

May 11, 2020

The Honorable Bruce Summers
Administrator, Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, DC 20250

Dear Administrator Summers:

United Fresh Produce Association represents more than 1,500 companies throughout the fresh produce supply chain including growers, shippers, fresh-cut processors, wholesalers, distributors, retailers, foodservice operators, industry suppliers and allied associations.

We greatly appreciate the efforts of the Department and the Agriculture Marketing Service in establishing the Farmers to Families Food Box Program to address challenges that have arisen related to the emergency declaration around COVID-19. We also appreciated the speed with which AMS solicited and awarded bids for the program. And, we are thrilled that hundreds of millions of dollars of fresh produce will now be on their way to Americans in need.

However, the announcement of the awards on Friday night has brought many questions from our members that need to be addressed. This is not "sour grapes" from those that may not have been awarded; this is a genuine effort to ensure integrity and confidence in the program and that fresh produce actually gets to those in need in an efficient and cost-effective way.

We are advising our members who were denied bids to contact the AMS team to request a specific review of their application and grounds for denial. We know of several upstanding companies that are current government contractors to USDA and the DOD Fresh program who were seemingly denied on mistaken grounds. We hope the Department will rectify those clear cases and award those bids now.

In addition, we ask that you address the following questions so that the entire industry can understand these issues more clearly:

- 1) Will USDA make available a list of all applicants that applied?
- 2) Will USDA release the full proposals for those that were awarded?
- 3) Did USDA require that awardees be PACA-licensed produce dealers in good standing? If not, why not, and how can USDA ensure that non-licensees fulfill the requirements of PACA?
- 4) We understand that offerors were required to explain their dependence upon subcontractors in their proposals, and if they did not, they need to submit a waiver to request to add a subcontractor now. We are hearing from our members today numerous requests for new subcontractors. Companies who were awarded bids without their own warehouse, staff and distribution ability are now soliciting companies that have those facilities and were denied bids for no apparent reason.
- 5) To what extent did USDA consider an offeror's ability to deliver on the contract effectively and efficiently? We understand companies may have been awarded a contract larger than their

annual revenues. We understand other companies may have been awarded a contract despite the fact that they have no trucks nor delivery systems.

- 6) Please clarify the process in which the offerors who were not awarded can dispute the rationale provided by USDA for denial and the timeline in which this is available.
- 7) How will USDA determine that the contract is being carried out as promised in the bid? What actions will be taken if the contract is not being fulfilled?
- 8) If during the base period there are concerns around the contractor's ability to deliver, will previously denied offerors be given the opportunity to perform?
- 9) How will USDA ensure that payments are not made until confirmation that demonstrates contracts have been fulfilled according to the proposal on mutually agreeable terms?
- 10) There are some contracts that were awarded to companies that are not located and appear to not have business locations in that region. What is the rationale for awarding those contracts while others in those regions were not awarded contracts?
- 11) There are several contracts awarded to entities that do not appear to have previously conducted similar business, as laid out in the Past Performance and Offeror Capability sections. For the purpose of this contract, how does USDA define "historical experience", "the number of years the applicant sold these or similar products in the commercial marketplace", and "how the offeror is currently engaged in the wholesale/retail trade and sells the items offered to the general public"?
- 12) Will USDA reconsider current offers from companies that can clearly show the AMS team that mistakes were made in the evaluation of their offers?
- 13) What will be USDA's process for subsequent bid periods to ensure that additional vendors are approved and awarded?
- 14) What was the price range of each CLIN that were awarded to contractors (by the pound)?
- 15) How much dialogue between USDA and executive directors at the TEFAP sites and other nonprofits occurred prior to determination of awards to ensure that proposals were reflective of mutually agreeable terms?

We appreciate your timely response to these questions. We share your commitment to ensuring the Farmers to Families program is a success in helping address food insecurity, provide nutrition, and support American agriculture.

Sincerely,



Tom Stenzel
President & CEO
United Fresh Produce Association

CC:

The Honorable Sonny Perdue, USDA Secretary

The Honorable Stephen Censky, USDA Deputy Secretary

The Honorable Greg Ibach, Under Secretary, USDA Marketing and Regulatory Programs