H. R. 8096

To direct the Secretary of Agriculture to make payments to direct marketing farmers affected by COVID–19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 25, 2020

Ms. ADAMS introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To direct the Secretary of Agriculture to make payments to direct marketing farmers affected by COVID–19, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Local and Regional Farmer and Market Support Act”.

SEC. 2. PAYMENTS FOR DIRECT MARKETING FARMERS AFFECTED BY COVID–19.

(a) FUNDING FOR PAYMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), of the funds of the Commodity Credit Corporation, the
Secretary shall use $1,000,000,000 for fiscal year 2020, to remain available until expended, to carry out payments under this section.

(2) Reservation for socially disadvantaged farmers or ranchers.—Of the funds made available under paragraph (1), the Secretary shall reserve 20 percent for payments to socially disadvantaged farmers or ranchers under this section for fiscal year 2020.

(3) Award of payments.—The Secretary shall make all payments under this section not later than 210 days after the date of the enactment of this Act.

(b) Eligibility.—

(1) Application.—

(A) In general.—The Secretary shall provide a payment to a covered producer that submits to the Secretary an application in accordance with subparagraph (B) demonstrates, as determined by the Secretary, that—

(i) the producer is a covered producer; and

(ii) either—

(I) the revenue of the covered producer was reduced by 5 percent or
greater during the covered period, as
compared to the benchmark revenue
of the covered producer; or

(II) the covered producer has in-
curred increased costs in excess of 5
percent due to the COVID–19 emer-
gency during the covered period.

(B) TIMING.—To be eligible to receive a
payment under this section, a covered producer
shall submit to the Secretary an application de-
scribed in subparagraph (A), not later than 120
days after the date of the enactment of this
Act.

(2) BENCHMARK REVENUE.—

(A) IN GENERAL.—Subject to subpara-
graphs (B) and (C), the benchmark revenue of
a covered producer shall be any 1 calendar year
in the 3 calendar years prior to the first day of
the covered period, as determined by the cov-
ered producer.

(B) VERY NEW PRODUCERS.—In the case
of a covered producer that has been in oper-
ation for less than 1 year before the first day
of the covered period, the Secretary shall—
(i) determine the benchmark revenue based on comparable farm operations in such manner as the Secretary determines appropriate; and

(ii) prorate payments under this section.

(3) DOCUMENTATION.—For purposes of demonstrating revenue and expenses under this section, a covered producer or applicant, as applicable, shall use at least one of the following:

(A) Self-certification.

(B) Contracts, receipts, or other agreements that document direct sales to consumers, food service providers, schools, institutions, restaurants, retailers, and intermediary businesses that market locally or regionally branded products.

(C) Records of crop year revenue from 2017 through 2019.

(D) Tax documents.

(E) Other legitimate documents, as determined by the Secretary.

(4) SELF CERTIFICATION LIMITATION.—

(A) PAYMENT AMOUNT.—A covered producer that demonstrates revenue and expenses
using only self-certification may not receive directly or indirectly a total amount of payments greater than $6,000 under this section.

(B) Very New Producers.—A covered producer that is a very new producer (as described in paragraph (2)(B)) may not demonstrate revenue and expenses under paragraph (3) using self-certification.

(5) Crop Insurance.—The Secretary may not condition a payment under this section on participation in a plan or policy under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or in the non-insured crop assistance program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(6) Farm Number.—A covered producer shall be eligible to receive payments, regardless of whether such covered producer has a farm number.

(c) Amount.—

(1) In General.—Subject to paragraphs (2) and (3), the amount of a payment to a covered producer under this section shall be equal to—

(A) in the case of a covered producer with a benchmark revenue of less than $5,000, 70
percent of that benchmark revenue, but in no case less than $1,500;

(B) in the case of a covered producer with a benchmark revenue of equal to or greater than $5,000 and less than $10,000, 60 percent of that benchmark revenue, but in no case less than $3,500;

(C) in the case of a covered producer with a benchmark revenue of equal to or greater than $10,000 and less than $25,000, 55 percent of that benchmark revenue, but in no case less than $6,000;

(D) in the case of a covered producer with a benchmark revenue of equal to or greater than $25,000 and less than $100,000, 50 percent of that benchmark revenue, but in no case less than $13,750;

(E) in the case of a covered producer with a benchmark revenue of equal to or greater than $100,000 and less than $250,000, 40 percent of that benchmark revenue, but in no case less than $50,000, and not more than $150,000; and

(F) in the case of a covered producer with a benchmark revenue of equal to or greater
than $250,000 and less than $900,000, $150,000.

(2) Payment Limitation.—The total amount of payments received under this section by a covered producer, directly or indirectly, may not exceed $150,000.

(3) Deduction of Previous Payments.—A payment made to a covered producer under this section shall be reduced by the amount of any payments received by such covered producer on or before August 28, 2020, under the Coronavirus Food Assistance Program of the Department of Agriculture, as specified in part 9 of title 7, Code of Federal Regulations (or successor regulations).

(d) Adjusted Gross Income Limitation.—A covered producer may not be eligible to receive a payment under this section if the average adjusted gross income of the covered producer exceeds $900,000.

(e) Regulations.—The Secretary shall issue a rule to carry out this section not later than 30 days after the date of the enactment of this Act.

(f) Temporary Administrative Prohibition on Using Administrative Offset in Certain Cases.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2021, the Sec-
retary of Agriculture may not collect any payment made to a covered producer under this section in satisfaction of a claim as authorized under section 3716 of title 31, United States Code.

(g) DEFINITIONS.—In this Act:

(1) BENCHMARK REVENUE.—The term “benchmark revenue” means, with respect to a covered producer, the revenue for the 1-year period selected under section 3(b)(2).

(2) COVERED PERIOD.—The term “covered period” means the period beginning on January 31, 2020, and ending on that date on which the declaration referred to in paragraph (4) (and any renewal thereof) terminates.

(3) COVERED PRODUCER.—

(A) IN GENERAL.—The term “covered producer” means a farmer, livestock producer, shellfish grower, or other producer who derives at least 25 percent of total farm income from any combination of the following direct marketing arrangement in which the producer sells to:

(i) The final consumer such as through farmers’ markets, community
sponsored agriculture programs, farm
stands, or online sales.

(ii) Retailers including supermarkets,
supercenters, restaurants, caterers, inde-
pendent grocery stores, and food cooper-
tives.

(iii) Institutions such as schools, col-
leges, universities, hospitals, as well as
intermediary business such as wholesalers
distributors, food hubs.

(B) EXCLUSIONS.—The term “covered
producer” does not include livestock or poultry
integrators, processors, or other business enti-
ties relating to livestock and poultry production
that do not raise livestock or poultry.

(4) COVID–19 EMERGENCY.—The term
“COVID–19 emergency” means the public health
emergency declared by the Secretary of Health and
Human Services under section 319 of the Public
Health Service Act (42 U.S.C. 247d) on January
31, 2020, with respect to COVID–19.

(5) REVENUE.—The term “revenue”, with re-
spect to a covered producer, means total farm rev-
ue, including revenue derived from agritourism ac-
tivities conducted by a covered producer.
(6) Secretary.—The term “Secretary” means the Secretary of Agriculture.

(7) Socially disadvantaged farmer or rancher.—The term “socially disadvantaged farmer or rancher” has the meaning given the term in section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)).

(8) Farm number.—The term “farm number” has the meaning given the term in section 718.2 of title 7, Code of Federal Regulations (as in effect on the date of enactment of this Act).

SEC. 3. EMERGENCY ASSISTANCE FOR FARMERS AND FARMERS’ MARKETS.

(a) COVID–19 Emergency Market Response Grants.—Section 210A of the Agricultural Marketing Act of 1946 (7 U.S.C. 1627c)—

(1) in subsection (d), by adding at the end the following:

“(7) COVID–19 Emergency Market Response Grants.—

“(A) In general.—The Secretary shall award to eligible entities described in paragraphs (5)(B) and (6)(B) emergency grants to develop new or alternative marketing projects to respond to the COVID–19 pandemic.
“(B) Requests for proposals.—Not later than 30 days after the date of the enactment of the Local and Regional Farmer and Market Support Act, the Secretary shall issue a request for proposals for grants under subparagraph (A).

“(C) Application.—Eligible entities seeking a grant under this paragraph shall submit to the Secretary an application at such time and in such manner as the Secretary shall require. Such application shall contain—

“(i) in the case of an eligible entity described in paragraph (5)(B)—

“(I) a description of how the enterprises of such eligible entity has been impacted by COVID–19; and

“(II) a narrative explaining how the eligible entity proposes to use grant funding to respond to the impacts of COVID–19 and to create or increase marketing opportunities for value-added agricultural products;

“(ii) in the case of eligible entities described in paragraph (6)(B)—
“(I) a description of how local and regional food markets and enterprises served by such eligible entities have been impacted by COVID–19; and

“(II) a narrative explaining how the applicant proposes to use grant funding to respond to the impacts of COVID–19 on local and regional food markets or enterprises and to facilitate marketing and sales of agricultural products to consumers; and

“(iii) such other information as the Secretary may require.

“(D) PRIORITY.—

“(i) VALUE-ADDED PRODUCER PROGRAM PRIORITY.—

“(I) IN GENERAL.—In making grants under this paragraph to eligible entities described in paragraph (5)(B), the Secretary shall give priority to applications submitted by an eligible entity that is—

“(aa) a socially disadvantaged farmer or rancher (as de-
fined in section 2501(a) of the 
Food, Agriculture, Conservation, 
and Trade Act of 1990 (7 U.S.C. 
2279(a))); or 

“(bb) a minority business 
enterprise.

“(II) HIGHEST PRIORITY.—In 
giving priority under clause (i), the 
Secretary shall give highest priority to 
eligible entities that provide the great-
est contribution to preserving, cre-
ating, or increasing opportunities for 
socially disadvantaged farmers or 
ranchers.

“(ii) FARMERS’ MARKETS AND LOCAL 
FOOD PROMOTION PROGRAM PRIORITY.—

“(I) IN GENERAL.—In making 
grants under this paragraph to eligi-
ble entities described in paragraph 
(6)(B), the Secretary shall give pri-
ority to applications submitted by an 
eligible entity that is a minority busi-
ness enterprise.

“(II) HIGHEST PRIORITY.—In 
giving priority under clause (ii), the
Secretary shall give highest priority to eligible entities that—

“(aa) primarily serve a community of color or a low-income community; and

“(bb) provide the greatest contribution to preserving, creating, or increasing market opportunities for socially disadvantaged farmers or ranchers.

“(E) Matching requirement inapplicability.—The Secretary may not require an eligible entity receiving a grant under this paragraph to provide matching funds (in any form) with respect to the Federal portion of the grant.

“(F) Definitions.—In this paragraph:

“(i) Community of color.—The term ‘community of color’ means a geographically distinct area in which the population of any of the following categories of individuals is higher than the average populations of that category for the State in which the community is located:

“(I) Black.
“(II) African American.
“(III) Alaska Native.
“(IV) Asian.
“(V) Hispanic.
“(VI) Latino.
“(VII) Native Hawaiian.
“(VIII) Pacific Islander.
“(IX) Other non-White race.

“(ii) Low-income community.—The term ‘low-income community’ means any census block group in which 30 percent or more of the population are individuals with an annual household income equal to, or less than, the greater of—

“(I) an amount equal to 80 percent of the median income of the area in which the household is located, as reported by the Department of Housing and Urban Development; and

“(II) 200 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section).
“(iii) MINORITY.—The term ‘minority’ means any individual who is a citizen of the United States and who is a member of a group specified in any of subclauses (I) through (IX) of clause (i).

“(iv) MINORITY BUSINESS ENTERPRISE.—The term ‘minority business enterprise’ means an eligible entity specified in paragraph (6)(B) or (5)(B)(ii) which is at least 51-percent owned or controlled by a minority or group of minorities.”; and

(2) in subsection (i), by adding at the end the following:

“(4) COVID–19 EMERGENCY MARKET RESPONSE GRANTS.—

“(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to make grants under subsection (d)(7)—

“(i) $25,000,000, for grants to eligible entities described in paragraph (5)(B), to remain available until expended; and

“(ii) $25,000,000, for grants to eligible entities described in paragraph (6)(B), to remain available until expended.
“(B) Reservation of Funds.—Of the funds made available under subparagraph (A)—

“(i) in the case of funds made available to make grants to eligible entities described in paragraph (5)(B), 20 percent shall be reserved for grants awarded to eligible entities described in subsection (d)(7)(D)(i); and

“(ii) in the case of funds made available to make grants to eligible entities described in paragraph (6)(B), 20 percent shall be reserved for grants to entities specified in subsection (d)(7)(D)(ii).

“(C) Award of All Grants.—The Secretary shall award all available funds for grants under subsection (d)(7) not later than 180 days after the date of the enactment of the Local and Regional Farmer and Market Support Act.”.

(b) Matching Funds Waiver.—Section 210A(d) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1627c(d)), as amended by subsection (a), is further amended—
(1) in paragraph (5), by amending subparagraph (E) to read as follows:

“(E) MATCHING FUNDS.—

“(i) IN GENERAL.—Subject to clause (ii), an eligible entity described in subparagraph (B) receiving a grant shall provide matching funds in the form of cash or an in-kind contribution in an amount that is equal to 25 percent of the total amount of the Federal portion of the grant.

“(ii) COVID–19 EMERGENCY FLEXIBILITIES.—The matching funds requirements under clause (i) shall not apply with respect to grants awarded during fiscal year 2020 through 2022.”; and

(2) in paragraph (6), by amending subparagraph (E) to read as follows:

“(E) MATCHING FUNDS.—

“(i) IN GENERAL.—Subject to clause (ii), an eligible entity described in subparagraph (B) receiving a grant shall provide matching funds in the form of cash or an in-kind contribution in an amount that is equal to 25 percent of the total amount of the Federal portion of the grant.
“(ii) COVID–19 EMERGENCY FLEXI-
BILITIES.—The matching funds require-
ments under clause (i) shall not apply with
respect to grants awarded during fiscal
year 2020 through 2022.”.

(c) COVID–19 EMERGENCY EXCEPTION.—Section
210A(d) of the Agricultural Marketing Act of 1946 (7
U.S.C. 1627c(d)) is amended—

(1) in paragraph (5)(D)—

(A) in clause (i), by striking “clause (ii)”
and inserting “clauses (ii) and (iii)”; and

(B) by adding at the end the following:

“(iii) COVID–19 EMERGENCY EXCEP-
TION.—An eligible entity described in sub-
paragraph (B) may use a grant received
during any of fiscal years 2020 through
2022 for market rebuilding expenses in-
curred as a result of the COVID–19 pan-
demic, including the purchase or construc-
tion of a building, general purpose equip-
ment, or structure.”; and

(2) in paragraph (6)(D)—

(A) in clause (i), by striking “clause (ii)”
and inserting “clauses (ii) and (iii)”; and

(B) by adding at the end the following:
“(iii) COVID–19 EMERGENCY EXCEPTION.—An eligible entity described in sub-
paragraph (B) may use a grant received during any of fiscal years 2020 through
2022 for market rebuilding expenses in-
curred as a result of the COVID–19 pan-
demic, including the purchase or construc-
tion of a building, general purpose equip-
ment, or structure.”.

SEC. 4. EQUITY IN EMERGENCY TRAINING AND OUTREACH.

(a) IN GENERAL.—Section 2501 of the Food, Agri-
culture, Conservation, and Trade Act of 1990 (7 U.S.C.
2279) is amended by adding at the end the following:

“(m) ADDITIONAL FUNDING.—

“(1) IN GENERAL.—The Secretary shall make grants to, or enter into cooperative agreements or contracts with, eligible entities specified in sub-
sections (c)(1) and (d)(3) to provide training, out-
reach, and technical assistance on operations, fi-
ancing, and marketing to beginning farmers and ranchers, socially disadvantaged farmers and ranch-
ers, and veteran farmers and ranchers, including to aid producers in, and securing documentation for,
applying for assistance under section 2 of the Local and Regional Farmer and Market Support Act.
“(2) Deadlines.—

“(A) Request for proposals.—Not later than 30 days after the date of the enactment of the Local and Regional Farmer and Market Support Act, the Secretary shall issue a request for proposals for the grants described in paragraph (1).

“(B) Selection.—Not later than 90 days after the date of the enactment of the Local and Regional Farmer and Market Support Act, the Secretary shall, pursuant to the request for proposals under subparagraph (A), select eligible entities to receive grants under paragraph (1).

“(C) Award of all grants.—The Secretary shall award all grants under this subsection not later than 135 days after the date of the enactment of the Local and Regional Farmer and Market Support Act.

“(3) Priority.—In making grants and entering into contracts and other agreements under paragraph (1), the Secretary shall give priority—

“(A) in the case of eligible entities specified in subsection (c)(1), to nongovernmental and community-based organizations—
“(i) with an expertise in working with socially disadvantaged farmers and ranchers; and

“(ii) that are at least 51-percent owned or controlled by a minority (as defined in section 210A(d)(7) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1627c(d)(7))) or a group of minorities; and

“(B) in the case of eligible entities specified in subsection (d)(3), to partnerships and collaborations that are led by or include non-governmental, community-based organizations and school-based educational organizations—

“(i) with expertise in new agricultural producer training and outreach; and

“(ii) that are at least 51-percent owned or controlled by a minority or a group of minorities.

“(4) FUNDING.—

“(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this subsection, $50,000,000, to remain available until expended.
“(B) Matching funds applicability.—

The Secretary may not require a recipient of a grant under this subsection to provide any non-Federal matching funds.”.

(b) Terms of Grants and Cooperative Agreements to Socially Disadvantaged and Veteran Farmers and Ranchers.—Section 2501(e)(4)(E) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(4)(E)) is amended to read as follows:

“(E) Maximum term and amount of grant, contract, or agreement.—

“(i) In general.—A grant, contract, or agreement entered into under subparagraph (A) shall—

“(I) be for a term of not longer than 3 years; and

“(II) provide not more than $250,000 for each year.

“(ii) Extension.—The Secretary may extend the term of any grant, contract, or agreement entered into under subparagraph (A) by not more than one year if the entity receiving such grant or entering into such cooperative agreement is unable to complete a project or activity
supported using grant funds over the original term of the grant.”.

(c) Terms of Grants and Cooperative Agreements to Beginning Farmers and Ranchers.—Section 2501(d)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(d)(4)) is amended to read as follows:

“(4) Terms of grants and cooperative agreements.—

“(A) In general.—A grant or cooperative agreement under this subsection shall—

“(i) be for a term of not longer than 3 years; and

“(ii) provide not more than $250,000 for each year.

“(B) Extension.—The Secretary may extend the term of any grant or cooperative agreement by not more than one year if the entity receiving such grant or entering into such cooperative agreement is unable to complete a project or activity supported using grant funds over the original term of the grant.”.

(d) Matching Funds Inapplicability.—Section 2501(d)(5) of the Food, Agriculture, Conservation, and
Trade Act of 1990 (7 U.S.C. 2279(d)(5)) is amended to read as follows:

“(5) MATCHING FUNDS INAPPLICABILITY.—With respect to grants awarded under this subsection for each of fiscal years 2020, 2021, and 2022, the Secretary may not require an eligible entity receiving a grant under this paragraph to provide matching funds (in any form) with respect to the Federal portion of the grant.”.

SEC. 5. CORONAVIRUS FOOD ASSISTANCE PROGRAM PAYMENT REPORTS.

Beginning not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall include in the weekly payment reports issued by the Secretary with respect to the Coronavirus Food Assistance Program, the following farm and demographic information with respect to payments made under such program and under section 2 of this Act:

(1) The number of unique applications received and the number of such applications approved, disaggregated by State.

(2) The number of entities applying for and receiving payments under section 2 that reported their sales through the direct marketing arrangements de-
scribed in subsection (d)(3)(A) of such section, for whom such payments equal—

(A) 25 percent or greater but less than 50 percent of total annual farm income;

(B) 50 percent or greater but less than 75 percent of total annual farm income; and

(C) greater than 75 percent of total annual farm income.

(3) Scale of operation (both total acres and gross sales).

(4) Whether the entity receiving the payment—

(A) is a beginning farmer or rancher (as defined in section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)));

(B) is a socially disadvantaged farmer or rancher (as defined in such section 2501(a)); or

(C) has been certified as a certified organic farm or each certified organic handling operation pursuant to the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

SEC. 6. REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall make
interim final rules to carry out this Act (and the amendments made by this Act).