

117TH CONGRESS
1ST SESSION

H. R. 5309

To direct the Secretary of Agriculture to enter into contracts to provide individuals dealing with food and nutrition insecurity family-friendly fresh produce, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2021

Ms. DELAURO (for herself and Mr. MCGOVERN) introduced the following bill;
which was referred to the Committee on Agriculture

A BILL

To direct the Secretary of Agriculture to enter into contracts to provide individuals dealing with food and nutrition insecurity family-friendly fresh produce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fresh Produce Pro-
5 curement Reform Act of 2021”.

6 **SEC. 2. CONTRACTS FOR FRESH PRODUCE.**

7 (a) IN GENERAL; PURPOSES.—Not later than 90
8 days after the date of the enactment of this Act, the Sec-

1 retary, acting through the Administrator of the Agricul-
2 tural Marketing Service and in consultation with the Ad-
3 ministrator of Food and Nutrition Service, shall establish
4 a program (in this section referred to as the “Program”)
5 under which the Secretary shall enter into contracts with
6 eligible entities to procure fresh produce for distribution
7 to qualifying nonprofits that serve individuals at risk of
8 food and nutrition insecurity. The Program shall aim to—

9 (1) increase access to a wide variety of fresh
10 fruits and vegetables to low-income households;

11 (2) directly connect fruit and vegetable pro-
12 ducers and distributors to nonprofit emergency feed-
13 ing entities;

14 (3) increase the Federal Government’s procure-
15 ment of fresh fruits and vegetables;

16 (4) strengthen the local and regional food sup-
17 ply chain;

18 (5) reduce on-farm food loss; and

19 (6) model nimbleness and responsiveness in and
20 out of emergency situations.

21 (b) SELECTION CRITERIA.—In determining whether
22 to award contractors, the Secretary of Agriculture should
23 consider whether the eligible entity—

24 (1) has previous experience distributing fresh
25 produce through the Department of Agriculture;

1 (2) has demonstrated experience in fresh
2 produce supply chain distribution;

3 (3) holds qualifications including, PACA li-
4 cense, food safety certifications, and any other re-
5 quirements as determined by the Secretary;

6 (4) operates a facility or facilities in or adjacent
7 to the State where the produce will be distributed;

8 (5) sources from small and medium sized grow-
9 ers and local and regional produce as geographically
10 and seasonally feasible; and

11 (6) offers the government a price determined to
12 be the overall best value without limiting evaluation
13 factors to lowest price or highest technical rating.

14 (c) PRIORITY.—In entering into contracts under the
15 Program, the Secretary shall give priority to the following:

16 (1) Socially disadvantaged eligible entities, in-
17 cluding women-owned and veteran-owned.

18 (2) Eligible entities that are, or source from,
19 beginning farmers, or small or mid-sized farms that
20 are structured as family farms, as defined in sub-
21 section (g).

22 (3) Eligible entities that can deliver to areas in
23 most need of fresh produce, as determined by the
24 Secretary.

1 (4) Eligible entities that can demonstrate a
2 commitment to serving local communities through
3 strong relationships with qualifying nonprofits, pub-
4 lic agencies, and Tribal governments, as determined
5 by the Secretary.

6 (d) CONTRACT TERMS AND PRODUCE MAKEUP.—
7 The Secretary shall ensure the following when admin-
8 istering contracts:

9 (1) The period of performance under the con-
10 tract shall be—

11 (A) at least 90 days; and

12 (B) not more than 120 days.

13 (2) Eligible entity is located in the State or lo-
14 cality in which produce is provided, or has dem-
15 onstrated experience distributing to the service area.

16 (3) Award multiple contracts within each of the
17 United States Department of Agriculture’s Food
18 and Nutrition Services regions to provide opportuni-
19 ties for a broad range of producers and entities.

20 (4) The makeup of the produce includes:

21 (A) Only fresh fruits and vegetables grown
22 in the United States.

23 (B) Locally grown fruits and vegetables
24 where geographically and seasonally possible, as
25 determined by the Secretary.

1 (C) No fewer than seven varieties of fresh
2 fruits and vegetables.

3 (D) Offer a variety of both fruits and vege-
4 tables consistent with the most recent Dietary
5 Guidelines for Americans published under sec-
6 tion 301 of the National Nutrition Monitoring
7 and Related Research Act of 1990.

8 (E) Include culturally competent commod-
9 ities, as determined by the Secretary in con-
10 sultation with the distributing agency.

11 (5) Price paid by the government is inclusive of
12 all transportation and distribution costs associated
13 with delivering to the final destination of eligible
14 nonprofit distributing partner.

15 (e) PROGRAM ADMINISTRATION.—

16 (1) QUALIFYING NONPROFITS.—The Secretary
17 shall establish a process for which to identify quali-
18 fying nonprofit entities that may participate in the
19 Program and conduct outreach to ensure that eligi-
20 ble nonprofits are made aware of the Program.

21 (2) EQUITY AND GEOGRAPHIC REACH.—In car-
22 rying out the Program each fiscal year, the Sec-
23 retary shall enter into contracts with eligible entities
24 in a manner that ensures the total value of contracts
25 entered into in each State, territory, or Tribal enti-

1 ty, is proportionate to the number of households and
2 individuals living in poverty within the State, terri-
3 tory, or Tribal entity, as determined by the Sec-
4 retary.

5 (A) VULNERABLE AREAS.—The Secretary
6 shall establish a process—

7 (i) to determine the areas most in
8 need of produce provision under the Pro-
9 gram, including rural areas, the territories
10 and possessions of the United States, and
11 areas under the jurisdiction of a Tribal
12 government; and

13 (ii) to ensure such areas are served by
14 the Program.

15 (B) TECHNICAL ASSISTANCE.—The Sec-
16 retary shall provide technical assistance to eligi-
17 ble entities participating in the Program with
18 respect to—

19 (i) the contact terms and expectations
20 applicable to covered entities under the
21 Program;

22 (ii) best practices for the distribution
23 of the produce and expectations of dis-
24 tribution; and

25 (iii) food safety certification.

1 (C) FINANCIAL ASSISTANCE.—the Sec-
2 retary shall provide information to assist small,
3 beginning, veteran, and socially disadvantaged
4 farmers in obtaining food safety certifications
5 and covering the associated costs of necessary
6 changes and upgrades to practices and equip-
7 ment to improve food safety.

8 (f) REPORTING.—

9 (1) Not later than one year after the date of
10 enactment of this Act, the Secretary shall provide to
11 Congress a report on activities carried out under the
12 Program, including counties and percentage of coun-
13 ties served, number of produce packages provided,
14 quantity and variety of fresh produce distributed,
15 number of farms sourced from, including size of
16 farms, and percentage of produce procured locally
17 and regionally and other data as determined by the
18 Secretary.

19 (2) Not later than 1 year after the enactment
20 of this Act, the Comptroller General of the United
21 States shall submit to the Committee of Agriculture
22 of the House of Representatives a report that evalu-
23 ates the Program's effectiveness at meeting the
24 goals as stated in subsection (a).

25 (g) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means any of the following small businesses, as defined by the Small Business Administration:

(A) Grower, packer, distributor, or food-hub.

(B) A nonprofit organization.

(C) A cooperative.

(2) QUALIFYING NONPROFIT.—The term “qualifying nonprofit” means all of the following:

(A) A nonprofit food bank, soup kitchen, school, child or senior care center, youth serving community based organization, Tribal organization, or public agency participating in an existing United States Department of Agriculture nutrition program including, but not limited to, National School Lunch Program, Summer Food Service Program, Child and Adult Care Food Program, Food Distribution Program on Indian Reservations, Commodity Supplemental Food Program, or Emergency Food Assistance Program.

(B) A food bank or other nonprofit that does not meet criteria under subsection (a) but has demonstrated experience in serving needs of vulnerable populations facing food and nutrition

1 insecurity and can demonstrate necessary food
2 safety understanding and other requirements as
3 determined by the Secretary.

4 (3) SECRETARY.—The term “Secretary” means
5 the Secretary of Agriculture acting through the Ad-
6 ministrators of the Agricultural Marketing Service of
7 the Department of Agriculture.

8 (4) STATE.—The term “State” means all
9 States within the United States of America, the Dis-
10 trict of Columbia, territories and possessions, and
11 Tribal governments.

12 (5) BEGINNING FARMER.—The term “begin-
13 ning farmer” has the meaning given the term in sec-
14 tion 343(a) of the Consolidated Farm and Rural De-
15 velopment Act (7 U.S.C. 1991(a)).

16 (6) SOCIALLY DISADVANTAGED APPLICANT OR
17 FARMER.—The term “socially disadvantaged appli-
18 cant or farmer” has the meaning given the term in
19 section 761.2 of title 7, Code of Federal Regula-
20 tions.

21 (7) VETERAN FARMER.—The term “veteran
22 farmer” has the meaning given the term in section
23 2501(e) of the Food, Agriculture, Conservation, and
24 Trade Act of 1990 (7 U.S.C. 2279(e)).

1 (8) FAMILY FARM.—The term “family farm”
2 has the meaning given the term in section 231(a) of
3 the Agricultural Risk Protection Act of 2000 (7
4 U.S.C. 1632(a)).

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