Rights	Secretary of Agriculture, USDA Office of Civil Rights and Agency Administrators	The Secretary should implement the 2008 Farm Bill requirements for reporting program services at the local level by race and gender.	High	Low
All/FSA	Legislation		Congress	The Secretary of Agriculture and Administrator of FSA should immediately review current authorizations and begin preparing legislation for the next Farm Bill that includes the dismantling of the FSA County Committee System and the conversion of County Office employees to a full Federal system. The new legislation must include requirements and transformation language that clearly defines the roles and responsibilities of all employees impacted by the change. And the new system must require all FSA employees, specifically those transferring from the County Office system, to adhere to all the performance, hiring, and diversity standards required for current Federal employees.	High	High

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
FSA/All	Legislation		Congress	The legislation must remove all County Committee decision authority for program eligibility and require new Federal employees to process Agency programs in accordance with appropriate policy standards as guided by Statute.	High	Medium
FSA	Legislation		Congress	If Congress deems County Committees are to be retained under a new Federal system, these committees should serve as Program advisors, only. County Committees shall not be involved in personnel matters, including hiring and employee performance reviews nor individual program eligibility determinations and approvals.	High	High
All	Legislation	All	Congress	Program compliance reviews and Civil Rights Compliance reviews shall be conducted under the new System in accordance with Federal Statute.	High	Low
NRCS	Legislation	EQIP	Congress	Allow SDFR cost-share to be 90% of actual versus payment schedule average.	Medium	Medium
NRCS	Legislation	CSP	Congress	The Chief of NRCS should solicit input from SDFR and other conservation partners on alternatives to the current stewardship threshold.	Medium	Low
NRCS	Legislation	CSP	Congress	The Chief of NRCS should provide requisite analysis of CSP program participation to show deficiencies for SDFR enrollment.	Medium	Low
NRCS	Legislation	CSP	Congress	The Chief of NRCS should require program managers to interpret “stewardship” threshold more broadly in order to encourage participation by SDFR.	High	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
FSA	Policy	FLP CCC	FSA Administrator	The Administrator FSA should immediately review and establish clearly defined policies and procedures that eliminate locally led decisions that may influence who receives agency assistance from established programs.	High	Medium
FSA	Policy	FLP	FSA Administrator	As reasonably possible, the process of farm loan programs should be consistent throughout the country. With the elimination of the County or State flexibility, the agency will reduce possibilities for inconsistencies in the service provided during program implementation.	High	High
FSA	Policy	FLP	FSA Administrator	Loan making and servicing policy should be updated to include a stronger emphasis on communication to include SDFRs on all agency processes, during loan processing as well as loan servicing. Better and open communication shall be required.	High	Low
FSA	Policy	Civil Rights	FSA Administrator	Agency civil rights compliance reviews shall be reinstated at all levels, National, State, and local county/parish.	High	Low
FSA	Policy	CCC	FSA Administrator	As with FLP program, the Administrator FSA should immediately review and establish clearly defined policies and procedures that eliminate locally led decisions that may influence who receives agency assistance from established programs.	Medium	High

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
FSA	Policy	CCC	FSA Administrator	CCC programs should be consistent throughout the country, with minimum exceptions. With the elimination of the County or State flexibility, the agency will reduce possibilities for inconsistencies in the service provided during program implementation.	High	High
FSA	Policy	CCC	FSA Administrator	CCC programs managers and field office personnel must be required to conduct more outreach and make greater efforts in communication to include SDFRs on all agency processes, during loan processing as well as loan servicing.	High	Low
FSA	Policy	CCC	FSA Administrator	County committees should be eliminated from all decisions on eligibility and program base acreage determinations. Standard agency policy should set the data used for these determinations and the formula used should be consistent from producer to producer, and county to county.	High	High
FSA	Policy	Civil Rights	FSA Administrator	Agency civil rights compliance reviews shall be reinstated at all levels, National, State, and local county/parish.	Medium	Low
NRCS	Policy		Chief, NRCS	The Chief of NRCS should eliminate the “across the board” requirement for multi-state area of consideration in cooperative or contribution agreements. Effective outreach should be tailored to needs at a local level.	High	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
NRCS	Policy		Chief, NRCS	The Chief of NRCS should eliminate the need to request a waiver from the funding match for any SDFR entity.	High	Low
NRCS	Policy		Chief, NRCS	The Chief of NRCS should establish permanent full-time Outreach Ombudsmen. The position should provide on-the-ground intercession for SDFR in the request for and implementation of technical and financial assistance. The responsibilities for effective outreach go beyond information sharing.	High	Medium
NRCS	Policy	EQIP	Chief, NRCS	Delegate the approval of waivers or exceptions regarding SDFR to the State Conservationist OR eliminate the requirement for a formal waiver request and automatically grant exceptions to SDFR; especially when current deficiencies are the result of historical, racial, and economic bias, i.e., the inability of SDFR to qualify for irrigation assistance.	Medium	Low
NRCS	Policy	EQIP	Chief, NRCS	Re-institute the Seasonal High Tunnel initiative	High	Low
NRCS	Policy	EQIP	Chief, NRCS	Allow SDFR entities to request administrative funds (check statute).	High	Low
NRCS	Policy	ACEP-WRE	Chief, NRCS	Develop an exception to the scoring for contiguous acres for SDFR easement applications.	High	Low
NRCS	Policy	ACEP-WRE	Chief, NRCS	Incorporate benefit calculations on a “per acre” basis instead of totals to improve representation by smaller parcels.	High	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
NRCS	Policy	ACEP-ALE	Chief, NRCS	Evaluate easement policy and eliminate size requirement or evaluate requirement to eliminate negative impacts to SDFR.	High	Medium
NRCS	Policy	ACEP-ALE	Chief, NRCS	Incorporate benefit calculations on a “per acre” basis instead of totals to improve representation by smaller parcels.	High	Low
NRCS	Policy	ACEP-ALE	Chief, NRCS	Take advantage of available exceptions to land ownership requirements as allowed by FSA policy.	High	Low
NRCS	Policy	RCPP	Chief, NRCS	Eliminate requirement for match for SDFR entities	High	Low
NRCS	Policy	Program Ranking	Chief, NRCS	Allow additional ranking points for any SDFR application, similar to veteran’s preference in hiring, “With limited funds, some exceptions or scoring considerations should be given to “Shovel Ready Projects” for SDFR.”	High	Medium
NRCS	Policy	Program Ranking	Chief, NRCS	Establish additional set aside funding pools that focus only on some of the immediate needs of the SDFRs.	Medium	Medium
NRCS	Legislation		Congress	Statute - Allow exception to Farm Number requirement for program participation as allowed by the statute.	High	Low
NRCS	Policy	EQIP CSP	Chief, NRCS	Policy - Practice payment schedules are based on "typical" practice costs. These amounts will differ from the actual practice costs. Use “actual” for SDFR.	High	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
NRCS	Policy	EQIP CSP	Chief, NRCS	Extend the time for practice implementation. Start the clock after the practice has been implemented in order to allow for weather or vendor delays.	High	Low
NRCS	Policy	EQIP CSP	Chief, NRCS	Include addition financial incentives per acre to help encourage vendors to take smaller jobs.	High	Medium
NRCS	Policy	EQIP CSP	Chief, NRCS	Develop cooperative agreements with SDFR entities who will identify and acquire vendors to help with practice implementation.	High	Low
NRCS	Policy		Chief, NRCS	Direct program managers to develop a one-page application for financial assistance.	High	Medium
NRCS	Policy	EQIP CSP	Chief, NRCS	Develop training, include landowner perspective; use landowners to develop FAQ. Set aside funds for SDFR entities to conduct specialized training on NRCS financial assistance.	Medium	Low
NRCS	Policy		Chief, NRCS	Delegate management of fund pools to State level.	Medium	Low
NRCS	Policy	EQIP CSP	Chief, NRCS	Increase set asides to a higher rate to accelerate diversity in program delivery	High	Low
NRCS	Policy		Chief, NRCS	Enforce diversity requirements on local boards.	High	Medium
FSA	Policy	FLP	FSA Administrator	The Administrator, FSA should immediately review areas of the country that utilize the services of the of FSA approved loan packagers to process Direct and Guaranteed Loans. The agency should take measures to assist or directly pay these fees in the cases of many small, limited resource SDFRs.	High	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
FSA	Policy	FLP	FSA Administrator	If direct payment of loan packager fee by FSA is not an option, the agency should provide States with appropriate resources to hire sufficient personnel to directly work with limited resource SDFRs.	High	Low
NRCS	Policy	EQIP CSP	Chief, NRCS	As with FSA, some States in NRCS promote the use of Private Contractors to sign up producers in the agency programs, such as Conservation Stewardship Program (CSP) and Environment Quality Incentive Program (EQIP). The Chief, NRCS must review these areas of the country and provide appropriate agency personnel to perform these duties or provide additional monetary assistance to SDFRs to cover these third-party processing costs.	High	Low
FSA NRCS	Policy		Chief, NRCS FSA Administrator	The Administrator, FSA and the Chief, NRCS should fully fund the USDA 2501 program and provide appropriate training to university employees working Employees working in this program typically work with SDFRs, and with proper training and certifications can be utilized to assist in processing of FSA loan applications and provide technical assistance for NRCS programs, through this program.	Medium	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
RD	Policy		Under Secretary, RD	The Under Secretary, RD should re-evaluate the Agency's Outreach Efforts regarding SDFRs, and the communities being served. Resources must be deployed in those rural areas that show limited agency activity, but clearly show have the need for assistance.	High	Low
RD	Policy		Under Secretary, RD	The Under Secretary, RD should establish a technical assistance process and funding for SDFR applicants that lack the resources to hire some of specialized services needed as part of the RD applications.	High	Medium
RD	Policy		Under Secretary, RD	Given the number of consolidations and closures that have occurred with RD in the past, the Under Secretary, RD should cease any other planned streamlining of personnel and offices. In addition, explore new ways to service the communities impacted by past closures.	Medium	Medium
RD	Policy		Under Secretary, RD	The Under Secretary, RD should join in with agencies FSA, and NRCS to add funding to 1890 Institutions programs such as the 2501 programs. The agency should provide training to 2501 program personnel, which will enable them to prepare and assist SDFRs with RD programs applications.	High	Medium

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
RD	Policy	RHS-Single Family Housing	Under Secretary, RD	In addition to credit score, the Under Secretary, RD must explore the use of other avenues such as “applicant reference letters,” and “family budgets” as evaluations tools in the test for credit worthiness. These were tools used in past.	High	Low
RD	Policy	RHS-Single Family Housing	Under Secretary, RD	The Under Secretary, RD should ensure that student loan debt, which includes the plan of repayment, is not being used to deny a low-income rural housing applicant.	High	Low
RMA	Policy		Secretary of Agriculture	Require USDA to disclose all subsidy recipients, which includes but not limited to crop insurance subsidy recipients, race of the recipient.	Medium	Low
RMA	Policy		Administrators, RMA and FSA	Require (Noninsured Assistance Program) NAP to provide streamlined crop pricing instead of relying on personal history or antidotal data. In many circumstances, FSA state committees have the flexibility to use whatever information and data they can find, but they are often hesitant to take advantage of this flexibility and use all information available for fear of a negative audit or other repercussions from USDA headquarters (or Congress). Staff implementing the program at the county and state levels are therefore reluctant to take some calculated risks that would result in better assistance to the most vulnerable farmers.	High	Low

Agency/Sub-Agency	Change	Program	Responsible Official	Recommendation	Effectiveness of Recommendation	Difficulty of Implementation
RMA	Policy		Administrators, RMA and FSA	Require NAP to provide trained personnel in all FSA County offices to help assist farmers with the NAP application process.	High	Low
RMA	Policy		Administrator, RMA	Require NAP to develop and test conservation assistance, adoption, and management models for diversified, specialty crop, and/or beginning farmers.	Medium	High
RMA	Policy		Administrator, RMA	Require NAP to increase payment limitation for assistance from \$125,000 per farmer and close loopholes that hinder SDFR from receiving the full amount of the assistance.	High	High
RMA	Policy		Administrators, RMA and FSA	Establish subsidies based on county averages for SDFR to counter the traditionally lower yields that result from historic and systemic discrimination in the agriculture industry.	High	Medium

Glossary

ASCR – Associate Secretary for Civil Rights

CSP – Conservation Stewardship Program

DOJ – Department of Justice

EEOC – Equal Employment Opportunity Commission

EQIP – Environmental Quality Incentives Program

FPAC – Farm Production and Conservation

FSA – Farm Service Agency

NAP – Noninsured Assistance Program

NRCS – Natural Resources Conservation Service

RD – Rural Development

RHS – Rural Housing Service

RMA – Risk Management Agency

SDFR – Socially Disadvantaged Farmers and Ranchers

USDA – United States Department of Agriculture

03-14-2022

**RURAL COMMUNITY AND ECONOMIC DEVELOPMENT
COMMITTEE**

EQUITYCOMMISSION@USDA.GOV

TO: Chairman David Scott, House Agriculture Committee
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission
Rural Community and Economic Development Committee
1400 Independence Ave., SW, Stop 0601
Washington, DC 20250-9821

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the

underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant;
3. the Rural Business Enterprise Grant;
4. the Socially Disadvantaged Producers Grant; and
5. Public, Private, Partnerships through Cooperative Agreements per 7 USC 2204b(b)(4).

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

Sincerely,



Carol A. Black

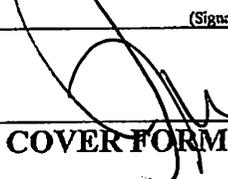
UNITED STATES DEPARTMENT OF AGRICULTURE RESEARCH AGREEMENT		TYPE OF RESEARCH AGREEMENT Cooperative Research and Development Agreement	
AGENCY (Name and Address) Agricultural Research Service 1400 Independence Avenue SW Washington, D.C. 20250-0302		AGREEMENT NO. 58-2030-6-033	TYPE OF ACTION New
		PERIOD OF AGREEMENT 07/15/2016 through 07/14/2018	
		FEDERAL OBLIGATION \$ 0	CHANGE IN FEDERAL OBLIGATION

This Agreement is authorized by the Federal Technology Transfer Act, and 15 USC 3710a, *et seq.*, and is governed by its terms.

Items	Descriptions
1. Technology Transfer Coordinator	David Nicholson
2. Cooperator	Agri-Tech Producers, LLC 116 Wildewood Club Court Columbia, SC 29223
3. Cooperator	Joseph J. James President & CEO
4. USDA Laboratory	USDA, ARS, PWA Bioproducts Research Unit 800 Buchanan Street Albany, CA 94710
5. Principal Investigator (PI)	William Orts
6. National Program Leader & Area	Gene Lester, NP
7. Accounting Code	
8. Amount	\$40,000.00
9. Finance Office	Budget & Fiscal Office USDA, ARS 800 Buchanan Street Albany, CA 94710
10. Project No.	2030-41000-054-09-C
11. Title of Project (CRADA Title)	Application of Torrefied Biomass to Commodity Plastics to Improve Mechanical Properties and Its Commercial Potential
12. Log # (Incoming Agreement Log #)	59165

Incorporated into this Agreement are the Following:

1. Articles
2. Schedule 1 - Certifications
3. Schedule 2 - Statement of Work
4. Schedule 3 - Estimated Budget

FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE	
SIGNATURE 	TYPED NAME AND TITLE ROBERT J. GRIESBACH Deputy Assistant Administrator
FOR THE COOPERATOR <small>(Signature of person(s) authorized by the governing body of the COOPERATOR to incur contractual obligations)</small>	
SIGNATURE 	TYPED NAME AND TITLE JOSEPH J. JAMES President & CEO

OTT COVER FORM

ARTICLES

Article 1. Definitions

- 1.1 ARS means the United States Department of Agriculture, Agricultural Research Service.
- 1.2 COOPERATOR means Agri-Tech Producers, LLC and its operating affiliates, including ATP-CA, LLC; ATP-MD, LLC; and ATP-SC, LLC.
- 1.3 Agreement means this Cooperative Research and Development Agreement.
- 1.4 Confidential Information means trade secrets or commercial or financial information that is privileged or confidential under the meaning of 5 USC 552(b)(4).
- 1.5 Subject Invention means any invention or other intellectual property conceived or first reduced to practice under this Agreement which is patentable or otherwise protectable under Title 35 of the United States Code, under 7 USC 2321, et seq., or under the patent laws of a foreign country. *Specifically not included in the definition of Subject Inventions are inventions made outside the Scope of Agreement or prior to the execution of this Agreement.*

COOPERATOR inventions outside the scope of the CRADA include its patent-pending Combined Remediation Biomass and Bio-Product Production (CRBBP) Process PCT Application No. PCT/US2015/171570, which can lower the cost of biomass and the resulting end-products; and its license of an innovative and patented torrefaction technology from North Carolina State University under US Patent No. 8,304,590 titled "Autothermal and mobile torrefaction devices", which converts biomass into a charred, brittle and friable substance.

- 1.6 Scope of Agreement means those activities set forth in Schedule 2, entitled "Statement of Work."
- 1.7 Period of Agreement means that period set forth under the Period of Agreement on the ARS Office of Technology Transfer cover form for the Agreement.

Article 2. Publications

- 2.1 Subject to the requirements of confidentiality and preservation of rights in Subject Inventions, either party may publish the results of this Agreement, PROVIDED:
 - a. The other party is allowed to review the manuscript at least sixty (60) days prior to submission for publication by submission to the Authorized Agent.
 - b. The publication shall acknowledge this Agreement and the contributions of each party's personnel.

- c. The final decision as to the publication content rests with the party that writes the publication.
- 2.2 Publication and/or other disclosure of the results of this Agreement shall be delayed as necessary to preserve both United States of America and foreign patent rights in a Subject Invention.
 - a. Such a delay will only be granted if requested in writing; and
 - b. The requesting party demonstrates promptness and diligence in seeking patent protection on the Subject Invention.

Article 3. Confidentiality

- 3.1 Confidential Information, which is owned by one party to this Agreement and disclosed to the other, shall be labeled "CONFIDENTIAL" by the submitter and shall not be disclosed by the recipient without permission of the owner, EXCEPT in accordance with Article 2.
- 3.2 To the extent either party orally submits its Confidential Information to the other party, the submitting party will prepare a document marked "CONFIDENTIAL" embodying or identifying in reasonable detail such orally submitted Confidential Information and provide the document to the other party within thirty (30) days of disclosure.
- 3.3 Neither party shall be bound by confidentiality if the Confidential Information received from the other party:
 - a. Already is available to the public or known to the recipient;
 - b. Becomes available to the public through no fault of the recipient; or
 - c. Is nonconfidentially received from another party legally entitled to it.
 - d. ARS developed the material/information independently.

Article 4. Meetings, Reports and Records

- 4.1 Frequent and effective communication is essential to the successful accomplishment of the objectives of this Agreement. To this end, the scientific representatives of ARS and COOPERATOR shall meet (meetings need not be in person if agreed upon) at least once every six (6) months to exchange results, perform critiques, and make plans and recommendations. Written progress reports (at the agreement of both parties) shall be supplied by each party to the other.
- 4.2 Any such plan or recommendation that is outside the Scope of Agreement shall be reduced to writing and referred to the Authorized Agent of each party for appropriate action. Any such plan or recommendation so referred shall not be binding upon either party unless incorporated into this Agreement by written amendment.

- 4.3 Each party shall keep complete records relating to this research. All such records shall be available for inspection by either party at reasonable times. The records, or true copies of them, shall be delivered to either party upon request.
- 4.4 The results of this Agreement and research data that are collected, compiled, and evaluated under this Agreement shall be shared and mutually interchanged by COOPERATOR and ARS.
- 4.5 A final report summarizing all data shall be submitted by each party, separately or jointly, to both party's Authorized Agents within sixty (60) days of the completion of this Agreement.

Article 5. Research Exclusion

- 5.1 The results of this Agreement owned or co-owned by the U.S. Government may be made available to others by ARS for bona fide research purposes if:
 - a. Confidentiality is not breached; or
 - b. Patent or Plant Variety Protection Certificate rights are not compromised.
- 5.2 Plants and animals, their genetic material or information relating thereto, or parts thereof, covered by Plant Variety Protection Certificates, Plant Patents, or Utility Patents, owned or co-owned by ARS, may be made available by ARS to third parties for bona fide research purposes including the development of new animals or plants.

Article 6. Ownership of Inventions

- 6.1 All rights, title, and interest in any Subject Invention made solely by employee(s) of ARS shall be owned by ARS.
- 6.2 All rights, title, and interest in any Subject Invention made jointly by at least one (1) employee of ARS and at least one (1) employee of COOPERATOR shall be jointly owned by ARS and COOPERATOR.
- 6.3 All rights, title, and interest in any Subject Invention made solely by employees of COOPERATOR shall be owned by COOPERATOR.

Article 7. Subject Invention Licenses

- 7.1 COOPERATOR is granted an option to negotiate an exclusive license in each Subject Invention owned or co-owned by ARS for one or more field(s) of use encompassed by the Scope of Agreement. This license shall be consistent with the requirements of 35 USC 209(a), 209(b) (manufactured substantially in the U.S.), and 209(f) and other such terms and conditions as may be reasonable under the circumstances, as agreed upon through good faith negotiations between COOPERATOR and ARS.

- 7.2 This option shall terminate whenever COOPERATOR fails to:
- a. Submit a complete application for an exclusive license within sixty (60) days of being notified by ARS of an Invention's availability for licensing; or
 - b. Submit a good faith written response to a written proposal of licensing terms within sixty (60) days of such proposal.
- 7.3 COOPERATOR grants ARS, on behalf of the U.S. Government, a royalty free, nonexclusive, worldwide, irrevocable, nontransferable license for any COOPERATOR solely owned Subject Invention. The purpose of this license shall be to practice the Subject Invention or have it practiced, by or on behalf of the U.S. Government, for research or other U.S. Government purposes. 15 USC 3710a(b)(2).

Article 8. Subject Invention Information

- 8.1 The Authorized Agents or designees of each party shall promptly make written disclosure to each other of each Subject Invention.
- 8.2 This information shall be treated in confidence by the receiving party, EXCEPT: it may be shared with those having a need to know.
- 8.3 Each party shall provide, when requested by the other, all information in its possession, or true copies thereof, pertaining to a Subject Invention which may be necessary or useful in the preparation, filing, and prosecution of patent or Plant Variety Protection Certificate applications covering the Subject Invention.

Article 9. Intellectual Property Protection Applications

- 9.1 ARS and COOPERATOR agree to cooperate with the other in the preparation, filing, and prosecution of Patent or Plant Variety Protection Certificate applications on Subject Inventions in the United States of America and any other country.
- 9.2 ARS shall provide COOPERATOR'S Authorized Agent or their designee with a copy of any such application on a Subject Invention within fourteen (14) calendar days of filing.
- 9.3 ARS shall have the first option to prepare and prosecute patent or Plant Variety Protection Certificate applications on Subject Inventions that are owned or co-owned by the U.S. Government, which option may be waived in whole or in part.

Article 10. Use of Name or Endorsements

COOPERATOR shall not in any way state or imply that this Agreement or the results of this Agreement are an endorsement of its organizational units, employees, products, or services except to the extent permission is specifically granted by ARS.

Article 11. Regulatory Compliance with Government Rules & Regulations

- 11.1 COOPERATOR is responsible for obtaining appropriate opinions, permits, or licenses from Federal or State agencies, which regulate research materials, or commercial products that may arise from the research work performed within the Scope of Agreement.
- 11.2 In carrying out its responsibilities under this Article, COOPERATOR shall:
- a. Consult and coordinate regulatory approval actions with ARS; and
 - b. Give ARS' Authorized Agent or designee a copy of any applications and opinions, permits, or licenses issued.
- 11.3 Both parties acknowledge and agree to comply with all applicable laws and regulations of the Animal and Plant Health Inspection Service, the Centers for Disease Control, and Prevention, and /or Export Control Administration pertaining to possession or transference of technical information, biological materials, pathogens, toxins, genetic elements, genetically engineered microorganisms, vaccines, and the like.

Article 12. Liability

It is understood and agreed that neither party to this Agreement shall be responsible for any damages or injuries arising out of the conduct of activities governed by this Agreement, except to the extent that such damages and/or injuries were caused by the negligent or wrongful acts or omissions of its employees, agents or officers. ARS' liability shall be limited by the Federal Tort Claims Act, 28 USC 2671, et seq.

Article 13. Termination

- 13.1 Either party may unilaterally terminate this entire Agreement at any time by giving the other party written notice not less than sixty (60) calendar days prior to the desired termination date.
- 13.2 Articles 2. "Publications", 3. "Confidentiality", 6. "Ownership", 7. "Subject Invention Licenses", 10. "Use of Name or Endorsements", and 12. "Liability" shall survive the expiration or termination of this Agreement.
- 13.3 If either party unilaterally terminates this Agreement pursuant to Article 13.1, each party shall return to the other or destroy, as shall be then agreed, any and all data and materials originated or provided by one party to the other that is still in the receiving party's possession within 30 days of termination.

Article 14. Availability of Appropriations

The continuance of this Agreement is subject to the passage by the Congress of the United States of an appropriation of funds from which expenditures may legally be made to cover ARS' contributions.

Article 15. Disputes

- 15.1 Any dispute arising under this Agreement, which cannot be readily resolved, shall be submitted jointly to the Authorized Agents, identified in Article 16.
- 15.2 Each party agrees to seek in good faith to resolve the issue through negotiation or other forms of nonbinding dispute resolution processes mutually acceptable to the parties.
- 15.3 Pending the resolution of any dispute or claim pursuant to Article 15, the parties agree that performance of all obligations shall be pursued diligently.

Article 16. Notices and Authorized Agents

Notices between the parties and copies of correspondence among the scientific and/or technical representatives of each party that interpret or may have a bearing on the legal effect of this Agreement's terms and conditions shall be sent to the Authorized Agents. Referencing Agreement Number 58-2030-6-033 thereon, send copies to:

ARS' Authorized Agent
 Robert J. Griesbach
 USDA-ARS-OTT
 5601 Sunnyside Ave.
 Beltsville, Maryland 20705-5131
 Tel.: 301-504-6905
 Fax: 301-504-5060
 E-mail: Tom.Moreland@ars.usda.gov

Cooperator's Authorized Agent
 Joseph J. James
 Agri-Tech Producers, LLC
 116 Wildewood Club Court
 Columbia, SC 29223
 Tel: 803-462-0153
 Fax: 803-462-9676
 Email: josephjames@bellsouth.net

Article 17. Limitation on ARS' Scientific Representative's Authority

ARS' Scientific Representative, also known as the Principal Investigator ("PI"), is authorized to perform the research and development falling within the Scope of Agreement. This individual is not authorized to change or interpret with authority the terms and conditions of this Agreement.

Article 18. Assignments

- 18.1 Neither this Agreement nor any rights or obligations of the parties hereto shall be assigned or otherwise transferred by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

- 18.2 In no case shall COOPERATOR assign or transfer this Agreement to a party not a citizen or legal resident of the United States.
- 18.3 ARS is an agency of the U.S. Government and any rights or obligations created under this Agreement are freely transferable within the U.S. Government and shall not be deemed an "assignment" as contemplated by this Article 18.

Article 19. Relationship of Parties

- 19.1 ARS and COOPERATOR act in their independent capacities in the performance of their respective functions under this Agreement and neither party is to be considered the officer, agent, or employee of the other.
- 19.2 Each party shall allow, consistent with policies and procedures of ARS and the COOPERATOR, access to their facilities, as needed.
- 19.3 Each party shall separately assign personnel, equipment, supplies, transportation, and facilities, as needed and available to meet respective responsibilities hereunder, such resources to remain the property of the assignor.

Article 20. Force Majeure

- 20.1 Neither party shall be liable for any unforeseeable event beyond its reasonable control not caused by the fault or negligence of such party:
- a. Which causes the party to be unable to perform its obligations under this Agreement; and
 - b. Which it has been unable to overcome by the exercise of due diligence.
 - c. This includes, but is not limited to, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strikes, labor dispute, failure, or sabotage of either party's facilities or any order or injunction made by a court or public agency.
- 20.2 In the event of the occurrence of such force majeure event, the party unable to perform shall promptly notify the other party. It shall also:
- a. Use its best efforts to resume performance as quickly as possible;
 - b. Suspend performance only for such period of time as is necessary as a result of the force majeure event.

Article 21. Amendment

- 21.1 If either party desires a modification in this Agreement, the parties shall confer in good faith to determine the desirability of such modification.

- 21.2 Such modification shall not be effective until a written amendment is signed by the Authorized Agents of both parties.

Article 22. Severability

The illegality or invalidity of any provision of this Agreement shall not impair, affect, or invalidate the other provisions of this Agreement.

Article 23. Ambiguities

ARS and COOPERATOR agree that each party has reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

Article 24. Officials Not To Benefit

- 24.1 No Delegate to or Member of the Congress of the United States of America shall have a part of or benefit from this Agreement.
- 24.2 This requirement does not include corporations if this Agreement is entered into for the corporation's general benefit.

Article 25. Subcontracting Approval

- 25.1 A party hereto desiring to obtain and use the services of a third party via contract or otherwise shall give prior notice to the other party, including details of the contract or other arrangement.
- 25.2 This requirement is to assure that confidentiality is not breached and rights in Subject Inventions are not compromised.

Article 26. Governing Law

The construction, validity, performance, and effect of this entire Agreement shall be governed by the laws applicable to the Government of the United States of America as practiced in the Federal Courts located in the District of Columbia.

Article 27. Entire Agreement

- 27.1 This Agreement constitutes the entire agreement between COOPERATOR and ARS and supersedes all prior agreements and understandings between them with respect to its subject matter.
- 27.2 Any representations, promise, or condition in connection with such subject matter, which is not incorporated in this Agreement, shall not be binding upon either party.

- 27.3 No modification, renewal, extension, waiver, or termination of this Agreement or any of its provisions shall be binding upon the party against whom enforcement of such modification, renewal, extension, waiver, or termination is sought, unless made in writing and signed on behalf of such party by that party's Authorized Agent.
- 27.4 As used herein, the word "termination" includes any and all means of bringing to an end prior to its expiration by its own terms of this Agreement, or any provision thereof, whether by release, discharge, abandonment, or otherwise.

SCHEDULE 1 CERTIFICATIONS

Agri-Tech Producers certifies that it:

1. is, is not, a small business.
2. is, is not, a minority business.
3. Operates as:

- an individual
- a partnership
- a corporation
- limited liability corporation
- public institution
- private institution
- educational institution;

and is incorporated in the State of South Carolina.

4. 05-0632234 Tax ID # **ONLY IF MONEY CRADA**
5. Has not paid or agreed to pay any company or person (other than a bona fide employee working solely for COOPERATOR) any fee, commission, percentage, or brokerage fee, contingent upon the award of this Agreement, and if so, agrees to furnish information relating thereto, as requested, by the Authorized Departmental Officer.
6. Has not employed or retained any company or person (other than a full-time bona fide employee working solely for COOPERATOR) to solicit or secure this Agreement.
7. Its Principal Officers are not listed on the U.S. Government's list of debarred and suspended organizations and individuals; shall notify the Authorized Departmental Officer if so listed; and shall not subcontract or otherwise award to any organization or individual so listed.
8. Agrees to comply with the provisions of the Civil Rights Act of 1964, as amended, and Executive Order 11246, addressing equal opportunity and affirmative action.
9. Agrees to comply with the provisions of Title IX of the Education Amendment of 1972, 20 USC 1681, *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794; Age Discrimination Act of 1975, 42 USC 6101-6107; Clean Air Act, 42 USC 7401, *et seq.*; and Drug-Free Workplace Act of 1988, 41 USC 701, *et seq.*
10. Is in a position to undertake, perform, and complete this Agreement and will diligently perform work in accordance with its provisions.

SCHEDULE 2 STATEMENT OF WORK

A. Introduction/Background

Agri-Tech Producers, LLC (ATP) is developing new strategies to optimize the utilization of under-valued and “opportunistic” biomass sources which includes deploying its patent-pending, Combined Remediation Biomass and Bio-Product Production (CRBBP) Process, which cost-effectively remediates contaminated and/or stabilizes impacted land and water, using the enhanced phytoremediation and soil stabilization capabilities of the prodigious root systems of certain bio-crops; then converts the resulting, cost-effective source of biomass into a variety of bio-products, including: biochars, to increase soil productivity; fillers or extenders, which are used to make stronger, lighter and heat and water-resistant plastics; and a bio-coal, which can be co-fired in coal-fired power plants, with minimal equipment upgrades, to proportionately reduce their carbon and chemical pollution.

One of the technologies ATP uses to process biomass is called torrefaction, which also serves as a means to add value to both plant and woody materials. Torrefaction is a mild pyrolysis method whereby biomass is heated between 200-300°C under an inert atmosphere to remove most of its inherent moisture and some volatile components. It partially decomposes hemicellulose fractions, creating an energy rich coal-like bioproduct. Since torrefied biomass or “biocoal” retains 80% of its energy value it can be utilized directly as a coal substitute in power plants to generate “green” electricity.

Separately, USDA-ARS and ATP and its research partners have shown that, in addition to bioenergy applications, torrefied biomass acts as a useful additive in plastics (see Figure 1 for our preliminary data using ATP’s torrefied sorghum and wood fibers).

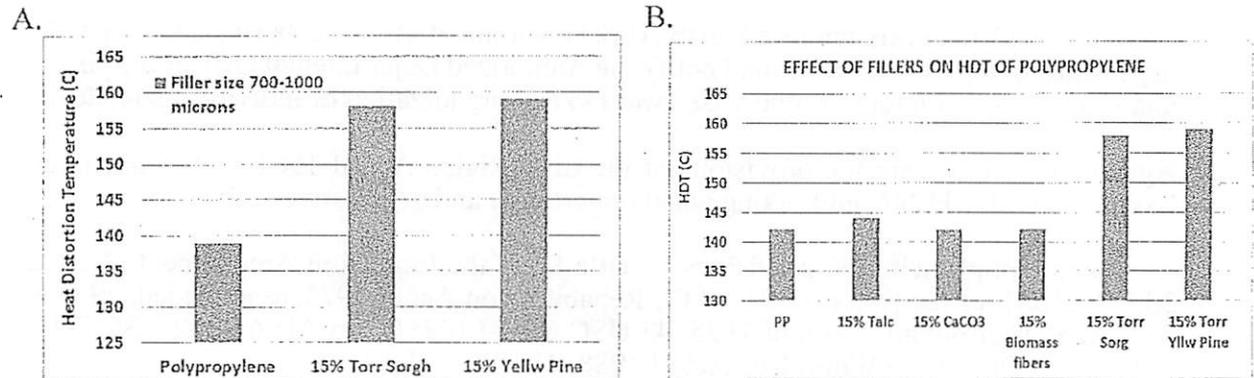


Figure 1. Preliminary data of the heat deflection temperature (HDT) of PP modified with Agri-Tech’s torrefied fibers comparing (A) unmodified PP with torrefied sorghum and pine, and (B) the effect of other traditional additives and biomass fibers vs torrefied biomass.

Specifically, torrefied biomass, which is gray to black in color, has the potential to displace carbon black in polymer composites and provides additional advantageous mechanical properties beyond adding color.

For example, when 2-20% torrefied biomass was added to polypropylene it improved its heat deflection temperature (its softening point), increased its rigidity. Figure 1A outlines some preliminary heat deflection properties of a commercial polypropylene blend using Agri-Tech's torrefied biomass.

Figure 1B outlines the heat deflection temperature for torrefied biomass compared with fillers that are often applied commercially for this purpose, namely talc, calcium carbonate, and biomass fibers. These data confirm that torrefied filler creates a plastic product that does not soften as easily under elevated temperatures. Moreover, we observe these improvements without adversely affecting basic processing parameters. Improved heat deflection is sought by the polymer industry for plastic products that do not soften as easily in hot conditions, such as under intense sunlight on hot days. Thus, this technology has the potential to introduce improved end-use properties without adding significant processing or material costs.

The results presented in Figure 1, however, are limited to two biomass sources and one plastic, polypropylene. Research is needed to verify these results on a wider array of plastics and to explore whether differences in biomass source, specifically various sorghum feedstocks, almond shells, crop residues, and wood byproducts, affect the physical properties of the plastics. Then, scale-up work and prototype development is required to fast-track industrial utilization of torrefied biomass in the plastics industry.

This CRADA is relevant to the Bioproducts from Agricultural Feedstocks project under National Program #306-Quality and Utilization of Agricultural Products. In this project, the first objective is to develop novel commercially viable composite materials from agricultural residues and industrial crops.

B. Objective

The goal of this applied research project is to fast-track industrial utilization of torrefied biomass, used as a polymer additive, by exploring the physical properties of commodity plastics, especially PP, polyethylene terephthalate (PET), and PE, as well as bioplastics, polylactic acid (PLA) and polyhydroxyalkanoate (PHA). Various biomass sources will be torrefied and ground, focusing on sorghum, wood residues, almond shells, walnut shells, and straws. Once ground, the torrefied biomass will be mixed into polymer composites, and commercially relevant physical properties such as processability, heat distortion temperature, rigidity of the composite, and colorant properties will be evaluated. The torrefied biomass will be compared to the incumbent carbon black, which is primarily used as a colorant.

C. Approach and Methodology

Collaborative and targeted research, with industry, is needed to ascertain the effect of multiple factors related to adding ground, torrefied biomass to commodity plastics. These include;

1. The role of biomass source on mechanical properties, specifically focusing on sorghum bagasse, almond shells, walnut shells, soft pine, and several straws,
2. The effect of the biomass source and particle size of ground additives on end-use properties. Torrefied biomass can be ground to various sized powders,
3. The utilization potential of different commodity plastics, ranging from PP, PE, PET, PLA, and PHA.

Since torrefied biomass is relatively hydrophobic, it provides a compatible filler for these hydrophobic polymers, however research is needed to see if performance varies with humidity and/or pre-drying of additives.

D. ARS' Responsibilities

- Perform lab-scale torrefaction of various biomass sources (as noted above).
- Grind torrefied biomass to several mesh sizes to determine the effect of particle size on end-use mechanical properties of plastic formulations.
- Incorporate ground, torrefied biomass into PP, PE, PET, PLA and PHA, generally via melt mixing and/or extrusion processing.
- Measure the composites' tensile, heat distortion, and moisture sorption properties.
- Analyze, evaluate and interpret the results of the above research studies.
- Regularly report research progress and results to Agri-Tech; publish results as agreed by both parties.

E. Agri-Tech Producer's Responsibilities

- Assist in developing these experiment protocols for material evaluation of torrefied plastic formulations with the goal toward commercial products.
- Provide torrefied biomass materials and specialized equipment, as necessary, if needed, above and beyond what is currently available within the WRRC facility. All Bio-mass provided from remediation will be free of any heavy metals.
- Provide larger quantities of torrefied biomass when needed and deemed appropriate for further development,
- Provide marketing and business development expertise to work towards commercialization.

Agri-Tech Producers agrees to pay ARS \$40,000.00 total (\$20,000 per year), with the first payment of \$5,000 due within 30 days of signing and additional payments of \$5,000 due every three months after that date through the duration of this agreement.

- Make checks or money orders out to the "Agricultural Research Service," cite Agreement No. 58-2030-6-033 thereon, and send to:

USDA, ARS,
Budget and Fiscal Office
800 Buchanan Street
Albany, CA 94710

F. Joint Responsibilities

In order to achieve the above objectives, ARS and Agri-Tech Producers will jointly:

- Analyze, evaluate and interpret the results of the above research studies.
- Use these results to estimate the feasibility of scale up towards commercial production.

- Collaborate in the preparation and submission of various grant applications to support and expand the CRADA's SOW.
- Meet regularly via telephone meetings or in person to review research progress and direction.
- Publish suitable results that are not deemed proprietary or after they have been protected via patenting.

**SCHEDULE 3
ESTIMATED BUDGET**

TOTAL YEARS

	ARS Receive Funds for	ARS In-House	Agri-Tech Producer's In-House
A. Salaries and Wages	32,000	48,000	35,000
B. Equipment			
C. Materials and Supplies		7,500	
D. Travel		2,200	2,500
1. Domestic			
2. Foreign			
E. Facilities		1,500	3,000
F. Other Direct Costs			
G. TOTAL DIRECT COSTS	32,000		
H. Indirect Costs	8,000		
I. TOTAL COSTS.....\$	40,000	59,200	40,500

YEAR 1

	ARS Receive Funds for	ARS In-House	Agri-Tech Producer's In-House
A. Salaries and Wages	16,000	24,000	15,000
B. Equipment			
C. Materials and Supplies		3,750	
E. Travel 3. Domestic 4. Foreign		1,100	1,500
E. Facilities		750	1,000
F. Other Direct Costs			
G. TOTAL DIRECT COSTS	16,000		
H. Indirect Costs	4,000		
I. TOTAL COSTS.....\$	20,000	29,600	17,500

YEAR 2

	ARS Receive Funds for	ARS In-House	Agri-Tech Producer's In-House
A. Salaries and Wages	16,000	24,000	20,000
B. Equipment			
C. Materials and Supplies		3,750	
F. Travel 5. Domestic 6. Foreign		1,100	1,000
E. Facilities		750	2,000
F. Other Direct Costs			
G. TOTAL DIRECT COSTS	16,000		
H. Indirect Costs	4,000		
I. TOTAL COSTS.....\$	20,000	29,600	23,000

UNITED STATES DEPARTMENT OF AGRICULTURE RESEARCH AGREEMENT		TYPE OF RESEARCH AGREEMENT Cooperative Research and Development Agreement	
AGENCY (Name and Address) Agricultural Research Service 1400 Independence Avenue SW Washington, D.C. 20250-0302		AGREEMENT NO. 58-2030-6-033	TYPE OF ACTION Amendment 1
		PERIOD OF AGREEMENT 07/15/2016 through 07/14/2019	
		FEDERAL OBLIGATION \$ 0	CHANGE IN FEDERAL OBLIGATION

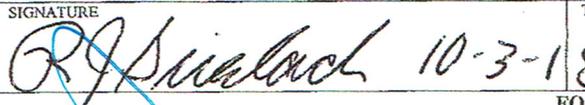
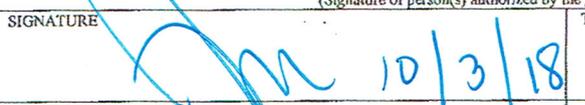
This Agreement is authorized by the Federal Technology Transfer Act, and 15 USC 3710a, *et seq.*, and is governed by its terms.

Items	Descriptions
1. Technology Transfer Coordinator	David Nicholson
2. Cooperator	Agri-Tech Producers, LLC 116 Wildewood Club Court Columbia, SC 29223
3. Cooperator	Joseph J. James President & CEO
4. USDA Laboratory	USDA, ARS, PWA Bioproducts Research Unit 800 Buchanan Street Albany, CA 94710
5. Principal Investigator (PI)	Delilah Wood
6. National Program Leader & Area	Gene Lester
7. Accounting Code	691-2030-175
8. Amount	\$40,000.00
9. Finance Office	Budget & Fiscal Office USDA, ARS 800 Buchanan Street Albany, CA 94710
10. Project No.	2030-41000-054-09-C
11. Title of Project (CRADA Title)	Application of Torrefied Biomass to Commodity Plastics to Improve Mechanical Properties and Its Commercial Potential
12. Log # (Incoming Agreement Log #)	59165

Incorporated into this Agreement are the Following:

The agreement period is extended by one year to end date 7/14/2019. The ARS PI is changed from William Orts to Delilah Wood. Article 1.2 is modified to include additional operating affiliates: ATP-NC, LLC; ATP-OH, LLC; ATP-PA, LLC; ATP-VA, LLC; and the Corporation for Economic Opportunity.

ALL OTHERS TERMS AND CONDITIONS REMAIN THE SAME.

FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE	
SIGNATURE 	TYPED NAME AND TITLE ROBERT J. GRIESBACH Deputy Assistant Administrator
FOR THE COOPERATOR (Signature of person(s) authorized by the governing body of the COOPERATOR to incur contractual obligations)	
SIGNATURE 	TYPED NAME AND TITLE Joseph J. James President & CEO

OTT COVER FORM

Agri-Tech Producers, LLC (ATP)

*The **Existential Threats** of **Climate Change** present both the world's greatest challenge, **BUT**, if handled well, one of its **BIGGEST** economic, social and environmental justice opportunities, for **Black Farmers and Communities, EVER!***

A Presentation To The SC Black Farmers Coalition 2022 Annual Meeting

By: Joe James, President, Agri-Tech Producers, LLC (ATP)
(803) 413-6801 - josephjames@bellsouth.net

ATP's Leadership



**Joe James, ATP's
Founder & President**

- **A former, 33-year economic development professional,**
- **A 2008 Purpose Prize winner, for his work, using innovative ag-related concepts to uplift folks of color,**
- **Served a 6-year term, as a Secretarial appointee, on the Federal Biomass R&D Technical Advisory Committee,**
- **Invented and patented his CRBBP Process, and invented and licensed innovative Biomass Carbonization Processes.**

Challenges: Local, National & Global

Climate Change. Cost-effective, **CO₂** capture, as well as **Carbon** re-use and sequestration mechanisms are needed .

Other Environmental Challenges. Cost-effective ways to combat the many other **Environmental Challenges** facing air, soil and water are needed.

Health Challenges. Ways to reduce the high levels of **Airborne Particulate Matter (PM_{2.5})**, to both prevent **respiratory disease** as well as to reduce the severity of **COVID-19 illness and death**, in at-risk communities, are needed.

Solution: ATP's Patented Combined Remediation Biomass and Bio-Product Production (CRBBP) Process

Using our patented **CRBBP Process**, we plant and multi-task special **Bio-Crops** to capture **CO²**, and simultaneously remediate **contaminated** air, soil and water, **less expensively**.

We then harvest the **Bio-Crops** and convert the resulting **Biomass**, containing the **Captured Carbon**, into cost-advantaged, **Circular-Economy Bio-Products**, which never need to become waste.

Biomass Sorghum: Grows Fast & Big, in 6 Months, Capturing 7 Tons of CO²/Acre!



Standard Sorghum



Biomass Sorghum

Biomass Sorghum Captures Nearly 4 Times The CO² As Trees, Per Acre!!!

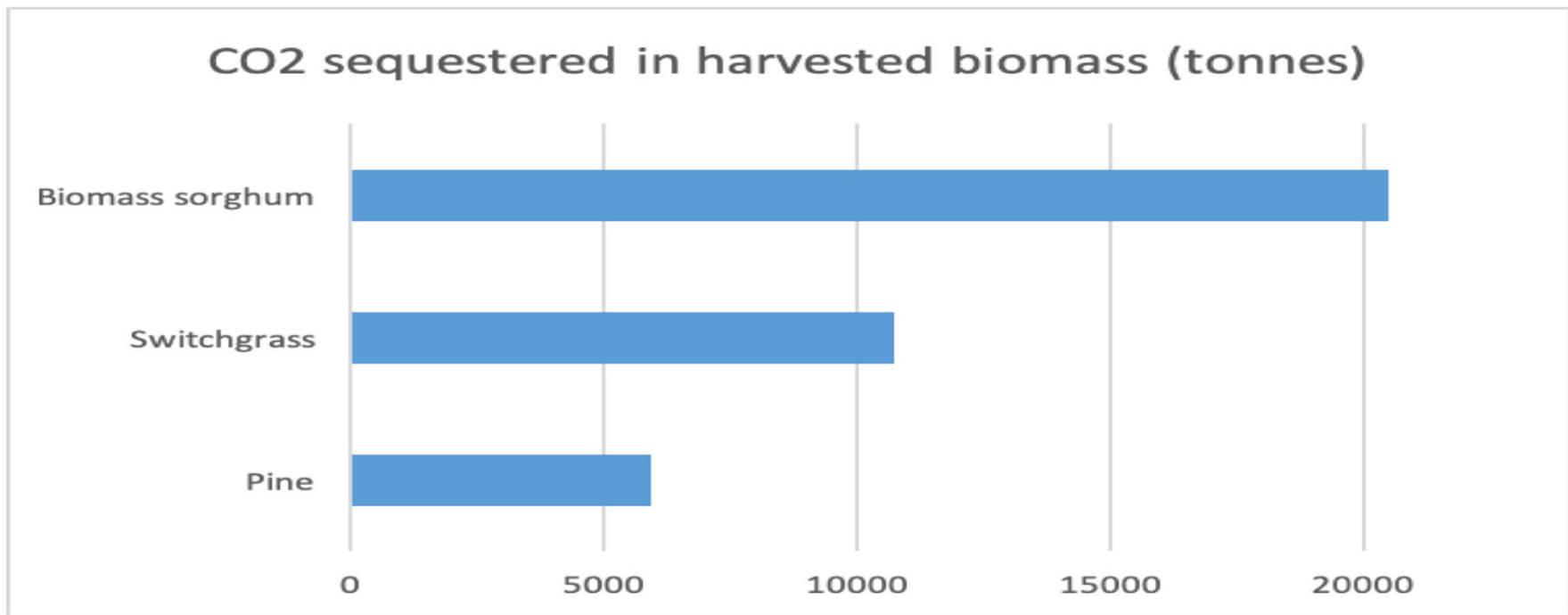


Figure 2. Relative amounts of CO₂ captured over 15-year period from 100-acre plot of forage sorghum, switchgrass, and pine. Credit: Dr. Daniel Sanchez, University of California-Berkeley.

CRBBP Process: Key Steps

Overcome Environmental Challenges, Then Make Bio-Products

Plant Bio-Crops



Harvest/Shred
Bio-Crops



Make
Bio-Products

Convert Biomass Into:

1. Filler Powders*
2. Poultry House Bedding
3. Biochar*

* Using Our Proprietary Carbonization Processes

ATP's **CRBBP Process** Benefits **Black Farmers & Rural & Urban Communities of Color**

- Creates A **New Source** of Farmer **Revenues**
- Reinvigorates **Underperforming** Rural Wastewater Treatment Plant **Spray Fields**
- Remediates **Polluted** Air, Land & Water
- Promotes **Environmental Justice**
- Protects **Health**
- Produces Cost-Competitive **Bio-Products**
- Creates A **Bio-Economy** in South Carolina
- Creates New **Jobs** Making **Bio-Products**

We Can “Fix” Underperforming Rural Wastewater Treatment Plant “Spray Fields”



Biomass Sorghum: Creates Great Pollinator Habitat, Where Planted



As it remediates vacant city lots, the **CRBBP Process** will capture **CO²** and, also screen out **Airborne Particulate Matter (PM 2.5)**.



It will do the same, as it remediates **Brownfields**, **Coal Ash Sites**, or Extracts **Excess Nutrients** from **Watershed Farm Soils**.



ATP Then Converts the Resulting Biomass Into “Circular Economy” Bio-Products



Vs

Linear economy



ATP's Bio-Product Markets

Superior Bio-Based Filler Powders: The \$380 billion US plastics and composites market (Tires, too!!!)

Superior Poultry House Bedding: The \$48.3 billion US poultry market, while converting the resulting litter into...

Nutrient-Rich Biochar Soil Amendments: The \$8 billion US home and garden care market (Potting Soil)

Plant-Based Bio-Coal: The \$780 billion, global coal market is seeking biomass co-fire fuels, to combat Climate Change

ATP's Key Milestones

- We have successfully demonstrated the ability of our **CRBBP Process** to extract excess **Nitrogen** and **Phosphorus** from Maryland's Chesapeake Bay watershed farm soils, to protect the Bay.
- We have successfully demonstrated the efficacy of our **Cost-Advantaged Bio-Products**.
- Our Maryland operating affiliate was selected, by the **Exelon Foundation's Climate Change Investment Initiative**, to commercialize an urban application of our **CRBBP Process**, in Baltimore, Maryland. Our Virginia operating affiliate is collaborating with **Dominion Energy**, to grow our crops on, and bury our **Biochar** in their sites, to generate **Carbon Credits**, and our Pennsylvania operating affiliate has just started a similar project with Philadelphia Gas Works.

Agri-Tech Producers, LLC (ATP)

*The **Existential Threats** of **Climate Change** present both the world's greatest challenge, **BUT**, if handled well, one of its biggest economic, social and environmental justice opportunities, for **Black Farmers and Communities, EVER!***

A Presentation To The SC Black Farmers Coalition 2022 Annual Meeting

By: Joe James, President, Agri-Tech Producers, LLC (ATP)
(803) 413-6801 - josephjames@bellsouth.net



NATIONAL LATINO FARMERS & RANCHERS

 info@nlfrta.org

 1029 Vermont Avenue, NW, Suite 601 Washington DC, 20005

 (202) 628-8833

Washington DC, 03/15/2022

Chairman David Scott, House Agriculture Committee
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission
Rural Community and Economic Development Committee
1400 Independence Ave., SW, Stop 0601
Washington, DC 20250-9821

SUBJECT: RURAL COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

Dear Chairman Scott, U.S. House of Agriculture Committee; and
Dear Co-Chair Arturo S. Rodriguez, U.S. USDA Equity Commission, Rural Community and Economic Development Committee

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within the Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas.

If approved by Congress, this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic



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development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will help thousands of rural businesses (i.e. businesses affected by COVID-19), farmworkers from across the agricultural industry, homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the section 514/516 Farmlabor Housing Program;
2. the Farmworker Housing Technical Assistance Grant;
3. the Emergency Farmworker Program;
4. the Processing Worker Grant;
5. the Farm Workers Training Grant Program;
6. the Rural Microentrepreneur Assistance Program;
7. the Value-Added Producer Grant;
8. the Rural Business Enterprise Grant; and
9. the Socially Disadvantaged Producers Grant.

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.



NATIONAL LATINO FARMERS & RANCHERS

 info@nlfrta.org

 1029 Vermont Avenue, NW, Suite 601 Washington DC, 20005

 (202) 628-8833

Respectfully



Rudy Arredondo
President/CEO/Founder
National Latino Farmers & Ranchers



March 11, 2022

TO: Chairman David Scott, House Agriculture Committee
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission
Rural Community and Economic Development Committee
1400 Independence Ave., SW, Stop 0601
Washington, DC 20250-9821

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant;
3. the Rural Business Enterprise Grant;

4. the Socially Disadvantaged Producers Grant; and
5. Public, Private, Partnerships through Cooperative Agreements per 7 USC 2204b(b)(4).

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'N. Anderson', with a long horizontal flourish extending to the right.

Neville A. Anderson
President



March 15, 2022

Cecilia Hernandez
Designated Federal Officer, USDA Equity Commission
Office of the Secretary, United States Department of Agriculture
1400 Independence Avenue SW, Room 6006-S
Washington, DC 20250-0235

Re: Center for American Progress Written Comment to USDA Equity Commission
Submitted via email to Equitycommission@usda.gov

Dear DFO Hernandez,

The Center for American Progress (CAP) is pleased to share written feedback with the Department of Agriculture (USDA) Equity Commission. CAP is heartened to see the formation of the USDA's Equity Commission along with its stated mission to provide recommendations to the Secretary on policies, programs, and actions needed to address racial equity issues within USDA and its programs, including strengthening accountability at USDA. We believe the Equity Commission is a critical step to strengthening USDA's commitment to historically marginalized and underserved communities and living up to President Biden's commitment to addressing equity through a whole-of-government approach.

CAP is an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans through bold, progressive ideas, as well as strong leadership and concerted action. As part of our institutional priorities, CAP is committed to advancing racial equity and justice by advocating for policy reforms that dismantle structural inequities and chart a path forward for building stronger and more equitable economic, political, and social systems.

We believe that USDA is uniquely positioned to dismantle structural inequities in agriculture and farm production; rural development; food and nutrition services; and natural resource systems to provide all farmers, ranchers, farm-workers, rural residents, and people experiencing poverty with dignity and an equitable chance of achieving success and prosperity.

Problem Statement: Various structural barriers, including historical discrimination and exclusionary policies, prevent too many Americans from accessing USDA programs and services, obtaining financial support for rural development, and growing successful rural businesses and farms, all of which contribute to and exacerbate longstanding racial, economic, health, and social inequities, as well as the widening racial wealth gap.

Solutions: Advancing racial equity at USDA will require a multi-dimensional approach that takes into account each of the ways USDA impacts communities of color. In order for the Equity

Commission, the Secretary, and USDA to advance structural change that remove structural barriers, CAP recommends incorporating racial equity in three interconnected areas:

- 1. Centering equity in governance, decision-making, and processes across USDA:** To make meaningful organizational and institutional change at USDA, the agency must center equity in all it does. This includes structures of its offices and services, how decisions are made, and the processes that are carried out to make those decisions. USDA staff should be empowered and encouraged to use an equity lens. USDA should build structures to evaluate inequalities and consistently adjust organizational mission, design, and objectives to achieve its equity goals.
- 2. Adopting specific policies and procedures that address persistent inequities:** To achieve its vision of economic opportunity through innovation, a thriving rural America, agriculture production that better nourishes Americans and the world, and the preservation of the Nation's natural resources, USDA must continuously develop and adopt policies that address inequitable access to services and distribution of benefits. USDA should strengthen programs to meet the needs of communities of color and historically marginalized and disadvantaged communities. Policy solutions should meaningfully address inequities for people of color and in turn benefit all of USDA's customers.
- 3. Creating accountability and engaging in continuous equity assessments that study the impacts of policies and decisions:** To understand the impacts of new procedures and policies, they need to be studied over time using clear data, reporting mechanisms, and evaluation criteria. USDA should develop accountability and assessment measures for any new policies and procedures it institutes to advance equity. These accountability and assessment metrics should inform which policies and procedures to continue, and which may need to adapt to better address racial inequities.

Below CAP focuses on several concrete policies and procedures USDA could adopt under part 2 of this framework to address persistent inequities categorized by the following four topics: Agriculture and Farm Production; Rural Development; Food and Nutrition; and Natural Resources and Environment:

I. Agriculture and Farm Production

Background:

USDA has an acknowledged history of discrimination against farmers of color, and Black farmers in particular. This includes USDA programs that advantaged farmers of large farms by acreage and production, which created barriers for farmers of color who were more likely to operate smaller farms. This led to less participation in USDA programs for minority farmers, and less financial assistance from USDA and the Farm Service Agency (FSA). In addition, farmers of color have been systematically denied USDA loans and subject to more stringent loan and

land sale terms than white farmers, while landowners have refused to sell land to creditworthy farmers of color. While avenues exist to file civil rights complaints for racial discrimination, USDA has historically struggled with management of complaints including processing, tracking, timeliness, and adequate resolution. Lastly, heirs' property has contributed to inequities in farm ownership due to legal claims to land and partition sales. In all, USDA now oversees a farm and agricultural sector that has clear disparities:

- In 1920 14.3% of farm owners were Black, compared with 85% of whom were white
- In 2017, 1.4% of farm owners were Black, compared with 92.4% of whom were white.
- From 1920 to 2017, the percentage of Black farm owners decreased by 94.7 percent, while white farm owners have decreased by only 40.5 percent.
- Meanwhile Asian, Native American, and Hispanic farm owners have increased by at least 230 percent.
- As of 2002, white landowners accounted for 97% of all private agricultural land value, compared to 1.4% of value for Hispanic/Latino landowners, 1% of value for Black landowners, 0.6% of value for Asian landowners, and 0.4% for Native American landowners.¹

Recommendations:

The USDA Equity Commission Agriculture Subcommittee is tasked with developing recommendations to the Commission and the Secretary on policy and program changes within USDA to provide current and prospective farmers, ranchers, and farmworkers with an equal chance of success and prosperity. In the initial convening, a list of eleven initiatives were provided to Subcommittee members with the goal of prioritizing which are most critical for the Commission to improve to achieve its stated goals. In these comments, CAP provides a slate of important but non-exhaustive policy recommendations that would advance racial equity throughout USDA.

1. Improving access to capital

- a. Conduct a feasibility study on the creation of a federally chartered bank to provide disadvantaged farmers, including farmers of color, with loan and financial assistance
- b. Prioritize disadvantaged communities by holding stakeholder engagement meetings and outreach related to USDA financing programs

2. Improving access to programs and services related to agriculture and land use

- a. Conduct further research and outreach dedicated to identifying challenges unique to disadvantaged minority farmers in accessing agricultural and land programs and services

¹ Jess Gilbert, Spencer Wood, and Gwen Sharp, "Who Owns the Land? Agricultural Land Ownership by Race/Ethnicity," Economic Research Service (United States Department of Agriculture, 2002), https://www.ers.usda.gov/webdocs/publications/46984/19353_ra174h_1_.pdf.

- b. Establish a public land trust for beginning disadvantaged farmers, including those of color, to improve pathways to securing land
 - c. Direct the Economic Research Service (ERS) to include minority farmworkers and farmers more prominently in their research, to better understand the challenges and barriers faced by farmers of color
- 3. Implementing programs and services to mitigate effects of climate change**
- a. Create new training programs for disadvantaged farmers, including those of color, on organic and sustainable farming practices which mitigate effects of climate change, and which are on average more profitable farming enterprises than traditional farming
- 4. Addressing access to land, including financing programs and addressing unique issues related to heirs' property**
- a. Create a task force dedicated to estate planning for socially disadvantaged farmers who have no living will, ensuring that the next generation has an opportunity to carry on the family enterprise
 - b. Conduct a study of the feasibility of a federal land trust that would purchase land from retiring farmers or their heirs at fair market value and set it aside for purchase by disadvantaged farmers at a subsidized price
 - c. Establish offices to provide legal assistance services to farmers of heirs' property to support farmers, and in particularly those of color less likely to have legal title, in properly transferring property
 - d. Create protections that prevent inherited land or heirs' property from forced sales to guard against loss of property for disadvantaged farmers
- 5. Reviewing supporting functions such as county committees, conservation districts, and advisory boards**
- a. Conduct proactive outreach and engagement to disadvantaged farmers to educate local leaders about funding opportunities and provide technical assistance in the application process as needed
 - b. Improve the guidelines that county committees use to determine eligibility for federal programming to lower barriers to participation by historically disadvantaged farmers, including farmers of color
 - c. Establish an independent civil rights oversight board to supervise the Office of Civil Rights' handling of complaints and investigate reports of discrimination within the department and at FSA county committees
- 6. Improving USDA performance measurement and program evaluation so that implemented recommendations can be monitored, tracked, and reported with real outcomes**
- a. Establish a policy that pauses the statute of limitations at the moment a complaint is filed with the Office of Assistant Secretary for Civil Rights (OASCR),

requires that the agency reach a final agency determination within 180 days, and places a moratorium on foreclosures during civil rights investigations

7. Improving use of data and technology both to ensure access and to increase accountability

- a. Create an online civil rights complaint database jointly monitored by the Government Accountability Office (GAO) and periodically publish statistics about the speed at which the complaints are processed, the number of complaints found to have merit, and the number of pending complaints
- b. Simplify the civil rights violation reporting process and collect mandated complaints data by race, gender, and age and periodically review and report on data to understand volume, time-to-complete, and outcomes across groups
- c. Institute protections and develop reporting mechanisms for USDA employees to speak out against discrimination and hold USDA programs accountable

II. Rural Development

Background:

Rural areas across the United States have struggled following the Great Recession, including a shifting economy which has led to employment stagnation, population decline, and lower economic mobility. In addition, rural infrastructure has suffered from lack of investments compared to metropolitan areas, leading to less access to the internet, higher rates of substandard housing, fewer job opportunities and worker protections, and worse water, energy, and transportation services infrastructure. Communities of color in particular have suffered from these conditions.

Economic Development: According to the American Communities Project, the African American South has the lowest levels of economic mobility of all nationwide groups.² Native American lands and Hispanic Centers in the Southwest also have very low levels of economic mobility. For example, about half of all farmworkers in the country are Hispanic, according to the USDA. This occupation poses many hazards yet lacks many of the federal protections afforded to other workers, such as the right to form a union and collectively bargain.

Broadband: Broadband is a critical infrastructure that provides access to education, employment, accessing public benefits and services, online banking, and health care access.³ Clear disparities exist for rural residents, as they are almost twice as likely as urban residents to lack high-speed internet at home, at 19.7 percent compared with 10.2 percent. Racial inequality

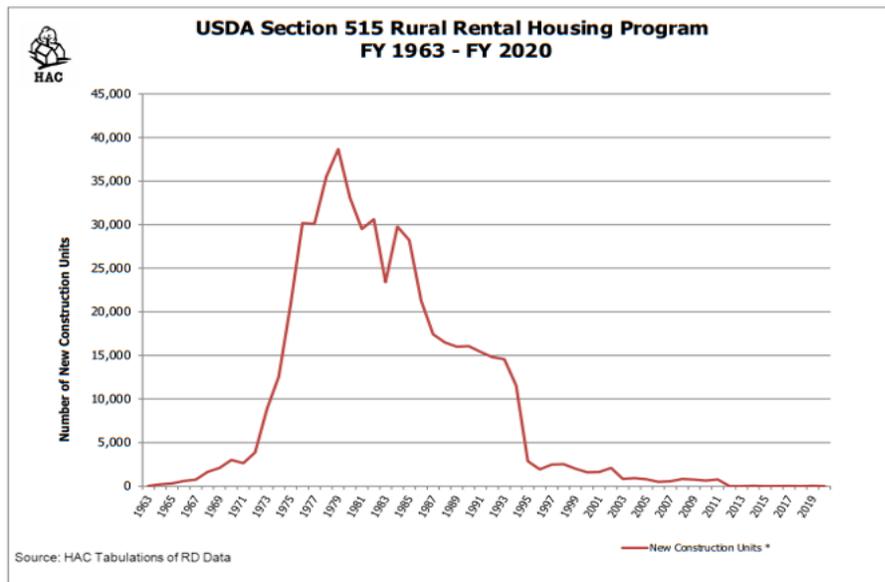
² Olugbenga Ajilore and Caius Willingham, "The Path to Rural Resilience in America," Center for American Progress, July 27, 2020, <https://www.americanprogress.org/article/path-rural-resilience-america/>.

³ Caius Willingham and Areeba Haider, "Rural Broadband Investments Promote an Inclusive Economy," Center for American Progress, December 22, 2020, <https://www.americanprogress.org/article/rural-broadband-investments-promote-inclusive-economy/>.

is even more stark. In majority-white rural counties, about 72 percent of the population has broadband available. For majority-African American rural counties it's 56 percent. For majority-Native American rural counties, it's 27 percent.⁴

Housing: Housing represents an essential component to prosperity in terms of economic mobility, health, and opportunity. Rural housing presents problems to residents in rural areas due to both affordability and housing standards. Approximately 38 percent of rural residents are cost-burdened, and 19 percent are severely cost-burdened according to 2019 data.⁵ Meanwhile, a disproportionate amount of the nation's occupied substandard housing is located in rural areas, and rural homes are more likely to be overcrowded.⁶ The affordability crisis in rural areas is compounded by a shrinking supply of USDA-subsidized multifamily housing (Figure 1). USDA's Section 515 rural rental housing program has historically represented a key response to the shortage of affordable rural housing. In the 1970s, the program subsidized more than 30,000 units per year in rural areas. The number of subsidized units has dramatically decreased in the past few decades, partly because, similar to Low Income Housing Tax Credit (LIHTC) units, the affordability requirements on these units end when their mortgages mature. The Housing Assistance Council indicates that all 400,000 units will exit the program by 2050. Section 515 properties are also losing accompanying rental assistance provisions.

Figure 1



⁴ Kelsey Berkowitz and Jim Kessler, "The Racial Equality and Economic Opportunity Case for Expanding Broadband," thirdway.org (Third Way, February 2019), <https://www.thirdway.org/report/the-racial-equality-and-economic-opportunity-case-for-expanding-broadband>

⁵ "America's Rental Housing 2022," jchs.harvard.edu (Joint Center for Housing Studies, 2022), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2022.pdf.

⁶ "Housing Need in Rural America," National Rural Housing Coalition, 2021, <https://ruralhousingcoalition.org/overcoming-barriers-to-affordable-rural-housing/>.

Recommendations:

Economic Development:

- Establish additional Rural Development offices in historically disadvantaged communities to provide needed support in communities that are least developed
- Streamline the application process for competitive grants and loans by requiring just one application for programs.
- Create an asset-based approach program such as participatory grant making, where community members can provide feedback on how to use a portion of local city or county's budget through a public forum.
- Provide funding streams for public services
- Develop training programs and assistance to rural and historically disadvantaged communities to provide access to jobs funded by the Infrastructure Investment and Jobs Act (IIJA)

Broadband:

- Review program applications for the ReConnect Program and Rural Broadband Program to ensure that grantees center the needs of disadvantaged communities to close the broadband gap
- Ensure cooperatives and other entities are able to bid on broadband programs in areas where private entities fail to invest in communities
- Develop assessment capabilities before implementing the IIJA programs to evaluate its impact on disadvantaged communities, including those of color, pre- and post-implementation
- Use assessment and evaluation metrics from broadband grants to adapt future grants to communities that remain unserved by broadband implementation

Housing:

- Resume new construction of multifamily rental properties and invest in the preservation of existing Section 515 properties
- Boost the Section 504 Single Family Housing Repair Grant program, in order to better assist very low-income homeowners improve their homes and remove health and safety hazards
- Update its housing inspection protocols to ensure USDA affordable housing units are safe and necessary improvements are made to create healthy living conditions
- Provide residents of USDA public housing units with information about properties' physical conditions and USDA standards to ensure they can properly report when they are not met
- Establish mandatory inspection and enforcement periods when reports of housing in violation of agency standards are received

- Provide low-income tenants opportunities to continue to receive rental assistance when the property's mortgage matures to prevent evictions from rent hikes⁷

III. Food and Nutrition

Background:

Food and Nutrition Services' (FNS) mission is to increase food security and reduce hunger by providing children and low-income people with access to food, a healthy diet and nutrition education. Despite this mission, food access, quality, and affordability in the United States is variable by region, resulting in elevated and persistent rates of food insecurity. The pandemic exacerbated and highlighted these inequities, and in 2020, USDA data showed that 10.5 percent (or 13.8 million) of U.S. households were food insecure at some point during the year.⁸ The Census Bureau's Pulse data shows that between January 26 and February 7 of 2022, more than 22 million adults reported that they sometimes did not have enough to eat, more than 10 million of whom lived in households with children.⁹

Food and nutritional inequities manifest in many ways, including unequal distribution, lack of physical access, unaffordability, and poor quality of foods, particularly in low-income neighborhoods, rural areas, and communities of color.¹⁰

- Just eight percent of Black Americans live in a census tract with a supermarket, compared to 31 percent of whites.
- Predominantly Black zip codes have about half the number of chain supermarkets compared to predominantly white zip codes, and predominantly Latino areas have only a third as many
- About 19 million Americans live in a food desert, defined by the USDA as a place where at least a third of the population lives greater than one mile away from a supermarket for urban areas, or greater than 10 miles for rural areas¹¹

Food deserts are particularly problematic for low-income individuals and families, the elderly, and individuals with disabilities, who may not have access to transportation to reach their

⁷ Sarah Saadian, "Housing Needs in Rural America," National Low Income Housing Coalition, March 10, 2022, <https://nlihc.org/>.

⁸ "Key Statistics & Graphics," [ers.usda.gov](https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-u-s/key-statistics-graphics/) (United States Department of Agriculture, 2020), <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-u-s/key-statistics-graphics/>.

⁹ United States Census Bureau, "Household Pulse Survey Data Tables," (last accessed February 2022)

¹⁰ Sarah Treuhaft and Allison Karpyn, "The Grocery Gap: Who Has Access to Food and Why It Matters," The Food Trust (PolicyLink, 2010), http://thefoodtrust.org/uploads/media_items/grocerygap.original.pdf.

¹¹ Dymond Green, "Why Food Deserts Are Still a Problem in America," CNBC (CNBC, August 20, 2020), <https://www.cnbc.com/2020/08/20/trader-joes-kroger-walmart-supervalu-and-americas-food-deserts.html>.

closest grocery store. Imbalances in food and nutrition equity can result in chronic hunger, as well as poor health, education, and social outcomes.¹²

Recommendations:

FNS' commitment to centering racial justice and promoting equity and inclusion through its federal nutrition assistance programs is a critical step. With the rising cost of food and the ongoing burden of the pandemic – including the expiration of enhanced federal funding through the American Rescue Plan – effective measures, such as the SNAP and WIC benefit bumps, should be expanded to help low-income children, individuals, and families access healthy, quality, and affordable food. CAP encourages FNS to continue to equitably invest in the access and affordability of food and nutrition programs in the following ways:

Modernize SNAP benefits:

- Extend pandemic-related expansions and prioritize necessary permanent improvements to expand SNAP's reach and impact. For example, USDA can use a more generous USDA food plan—such as the Low-Cost Food Plan—as the basis for SNAP benefits to improve adequacy and ensure that low-income families have access to food security every day.

Modernize WIC benefits:

- Make WIC's benefit increases during the pandemic permanent, ensuring that millions of women and children have access to more fruit, vegetables, and a broader range of nutritious foods within reach.

Stabilize School Meals to Reduce Child Hunger:

- Provide program flexibility to food providers to get school, afterschool, and summer meals into the hands of children and families, while waiting for Congress to provide additional waiver authorities that will help stabilize the school meal programs

Modernize FNS programs to expand food networks and access:

- Consider making its pandemic pilot programs, such as electronic benefit delivery, online shopping and food delivery, permanent as a way to ensure food security
- Consider making permanent its expanded food networks through food banks and food pantries, including mobile ones, which have provided people with increased access to food in their own communities and simplified and improved food security

Increase food and nutrition benefits to the lowest income individuals and families:

- Expand eligibility requirements to those individuals and families by eliminating asset limits, work requirements, time limits, and other barriers that make access to such programs challenging. Despite all the food programs run by FNS, millions of

¹² Heather Hartline-Grafton, "Hunger & Health the Impact of Poverty, Food Insecurity, and Poor Nutrition on Health and Well-Being," frac.org (Food Research and Action Center, December 2017), <https://frac.org/wp-content/uploads/hunger-health-impact-poverty-food-insecurity-health-well-being.pdf>.

marginalized Americans struggle with food insecurity every day, especially the elderly, those in rural areas—including Tribal nations, military families, students, individuals with disabilities, students in non-school settings, immigrant and refugee populations, and individuals with prior felony drug convictions.

IV. Natural Resources and Environment

Background:

Wildfire has always been a natural feature of the U.S. landscape, especially in the West. But it has become clear in recent years that the combination of a changing climate and more people moving into wilder areas is putting more lives and communities at risk. In addition, rural infrastructure has suffered from lack of investments compared to metropolitan areas, leading to less access to the internet, higher rates of substandard and less resilient housing, and worse water, energy, and transportation infrastructure. Communities of color are more vulnerable to the effects of natural disasters and environmental harms:

- Research shows that 12 million Americans who live in areas where wildfires are common would be unable to prepare for or recover from a wildfire. African American, Hispanic, and Native American communities are roughly 50 percent more likely to be vulnerable to wildfire than other groups¹³
- Certain groups, including elderly, low-income people, people of color, and renters, are much less likely to rebuild after a fire than others, and are less likely to access resources that would help with recovery¹⁴

At the same time, access to nature is linked to positive social, economic, and health indicators in communities. Research by CAP has shown that communities of color are disproportionately likely to be deprived of these benefits provided by nature.¹⁵ The Biden administration's America the Beautiful initiative, which sets a national goal of conserving 30 percent of U.S. lands and waters, recognized unequal access to nature as a challenge in line with climate change and biodiversity loss. USDA, through the U.S. Forest Service and the Natural Resources Conservation Service, will play a major role in the administration's pursuit of this goal. USDA is also required to direct 40% of the investment benefits towards disadvantaged communities, as outlined by Executive Order 14008.

Recommendations:

¹³ Ryan Richards, "Before the Fire: Protecting Vulnerable Communities from Wildfire," Center for American Progress, July 25, 2019, <https://www.americanprogress.org/article/before-the-fire/>.

¹⁴ Ryan Richards, "After the Fire: Vulnerable Communities Respond and Rebuild," Center for American Progress, July 17, 2019, <https://www.americanprogress.org/article/fire-vulnerable-communities-respond-rebuild/>.

¹⁵ Jenny Rowland-Shea et al., "The Nature Gap," Center for American Progress, January 26, 2021, <https://www.americanprogress.org/article/the-nature-gap/>.

- Comply with the Administration's Justice40 Initiative and ensure 40% of the benefits of its projects go to disadvantaged communities. USDA should also adopt the program modifications listed in Section VI(C) of the Justice40 Guidance issued by the Office of Management and Budget, Council on Environmental Quality, and the National Climate Advisor on July 20, 2021, for all its programs.
- Review and overhaul existing application and reporting requirements to ensure that they are straightforward, reasonable, and easy to follow
- Provide a user-friendly, multilingual process to request application materials and portals for reporting, and allow applications to be submitted in languages other than English
- Simplify application instructions, including by removing complex government jargon and consolidating required forms. If possible, USDA also should increase the size and number of capacity-building grants for nonprofits and community organizations that serve disadvantaged communities.
- Extend grant periods to allow organizations time to build capacity and adapt
- Build staffing capacity, such as proposed in the Rural Partnership Program, in rural communities to locate and secure funding, and prepare communities to develop new approaches to rural development that prioritizes their own locally led solutions

Conclusion:

The formation of an Equity Commission at USDA is a critical step to achieving the administration's goal of advancing racial equity throughout the federal government. USDA has the opportunity to redress systemic inequities in our agricultural, rural development, food and nutrition services, and natural resource systems in order to provide all farmers, ranchers, farmworkers, rural residents, and people experiencing poverty a greater chance at prosperity. In order to achieve this aim, USDA's Equity Commission should advance recommendations that center equity in governance, decision-making, and processes, adopt specific policies that address current inequities, and conduct continuous equity assessments that study the impacts of policies and decisions. By focusing on these three areas, USDA can make the organizational and systemic changes to create a more equitable and just agency.

Please do not hesitate to contact Nicole Lee Ndumele, nndumele@americanprogress.org, if you have any questions about this comment or would like any additional information. Thank you for your time, and we look forward to continuing this discussion with you.

Sincerely,

Nicole Lee Ndumele

Senior Vice President for Rights and Justice, Center for American Progress

February 22, 2022

TO: Chairman David Scott, House Agriculture Committee

House Committee on Agriculture

1301 Longworth House Office Building

Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission

Rural Community and Economic Development Committee

1400 Independence Ave., SW, Stop 0601

Washington, DC 20250-9821

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress, this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
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5. the section 514/516 Farmlabor Housing Program;
6. the Farmworker Housing Technical Assistance Grant;
7. the Emergency Farmworker Program;
8. the Processing Worker Grant;
9. Farmworkers Training Grant Program; and
10. Public, Private, Partnerships through Cooperative Agreements per
7 USC 2204b(b)(4)

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

SIGNATURES OF OTHERS WHO WOULD BENEFIT FROM THIS PROGRAM ARE AS FOLLOWS:

1. Oklahoma Black Historical Research Project, Inc. 

February 17, 2022

TO: Chairman David Scott, House Agriculture Committee

House Committee on Agriculture

1301 Longworth House Office Building

Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission

Rural Community and Economic Development Committee

1400 Independence Ave., SW, Stop 0601

Washington, DC 20250-9821

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SIGNATURES OF OTHERS WHO WOULD BENEFIT FROM THIS PROGRAM ARE AS FOLLOWS:

Sandra M. Edwards

Executive Director, Spectrum CDC

February 28, 2022

TO: Chairman David Scott, House Agriculture Committee

House Committee on Agriculture

1301 Longworth House Office Building

Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission

Rural Community and Economic Development Committee

1400 Independence Ave., SW, Stop 0601

Washington, DC 20250-9821

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress, this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

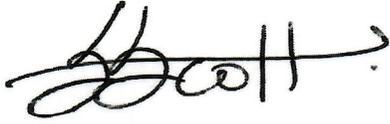
These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant;
3. the Rural Business Enterprise Grant;
4. the Socially Disadvantaged Producers Grant; and
5. the section 514/516 Farmlabor Housing Program;
6. the Farmworker Housing Technical Assistance Grant;
7. the Emergency Farmworker Program;
8. the Processing Worker Grant;
9. Farmworkers Training Grant Program; and
10. Public, Private, Partnerships through Cooperative Agreements per
7 USC 2204b(b)(4)

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

SIGNATURES OF OTHERS WHO WOULD BENEFIT FROM THIS PROGRAM ARE AS FOLLOWS:

A handwritten signature in black ink, appearing to read "Scott", with a long horizontal stroke extending to the right.

The North-South Institute is recommending the following programs or elements of these be placed in this office to support underserved producers more effectively:

1. SSDPG
2. VAPG
3. RMAP
4. RBEG (Training & Technical Assistance Portion)

In addition it is recommending that applications be sent through the Federal Office prior to the State Offices during the application process.

February 22, 2022

TO: Chairman David Scott, House Agriculture Committee

House Committee on Agriculture

1301 Longworth House Office Building

Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission

Rural Community and Economic Development Committee

1400 Independence Ave., SW, Stop 0601

Washington, DC 20250-9821

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

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SIGNATURES OF OTHERS WHO WOULD BENEFIT FROM THIS PROGRAM ARE AS FOLLOWS:

Rubén Martinez
Executive Director
Julian Samora Research Institute
219 S. Harrison Rd, Rm 50
East Lansing, MI 48824
517-432-1317
Email: mart1097@msu.edu



March 15, 2022

Cecilia Hernandez,
USDA, Designated Federal Officer;
Equity Commission Members

USDA Equity Commission
Office of the Secretary
1400 Independence Ave. SW
Washington, DC 20250

RE: Request for Comment on the inaugural meeting of the USDA Equity Commission ([Docket ID: USDA 2022-03074](#))

Dear Ms. Hernandez and Equity Commission Members,

HEAL is a national multi-sector, multi-racial coalition led by Black, Indigenous and People of Color (BIPOC) that is building collective power to transform our food and farm systems for the health of our communities and the planet. Our 50+ member organizations represent over 2 million rural and urban farmers, ranchers, fishers, public health advocates, farm and food chain workers, Indigenous groups, scientists, policy experts, community organizers, and activists.

In the wake of food systems built with slavery, colonization, land theft, exploitation, and other structural and insitutional racism perpetuated by government agencies including the USDA, it is long overdue that the USDA acknowledge, understand, and repair past and present harm done to Black, Indigenous, and other people of color (BIPOC).

While the Equity Commission is an important step towards doing so, and we are hopeful for what's possible, the USDA will need to make sweeping transformations to build trust with our communities.

As an important first step, we urge the Equity Commission to review and incorporate into their recommendations for the USDA the solutions identified in the [HEAL Platform for Real Food](#) and [Leveling the Fields, Creating Farming Opportunities for Black People, Indigenous People, and Other People of Color](#).

The HEAL Platform for Real Food

Crafted by 50 organizations representing rural and urban farmers, fisherfolk, farm and food chain workers, rural and urban communities, scientists, public health advocates, environmentalists, and indigenous groups, the HEAL Platform for Real Food serves as a call to action and a political compass for transformation.

Key highlights from the HEAL Food Platform are shared below, but we urge you to also read the explanations and policy solutions identified in the platform.

The HEAL Platform for Real Food identifies two root causes of the problems that plague our food systems:

- Concentration of market and political power in the hands of a few agri-food companies.
- The legacy and current reality of racism.

The HEAL Platform includes 10 solutions to create food systems that truly nourish our health, our economies, our communities, and our environment:

1. Secure Dignity and Fairness for Food Chain Workers and their Families
2. Provide Opportunity for All Producers
3. Ensure Fair and Competitive Markets
4. Build Resilient Regional Economies
5. Dump the Junk: Curb Junk Food Marketing
6. Increase “Food Literacy” and Transparency: Increase knowledge of, connection to, and transparency around food sources
7. Real Food in Every Hood: Making affordable, fair, sustainable, and culturally-appropriate food the norm in every neighborhood
8. Phase Out Factory Farming
9. Promote Sustainable Farming, Fishing, and Ranching
10. Close the Loop on Waste, Runoff, and Energy

We encourage you to familiarize yourself with the policy solutions identified in each plank.

Leveling the Fields, Creating Farming Opportunities for Black People, Indigenous People, and Other People of Color

We also suggest the Equity Commission read and integrate the policy solutions identified in [*Leveling the Fields, Creating Farming Opportunities for Black People, Indigenous People, and Other People of Color*](#), a policy brief co-authored by HEAL Food Alliance and the Union of Concerned Scientists.

Leveling the Fields provides specific recommendations for the following key strategies to advancing more equitable food systems:

- Building land accessibility and security
- Improving access to financial resources

- Advancing the quality and equity of infrastructure and information
- Securing representation and leadership across food systems
- Addressing injustice and increasing food system resilience go hand in hand

Again, we urge you to familiarize yourself with the specific policy recommendations within this policy brief.

Conclusion

For a long time, the United States has built a food system that harms and exploits, so much so that [scientists now warn of an uninhabitable planet](#) in the coming decades that will disproportionately endanger those who have contributed the least to the problem—low-income communities of color.

In order to reverse course, and to create a food system that works for our communities, our health, and our planet, we need the USDA and Equity Commission to recognize that it is not reform we need, but transformation.

Thank you for your consideration of these comments.

Sincerely,



Maleeka Manurasada
National Organizer
HEAL Food Alliance



1505 S 4th Street
Crockett, Texas 75835
(713) 377-1155
www.americaretrain.org

104 Legacy Av
Grambling, LA
(832) 419-9936
muhammadr@mpeds.us

1506 Joan of Arc
Prairie View Texas
(713) 377-1155
www.e-tech.us

March 15, 2022

RURAL COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

TO: Chairman David Scott, House Agriculture Committee
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission
Rural Community and Economic Development Committee
1400 Independence Ave., SW, Stop 0601
Washington, DC 20250-9821

Hello, I am Risheem Muhamad the founder of Retrain America a veteran nonprofit organization established in 2016. Our mission is to reduce homelessness amongst veterans and their families. It's my humble opinion that it starts with providing educational, employment and entrepreneurship opportunities prior to discharge from the military. Retrain America has partnered with EDS Tech Training Sites LLC a veterans training and trades school specialized in agriculture, telecommunication, consultants, engineering, construction, and training. We now have the capabilities to support rural communities and small



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towns through our Agri economic and telecommunication programs. We share the mission of USDA to address the digital divide while supporting rural communities' economic development. We have been operating within the rural communities for the last 5 years. Our support for a private public partnership only can increase our opportunities for economic growth.

We are asking on the behalf of the Small Town Mayors to support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities within the Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

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3. the Rural Business Enterprise Grant;
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Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

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Respectfully submitted,

Risheem Muhammad
President, Retrain America

EDS Tech Training: Helping Veterans Transition into Civilian Careers

by Michele Lawson | CSS



According to the Department of Defense, about 1300 military service members, spouses and children transition into civilian communities each day. Every U.S. Veteran has a common need to gain employment, education or entrepreneurship.

A U.S. Air Force Veteran trained in logistics, Risheem “Eli” Muhammad went from being homeless to helping other Veterans stay off the streets. Today, you will find that Muhammad is the Founder/CEO of EDS Tech Training Sites, which provides special construction trades education and training to Veterans. His personal success story is the building block for the EDS mission to bridge the gap between service members exiting the Armed Forces without jobs and meaningful employment by focusing on empowerment and sustainability.

An accident ended his logistics career in the U.S. Air Force early. So, Muhammad returned to college. Upon graduation, he went to work for the Federal Emergency Management Association as an inspector after Hurricane Katrina hit his home state of Texas. He later returned to logistics as the transportation manager for the Houston Independent School District (ISD). He got married, and with an entrepreneur’s determination, was ready to help his grandfather restructure his construction business. But when he lost his wife to bone cancer in 2013, his life plans unraveled.

“I ended up losing my home and becoming a homeless disabled Veteran. I had a decision to make,” he said. “Was I going to find work or restructure the business?”

Muhammad lived out of the office at his special trades construction company while trying to find services for himself along with other homeless and disabled Veterans in the area.

“I asked what’s out there to support Veterans after they’re discharged, because after everything I went through, I believe I have a solution that could probably alleviate some of the economic stress for Veterans.”

That solution is EDS Tech Training, with Veterans instructing and preparing Veterans for high-demand occupancy (HDO) technical jobs, which is a platform that has been proven in Texas to be suitable for Veterans interested in the special trade construction industry. EDS offers training in areas approved under HDO with the Texas Workforce Commission and funding from the Texas Veteran Commission, which ensures that persons seeking employment opportunities are given resources to do so in careers such as those found in fiber optics, cybersecurity, construction, inspection, and project management. Since there is no cost to the students to attend training, qualified candidates must be approved by TWC/TVC (meaning Veterans, incumbent

workers and unemployed are welcome).

“I’ve taken what I went through and made a success story out of it,” he said. “Instead of trying to figure out what society had to give, I wanted to be able to offer change and opportunities for other Veterans to better themselves and become self-sufficient.”

Muhammad said he offers training requiring a reasonable amount of preparation time so that a Veteran could take his training and go to work immediately in careers that fit the individual Veteran’s personality. Tech trades, he said, are perfect for transitioning military, and ETA certifications are greatly respected by the Military.

“You can see the difference of how well ETA’s certification competencies integrate into the EDS training approach,” Muhammad said. “Military training has a ‘show me’ style, which relates perfectly to the ETA International competency-based learning program.”

After Hurricane Harvey, Muhammad saw an opportunity to take EDS training to work-related projects in his local community. He said Houston had already scheduled removal of all of the copper cabling from its telecommunications infrastructure before the storm, and EDS was already instructing fiber optics installation. So that perfect storm put EDS Tech Training students to work, getting hands-on experience installing fiber optics in a courthouse just outside of Houston.

That “boots-on-the-ground” philosophy has led to more on-the-job training projects, and since then, EDS is preparing Veterans for careers with companies like Google Fiber and Engineering, Comcast, AT&T, Verizon, and ADT as well as smaller supportive businesses like Tecksys, TLC Engineering, and Cyprus One.

EDS has formed partnerships with Lone Star Community College, Houston Urban League, Fair Jobs of Progress and the Texas Education Agency to match more work-related jobs to EDS training. EDS has gathered support to expand its training and career pathway under the Texas A&M system through Prairie View A&M University, Houston ISD, Booker T. Washington High School and SER Jobs for Progress (SER is a nonprofit community organization that educates and equips people in the Texas Gulf Coast Region who come from low-income backgrounds or who have significant barriers to employment).

“We believe that Veterans have the skillsets and abilities needed to move our communities forward,” Muhammad said. “Our goal is to get every employer to recognize the value of hiring trained and certified Veterans.”//



March 15, 2022

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Re: Public Comment on USDA Equity Commission (FR Doc. 2022–03074)

The Farm Bill Law Enterprise (FBLE) appreciates the opportunity to comment on the charge and objectives of the USDA Equity Commission (Equity Commission or Commission). We applaud the recent developments toward improving access to programs and services as well as the expressed commitment to advancing racial equity at USDA. If you have any questions regarding our comment, please contact Francine Miller, Senior Staff Attorney/Adjunct Faculty, Vermont Law School, at fmiller@vermontlaw.edu or 917.741.6244.

Overview

The Farm Bill Law Enterprise¹ (FBLE) is a consortium that brings together a variety of legal, academic, and clinical programs with expertise in food, agriculture, nutrition, and the environment to provide research and recommendations on the farm bill. In recognition of the complex, technical nature of the farm bill, FBLE draws from expertise across traditional boundaries in order to promote the ideas proposed by expert organizations as well as seek novel solutions. FBLE works towards a farm bill that reflects a thoughtful consideration of the long-term needs of our society, including economic opportunity and stability; public health and nutrition; climate change mitigation and adaptation; public resources stewardship; and racial and socioeconomic justice. FBLE strives to achieve justice and equity in accomplishing each of these goals through joint research, analysis, and advocacy and by drawing on the experience of our members, collaboratively building deeper knowledge, and equipping the next generation of legal practitioners to engage with the farm bill.

FBLE fully supports the charter of the Equity Commission to “advance racial justice and equity for underserved communities.”²

The long history of discrimination by USDA through its practices and programs against farmers of color has been well documented in numerous Congressional reports, USDA

¹ For more information about the Farm Bill Law Enterprise, please visit <http://www.farmbilllaw.org>.

² USDA Equity Commission charter, at https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000001Gqj1/.C7oECBNVK_xCvIAD9EjmxokYTMIXzGhWYJWRtcYkc0.

civil rights investigations, and lawsuits.³ The effects of this historical and ongoing discrimination are still prevalent today, with White farmers on average operating significantly larger farms and generating significantly more income than farmers of color.⁴ While U.S. agricultural land has always been held mostly by White males, it has become much more concentrated over the past century.⁵ Further, White farmers received the vast majority of funding made available through USDA's Coronavirus Food Assistance Program.⁶

Black farmers in particular have faced tremendous obstacles in receiving fair treatment and accessing USDA programs and services, as systemic racism was baked into USDA systems, policies, staff and agents. The enslavement of Black people forced into agricultural labor was followed by decades of discriminatory and exclusionary practices by USDA. As a result, the number of Black farmers has fallen from nearly 1 million in 1920 to fewer than 50,000 today.⁷ Additionally, Black-owned farms are typically less than one-third the size and produce one-twelfth the income as compared to the average U.S. farm.⁸ Finally, there is the oft-cited statistic regarding farm ownership; since 1920, the number of farms operated by Black producers has fallen from over 900,000, nearly 15 percent of all farm operations in the United States, to less than 2 percent of all farms today.⁹

Indigenous farmers and ranchers have also faced a long history of discrimination by USDA. Further, as tribal nations are sovereign, they are uniquely positioned as not just a racial or ethnic group but as political entities as well. In addition to direct discrimination by USDA, tribal nations have suffered the consequences of federal removal and outright theft of their land, U.S. disregard for treaties, and reservation

³ See generally *Civil Rights at the United States Department of Agriculture*, USDA (1997), <http://www.federationsoutherncoop.com/pigford/research/CRAT%20Report%201997.pdf>, USDA, BLACK FARMERS IN AMERICA, 1865-2000: THE PURSUIT OF INDEPENDENT FARMING AND THE ROLE OF COOPERATIVES, 4 (2002), <https://www.rd.usda.gov/files/RR194.pdf>; *Hearing on the Decline of Minority Farming in the U.S. Before the Subcommittee on Government Information, Justice, and Agriculture*, 101st Cong. 141–48 (1990); Tadlock Cowan & Jody Feder, Cong. Rsch. Serv., RS20430, *The Pigford Cases: USDA Settlement of Discrimination Suits by Black Farmers* 3–4 (2013), <https://www.everycrsreport.com/reports/RS20430.html>.

⁴ Abril Castro & Zoe Willingham, *Progressive Governance Can Turn the Tide for Black Farmers*, CTR. FOR AM. PROGRESS (Apr. 3, 2019), <https://www.americanprogress.org/issues/economy/reports/2019/04/03/467892/progressive-governance-can-turn-tide-black-farmers/>.

⁵ *Bigger Farms, Bigger Problems: Farmland Consolidation is Harming US Rural Communities—and Better Policies Can Help*, UNION OF CONCERNED SCIENTISTS 5 (Apr 14, 2021), <https://www.ucsusa.org/resources/bigger-farms-bigger-problems>.

⁶ Laura Reily, *Agriculture Secretary Tom Vilsack Says Only 0.1 Percent of Trump Administration's Covid Farm Relief Went to Black Farmers*, Wash. Post (Mar. 25, 2021), <https://www.washingtonpost.com/business/2021/03/25/vilsack-interview-usda-rescue-plan/>.

⁷ Chuck Abbot, *'Justice' Bill Would Transfer up to 32 Million Acres to Black Farmers*, SUCCESSFUL FARMING (NOV. 20, 2020), <https://www.agriculture.com/news/business/justice-bill-would-transfer-up-to-32-million-acres-to-black-farmers>.

⁸ *Id.*

⁹ Abril Castro & Zoe Willingham, *Progressive Governance Can Turn the Tide for Black Farmers*, CTR. FOR AM. PROGRESS (Apr. 3, 2019, 9:03 AM), <https://www.americanprogress.org/issues/economy/reports/2019/04/03/467892/progressive-governance-can-turn-tide-black-farmers/>.

policies that have caused Indigenous communities to lose their land and the food systems that had supported them for centuries.¹⁰

In order to be accountable and begin to undo the damaging effects of decades of racial discrimination against communities of color, USDA must prioritize advancing racial equity in access to credit, agricultural land, technical support, and all other USDA programs and services.

The Equity Commission and its Subcommittee on Agriculture can play a vital role in addressing these issues by advising the Secretary of Agriculture and providing a thorough analysis of how to dismantle the USDA programs, policies, systems and practices that perpetuate disparities and contribute to systemic racial discrimination. The Commission's charge is to provide *actionable* recommendations to ameliorate the barriers to inclusion and access. As expressed in the Equity Commission's Charter, the recommendations should "center on the systems change necessary for USDA to effectively advance racial justice and equity for underserved communities."¹¹ At a minimum, the Equity Commission should:

1. Establish program accessibility and data collection directives for USDA;
2. Make a recommendation that the Secretary of Agriculture establish coordination between the Equity Commission and the Advisory Committee on Agricultural Statistics on the design and execution of the Census of Agriculture;
3. Develop strategies to embed meaningful coordination between USDA and diverse groups to solicit input on all aspects of USDA program design and implementation;
4. Make recommendations regarding the work of the Office of Budget Program Analysis;
5. Obtain and incorporate a formal response by USDA to the Equity Commission's recommendations into the Equity Commission's report;
6. Recommend that USDA incorporate a specific goal regarding equity into its 2022-2026 strategic plan;
7. Review and make recommendations regarding the civil rights complaint processes at USDA.

¹⁰ Janie Simms Hipp & Colby D. Duren, *Regaining Out Future: An Assessment of Risks and Opportunities for Native Communities in the 2018 Farm Bill*, Seeds of Native Health 9–10 (June 2017), https://seedsofnativehealth.org/wp-content/uploads/2017/06/Farm-Bill-Report_WEB.pdf.

¹¹ USDA Equity Commission charter, at https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000001Gqj1/.C7oECBNVK_xCvIAD9EjmxokYTMIXzGhWYJWRteYkc0.

Recommendation 1: Establish program accessibility and data collection directives for USDA

Data collection is crucial to ensuring transparency, understanding issues of discrimination, and developing solutions to make USDA programs equitable and accessible to underserved farmers and ranchers.

The EC should study data collection efforts by USDA to determine additional data that should be gathered to assist in making recommendations to repair the legacy and ongoing harm resulting from discrimination within USDA programs. Recommendations could include producing an annual report on recipients of USDA assistance broken down by race, ethnicity, and gender that is consolidated and publicly accessible. The Equity Commission should determine whether reviewing race, ethnicity, and compensation data for USDA employees is advisable. This data should be used to identify and recommend specific reforms to prevent further discrimination, including mechanisms to ensure transparency and accountability.

Finally, in coordination with a diverse group of producers, the Commission should review USDA's tracking and reporting of foreclosures and debt collections and recommend this data be broken down by race, ethnicity, and gender. The Commission should also examine USDA's partnerships with private lending institutions to require these private entities collect and disclose to USDA demographic data on foreclosures and debt collections. The Commission should then analyze this data to draft recommended revisions to the terms of the USDA-private entity partnership to identify gaps in data collection, along with existing barriers to accessing credit and loan services, and develop recommended strategies to eliminate inequities in lending within those private entities.

The Commission should identify where the gaps are in data collection and provide actionable recommendations for change, in order to develop strategies to improve accessibility and address systemic impediments to equity in USDA programs and the cumulative effect of USDA's historic discriminatory practices. In addition to the above, this should include reviewing retention policies to insure records are not destroyed, but rather archived and available for public access by request.

Recommendation 2: Make a recommendation that the Secretary of Agriculture establish coordination between the Equity Commission and the Advisory Committee on Agriculture Statistics on the design and execution of the Census of Agriculture

The Advisory Committee on Agriculture Statistics (Advisory Committee) was established to advise the Secretary of Agriculture on the Census of Agriculture and its

scope, timing, and content as well as to prepare recommendations to ensure that the Census provides robust and relevant data.¹²

The Secretary of Agriculture, the Equity Commission and Advisory Committee should form a joint working group to collaborate on the design and implementation of the Census, a vital source of information regarding the agriculture sector and its demographic makeup, for opportunities to improve its data collection to better capture equity concerns. The group should work to design the Census to collect diverse agricultural characteristics (geography, size, scale, and type of production) and demographics, with special emphasis on the representation of Black, Indigenous and farmers of color, and smaller producers.¹³ Additionally, the group should strategize methods for addressing non-response, especially among underrepresented producers, and form partnerships with organizations to increase Census coverage, especially with organizations such as Cooperative Extensions serving farmers of color,¹⁴ and community-based organizations. Finally, the group should ensure that the data collection and analysis is transparent and that the demographic data aggregated at the census tract level as well as the data collection methods used are made publicly available.¹⁵

The working group should consider whether the current racial and ethnic groupings on the Census sufficiently capture the data needed to effectively conduct outreach, tailor technical assistance to the community, and inform policy. The working group should also ensure the Census survey is culturally appropriate and provided in relevant languages.¹⁶ The working group should also explore and recommend other ways to increase participation in the Census from underrepresented groups, such as increasing funding for outreach and education, especially among producers who may face language, technical, or other barriers. This may include partnering with community-based organizations to increase awareness of, and trust in, USDA surveys. Further, the working group should evaluate strategies to make the Census more accessible. The Census can be a time-consuming, complicated process that may be especially burdensome on producers of color or underserved producers who may not see a direct benefit in participating in the survey. This may be especially true among Black farmers who have historically been undercounted by the Census.¹⁷

¹² Advisory Committee on Agriculture Statistics: About the Committee, USDA (Aug. 11, 2021), https://www.nass.usda.gov/About_NASS/Advisory_Committee_on_Agriculture_Statistics/index.php.

¹³ See *Improving Information About America's Farms & Ranches*, Council on Food, Agric., & Res. Econ. 2–6 (Mar. 2007).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See, e.g., *The Campaign to Include Ethnicity in the USDA Census of Agriculture*, CALI. CLIMATE & AGRIC. NETWORK (June 3, 2021), <https://calclimateag.org/the-campaign-to-include-ethnicity-in-the-usda-census-of-agriculture>.

¹⁷ *Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA*, AM. FARMLAND TRUST 7 (Aug. 4, 2021), https://downloads.regulations.gov/USDA-2021-0006-0353/attachment_1.pdf.

Finally, the group should consider whether Census data should be disaggregated in order to obtain a better understanding of the barriers that particular groups face (i.e., how many Black women rely on rented land).¹⁸ Additional opportunities for analysis through data disaggregation would help USDA identify and more effectively target its efforts to dismantle systemic discrimination in its programs.

Recommendation 3: Develop a process for meaningful input to USDA by a diverse group of farmers, ranchers, food system workers

Without sufficient representation, the valuable perspectives of all producers cannot be used to shape and influence USDA programs and practices.¹⁹ Nor can their input be utilized to address long-standing inequities and influence agricultural policy. USDA and its agencies should actively solicit input from diverse stakeholders in all aspects of USDA's program design, outreach, and implementation, especially those who have not had a voice.

Importantly, in developing strategies to increase participation from diverse participants to assist in the design, implementation, and evaluation of programs, the Commission must be aware of the disparate histories of discrimination experienced by different racial and ethnic groups. Redressing these past harms may require different approaches; different mechanisms may be required to eliminate discrimination against a particular group going forward.

The Commission should create opportunities for open dialogues with diverse groups in formal and informal capacities, and this should not be limited to requests for input on programs and policies that specifically target underserved producers.

First, the Commission should recommend guaranteeing meaningful agency coordination with a diverse constituency of stakeholders to promote inclusion across different races, ethnicities, genders, farm sizes, and types of crops or animals produced.

Second, the Commission should develop a framework for stakeholder engagement in all aspects of USDA programming which ensures that people of color and other underserved groups have adequate opportunity to engage in USDA's rulemaking process. USDA is already required to engage with Tribes in a timely manner and is required to engage in meaningful consultation on policies that have substantial direct effects on one or more Tribes. This directive describes consultation as encompassing three essential elements; (1) who can consult (those with delegated authority), (2) the qualities of process (timely, meaningful, substantive), and (3) the inclusiveness of communication (two-way dialogue between parties). Consultation is also distinguished from mere notification, technical communications, or outreach activities.

¹⁸ *Id.*

¹⁹ See generally *USDA Racial Equity Comment*, Earthjustice (June 14, 2021), https://earthjustice.org/sites/default/files/files/earthjustice_et_al_recommendations_racelequityeo.pdf.

Importantly, this distinct process for consulting with Tribes must be preserved given their unique history of discrimination and political position as sovereign nations. However, the Commission should develop alternative procedures to guarantee engagement from underserved non-Tribal groups. For example, USDA could be required to solicit input from a specified portion of underserved stakeholders on proposed rules and program priorities, establishing evaluation criteria for competitive grant programs, conducting effective outreach, and developing service delivery models. This may include listening sessions with specific participation requirements to ensure that all stakeholders are represented, with some kind of formal response by USDA to recommendations suggested at the listening session. The Commission could consider modeling these efforts after California's Farmer Equity Act.²⁰ The Farmer Equity Act directs the California Department of Food and Agriculture to ensure that socially disadvantaged farmers and ranchers are included in the development, adoption, implementation, and enforcement of food and agriculture laws, regulations, and policies and programs.²¹

Finally, the Commission should create a budget recommending appropriate funding allocations necessary to fully implement the newly developed opportunities for USDA to incorporate diverse perspectives into all aspects of the department's work. By prioritizing this coordination, the interests of historically underrepresented stakeholders will be reflected and help shape USDA programs to be accessible and equitable. Creating mechanisms of increased participation from all producers, especially those who have been excluded, will allow USDA to harness this untapped experience and expertise and build an environment at USDA that values diversity and stakeholder engagement.

Recommendation 4: Make recommendations regarding the work of the Office of Budget and Program Analysis

The Equity Commission's recommendations should include reference to the work of USDA's Office of Budget and Program Analysis (OBPA). The Commission should make recommendations for OBPA to develop specific criteria in their budget analysis procedures and internal operations that incorporate an equity lens. These criteria should insure that going forward, all analysis and operations are reviewed to determine 1) whether they perpetuate racial discrimination, and 2) whether they actively dismantle systemic barriers to participation in USDA programs by Black, Indigenous and other farmers of color.

²⁰ AB-1348, Farmer Equity Act of 2017, § 513(a), https://leginfo.legislature.ca.gov/faces/billPdf.xhtml?bill_id=201720180AB1348&version=20170AB134894CHP. For more discussion on the Act, see *Farmer Equity Act of 2017*, Cal. Farmer Just. Collaborative (2017), <https://www.farmerjustice.com/work>.

²¹ *Id.*

Recommendation 5: Obtain and incorporate USDA formal response into the Equity Commission's report

The Equity Commission is set to deliver an interim report and provide actionable recommendations by September 2022, with a final report to be completed by the summer of 2023.²²

Once the Commission has completed the interim report, the Commission should obtain and incorporate into the final report a response to each recommendation from the Secretary of Agriculture. This process could be modeled after one at the Commission of Internal Revenue. There, the National Taxpayer Advocate prepares a report identifying areas of improvement and recommendations to address deficiencies. The Commissioner is then required to formally respond to all recommendations within 3 months after submission.²³

By requiring a response from the Secretary of Agriculture, the Commission will ensure that their recommendations are considered and responded to before the Commission finalizes the report.

Recommendation 6: Recommend that USDA incorporate a specific goal regarding equity into its 2022-2026 strategic plan

USDA's 2018-2022 Strategic Plan, developed by OBPA, includes seven strategic goals; (1) ensure USDA programs are delivered efficiently, effectively, with integrity and a focus on customer service; (2) maximize the ability of American agricultural producers to prosper by feeding and clothing the world; (3) promote American agricultural products and exports; (4) facilitate rural prosperity and economic development; (5) strengthen the stewardship of private lands through technology and research; (6) ensure productive and sustainable use of our national forest system lands; and (7) provide all Americans access to a safe, nutritious, and secure food supply.²⁴ USDA's budget supports achievement of USDA's seven strategic goals. Each year, OBPA produces a publication that summarizes the fiscal year budget for USDA and highlights programs and initiatives in furtherance of each strategic goal.²⁵

USDA should incorporate a goal regarding racial equity into its 2022-2026 strategic plan to ensure that USDA is accountable for its statements regarding equity and racial justice.

The Commission should recommend that any USDA plan to end systemic racial discrimination include specific, measurable goals and benchmarks to indicate progress

²² 87 Fed. Reg. 8227 (Feb. 14, 2022).

²³ 26 U.S.C. § 7803(c)(3).

²⁴ *USDA Strategic Plan: FY 2018–2022*, USDA (May 2018), <https://www.usda.gov/sites/default/files/documents/usda-strategic-plan-2018-2022.pdf>.

²⁵ *See, e.g., FY 2022 Budget Summary*, USDA, <https://www.usda.gov/sites/default/files/documents/2022-budget-summary.pdf> (last visited Oct. 26, 2021).

and increased participation by underserved producers, and specifically, by Black, Indigenous and other farmers of color, within a certain timeframe. These recommendations should outline steps to a) increase the number of farmers from each of these groups by a certain percentage (including farm operators and owners), b) increase the number of participants from each of these groups in most USDA grant and loan programs by certain percentages, and c) increase the median sum received by participants from each of these groups in USDA grant and loan programs by a certain percentage. These objectives will support efforts to advance equity within USDA by providing measurable indicators of progress and achievements.

Recommendation 7: Review and make recommendations regarding the civil rights complaint processes at USDA

USDA's history of discrimination has been accompanied by an ineffective civil rights complaint process that has all but guaranteed that meritorious employee and program complaints go unaddressed. While some of this history can be attributed to poor leadership, structural issues abound that may be mitigated through changes in policy and/or the establishment of independent review mechanisms. In particular, the Office of the Assistant Secretary for Civil Rights (OASCR), the office responsible for leading and overseeing the agency's civil rights programs, should be a focal point for reform. The Issue Brief *Supporting Civil Rights at USDA: Opportunities to Reform the USDA Office of the Assistant Secretary for Civil Rights* outlines several avenues for improving OASCR's discrimination complaint process and calls upon USDA to establish an advisory committee to consult on and guide OASCR's reform efforts.²⁶ The Equity Commission can, in the near term, fill that role; it should review the critiques and recommendations included in that Issue Brief, conduct its own evaluation of USDA's discrimination complaint processes, and make recommendations for establishing effective, credible civil rights enforcement mechanisms at USDA.

We are happy to provide any additional information at your request.

Sincerely,

Farm Bill Law Enterprise
farmbilllaw.org

²⁶ See Harv. L. Sch. Food L. & Pol'y Clinic, *Supporting Civil Rights at USDA: Opportunities to Reform the USDA Office of the Assistant Secretary for Civil Rights* (2021), https://chlp.org/wp-content/uploads/2013/12/FLPC_OASCR-Issue-Brief.pdf.



March 14, 2022

Co-Chairs Dr. Jewel Bronaugh and Arturo S. Rodríguez
Equity Commission
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Co-chair Bronaugh and Co-chair Rodríguez,

Thank you for the opportunity to submit comments following the first meeting of the U.S. Department of Agriculture's (USDA) Equity Commission. We were glad to see the Commission and the USDA more broadly taking on this important work. **As the Commission considers the need for additional Subcommittees, we would encourage the formation of a Rural Housing Subcommittee to address historic racial discrimination and inequity in USDA's single and multifamily housing programs, and to ensure that these programs serve all rural communities equitably in the future.**

The Housing Assistance Council (HAC) helps build homes and communities across rural America. Founded in 1971, headquartered in Washington, D.C. and working in all 50 states, HAC is a national nonprofit and a certified community development financial institution (CDFI). We are dedicated to helping local rural organizations build affordable homes and vibrant communities. We provide below-market financing, technical assistance, training, and information services. HAC also serves as rural America's "Information Backbone" with leading public and private sector institutions relying on HAC's independent, non-partisan research and analysis to shape policy. Our work places a special focus on high-needs rural regions, specifically the Lower Mississippi Delta, rural Appalachia, farmworker communities, the Southwest border colonias and Indian Country.

The National Housing Law Project's (NHLP) mission is to advance housing justice for poor people and communities. We achieve this by strengthening and enforcing the rights of tenants and homeowners, increasing housing opportunities for underserved communities, and preserving and expanding the nation's supply of safe and affordable homes. NHLP is considered the national expert on USDA's rural development programs, long advocating for equal access to these programs on behalf of low-income individuals and families eligible for and residing within USDA's Rural Development's multifamily and single-family programs.

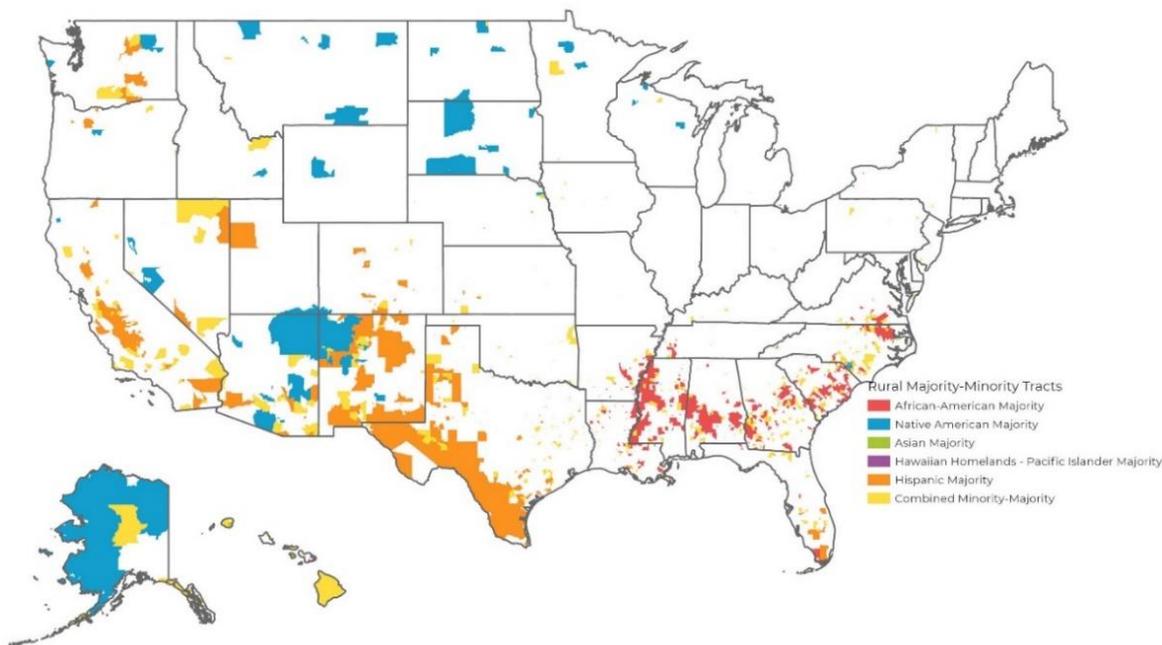
HAC and NHLP have worked extensively in persistently poor communities and rural communities of color. Rural America is home to about 20 percent of the U.S. population and covers more than

90 percent of the U.S. landmass. Its small towns and rural regions are diverse demographically and economically, and face a wide array of local challenges and opportunities for developing their communities and housing. While each place is unique, HAC has documented several themes. Persistent poverty is a predominantly rural condition. Habitable rural housing is in severely short supply. The adequate housing that does exist is often unaffordable because rural incomes are low and run well below the national median. Rural housing lacks adequate plumbing and kitchen facilities at a rate above the national average. Overcrowding is not uncommon in some rural regions. Decades of stagnant rural house prices have denied owners the wealth and mobility so often associated with buying a home. And racial inequity is endemic as the result of housing policies and banking practices that excluded rural people of color. Complicating these challenges, a lack of reliable rural data obscures rural realities.

In more than 2,000 rural and small-town census tracts, racial and ethnic minorities make up the majority of the population. These majority-minority rural communities are depicted in the accompanying map. The harsh realities of racial inequity in rural communities are apparent in housing conditions in these places. Rural minorities are more likely than rural whites or all households nationally to live in substandard and unaffordable housing and are more likely to be poor.¹

RURAL AMERICA IS MORE DIVERSE THAN YOU THINK

There are more than 2,000 rural and small-town census tracts where racial and ethnic minorities make up the majority of the population.



Source: Housing Assistance Council Tabulations of The U.S. Census Bureau's 2014- 2018 American Community Survey data.

¹ Race and Ethnicity in Rural America. Rural Research Brief. Housing Assistance Council. Sept. 28, 2021. <https://ruralhome.org/united-states-becoming-more-racially-diverse-so-is-rural-america/>

While we understand why the commission is starting its work with the focus on farming and agriculture, we were glad to see many Commission Members mention the importance of affordable, quality housing for rural community and economic development during the Commission's first meeting on February 28, 2022. For that reason, we are recommending that the Commission form a Rural Housing Subcommittee in order to focus in on improvements to the Rural Housing Service (RHS) programs within Rural Development.

This is especially needed given the disproportionate impact of the pandemic on housing security for people of color, especially those in rural communities. Even prior to the pandemic, racial and ethnic disparities existed in who is served by Rural Development's housing programs. For example:

- Eligible immigrant families have been excluded from affordable rental housing located in rural communities throughout the country.
- Racial disparities persist in the 502 Guaranteed Loan Program, which serves a much lower percentage of people of color than are served by the 502 direct loan program.
- RHS programs have been used minimally in Native American communities, often because of insufficient outreach efforts or an inadequate understanding of the available program resources. In FY 2019, for example, only six of the 6,194 Section 502 direct loans made nationally by Rural Development were to Native Americans for homes on tribal land.

The RHS programs are critically important to rural communities, and have struggled under program funding cuts, lack of adequate staffing levels, and outdated technology systems. Improving and growing these programs is of the utmost importance, and requires that they be examined with a lens to racial equity. As the Commission considers the need for additional Subcommittees, we would encourage the formation of a Rural Housing Subcommittee to address these opportunities for improvement. Should resources for additional Subcommittees be limited, then we would encourage robust housing expertise and consideration in the planned Rural Development Subcommittee.

Thank you again for your consideration of these comments. Please don't hesitate to reach out to Samantha Booth at Samantha@ruralhome.org or Natalie Maxwell at nmaxwell@nhlp.org if you would like any clarification or further information.

Sincerely,

David Lipsetz
President & CEO
Housing Assistance Council

Shamus Roller
Executive Director
National Housing Law Project

February 28, 2022

TO: Chairman David Scott, House Agriculture Committee

House Committee on Agriculture

1301 Longworth House Office Building

Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission

Rural Community and Economic Development Committee

1400 Independence Ave., SW, Stop 0601

Washington, DC 20250-9821

We ask that you support the inclusion of \$25 million to support economic development in agriculture for rural underserved communities. This funding for section 14218 of the Food, Conservation and Energy Act of 2008, within Rural Development Mission area of USDA will help stimulate depressed communities across America. These funds will advance equity and opportunity for chronically underserved rural areas; and advance President Biden's executive order on advancing racial equity and support for underserved rural communities through the Federal government.

If approved by Congress, this \$25 million (1 million for full-time equivalent employees) will fund technical assistance and strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. The recipient of said funds will: 1.) coordinate an economic development project within an underserved area; and 2.) share the Department of Agriculture programs that could address issues within the underserved area. The funds will create jobs and help thousands of rural businesses (i.e. businesses affected by COVID-19), homeless persons, and students.

These underserved communities will benefit from technical assistance and strategic regional planning at the State and local level. Therefore, if approved by Congress, the section 14218 of the Food, Conservation and Energy Act of 2008 will be used to establish an office for chronically underserved rural communities within RD that would coordinate:

1. the Rural Microentrepreneur Assistance Program;
2. the Value-Added Producer Grant;
3. the Rural Business Enterprise Grant;
4. the Socially Disadvantaged Producers Grant; and
5. the section 514/516 Farmlabor Housing Program;
6. the Farmworker Housing Technical Assistance Grant;
7. the Emergency Farmworker Program;
8. the Processing Worker Grant;
9. Farmworkers Training Grant Program; and
10. Public, Private, Partnerships through Cooperative Agreements per 7 USC 2204b(b)(4)

Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

BACKGROUND: The section 14013 of the Food, Conservation, Energy Act of 2008 created the Office of Outreach because socially disadvantaged farmers and ranchers were not participating in USDA programs. The section 14218 of the Food, Conservation and Energy Act of 2008 will focus on chronically underserved areas. The previous Administration did not fund section 14218 of the Food, Conservation and Energy Act of 2008 despite the Rural Development's delegation of authority (7 CFR 2.17(29)) mandating the implementation of section 14218 of the Food, Conservation and Energy Act of 2008.

**SIGNATURES OF OTHERS WHO WOULD BENEFIT FROM THIS
PROGRAM ARE AS FOLLOWS:**

A handwritten signature in black ink, consisting of a stylized, cursive 'L' followed by a series of loops and a final flourish that curves upwards and to the right.

United Migrant Opportunity Services/UMOS Inc.
Lupe Martinez
President/CEO

March 4, 2022

TO: Chairman David Scott, House Agriculture Committee

House Committee on Agriculture

1301 Longworth House Office Building

Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission

Rural Community and Economic Development Committee

1400 Independence Ave., SW, Stop 0601

Washington, DC 20250-9821

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SIGNATURES OF OTHERS WHO WOULD BENEFIT FROM THIS PROGRAM ARE AS FOLLOWS:



Rose Garcia, Executive Director, Tierra del Sol Housing Corporation, Las Cruces, NM



Arturo Alvarado, Executive Director, Colorado Rural Housing Development Corp, Westminister, CO



March 11, 2022

TO: Chairman David Scott, House Agriculture Committee
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

TO: Co-Chair, Arturo S. Rodriguez, USDA Equity Commission
Rural Community and Economic Development Committee
1400 Independence Ave., SW, Stop 0601
Washington, DC 20250-9821

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Thank you for considering this request. We respectfully ask that you move this funding forward for section 14218 of the Food, Conservation and Energy Act of 2008 in the Federal budget.

Respectfully Submitted



Neville A. Anderson
President