



1400 Independence Avenue, SW.
Room 3071-S, STOP 0201
Washington, DC 20250-0201

May 21, 2020

Mr. Tom Stenzel
President and Chief Executive Officer
United Fresh Produce Association
1901 Pennsylvania Avenue NW, Suite 1100
Washington, D.C. 20006

Dear Mr. Stenzel:

Thank you for your letter dated May 11, 2020, sharing support and some concerns of the United Fresh Produce Association (United Fresh) members regarding the U.S. Department of Agriculture (USDA) Farmers to Families Food Box Program. On May 8, 2020, USDA approved 198 contracts totaling over \$1.2 billion to support American producers and communities through the program, which included \$231,969,412 in contracts to United Fresh members. A full list of contracts awarded to United Fresh's members is enclosed for reference.

The goal of the Farmers to Families Food Box Program is to: allow producers to sell food previously destined for restaurants and bulk purchasers to suppliers; preventing waste; and help Americans in need in response to the Coronavirus 2019 (COVID-19) pandemic. We are pleased to see the abundance of interest in this program from United Fresh's members, food distributors, processors, brokers, and non-profit organizations. Food boxes are already being delivered. The industry's response to this program, including from your members, helps us uphold our commitment to meet the needs of farmers and families, and resulted in this swift action. In addition to providing food to communities where it is needed most, several participating organizations have been able to bring employees back to work to support the packaging and distribution of food boxes. This all-hands-on-deck, community-focused approach gets to the true intent of the program.

Like your members, USDA is committed to ensuring the integrity of the program and administrating it in an efficient and cost-effective way. During the week of May 11, 2020, we hosted a conference call with contractors to further discuss the contractual requirements and compliance considerations, including the requirement for Perishable Agricultural Commodities Act (PACA) licenses; food safety requirements; USDA audits and oversight throughout the contract period; and the domestic origin requirement.

Since the contracts were approved, we have received numerous requests for submitted proposals and additional information regarding the contract approval process. We are following up on any concerns regarding specific contractors to ensure they can meet the contractual requirements and successfully perform. However, we can only discuss concerns over the award process directly

with the entity that submitted the proposal. The Contracting Officer sent a letter to each entity that did not receive a contract on May 11, 2020, to begin those discussions.

Below please find responses to the questions included in your letter.

1. Will USDA make available a list of all applicants that applied?

The Federal Acquisition Regulation (FAR) Part 3.104-4 prohibits disclosing proposals and applicable source selection information. However, we can confirm that over 550 proposals were received.

2. Will USDA release the full proposals for those that were awarded?

USDA may not release full proposals for those that were awarded. In addition to FAR Part 3.104-4 (referenced above), FAR 24.202 prohibitions states, "A proposal in the possession or control of the Government, submitted in response to a competitive solicitation, shall not be made available to any person under the Freedom of Information Act." Successful proposals included many small businesses and those that will support local and regional farmers, which was part of the evaluation criteria for contract award. Proposals were evaluated by (in descending order of importance) the technical information contained; past performance of the offeror; the offeror's capability to perform; and the prices offered.

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?

All awardees must comply with PACA. Awardees must have, or acquire, a PACA license to comply with the contractual requirement. Awardees that did not have a PACA license at the time the contract was awarded must have one prior to performance under the contract.

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.

Thank you for sharing this information. Contractors are able to subcontract with other entities through this program. FAR Section 52.244-2 allows for subcontractors and outlines specific requirements that may apply to them.

- 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.**

As part of their proposal, offerors described their capabilities for achieving performance under the contract. Demonstrations of this capability included, but were not limited to: commercial experience; business ethics and integrity standards; food safety and/or regulatory audits; inspections; certifications and approvals; and a demonstration of financial capability to perform. USDA evaluated the offeror’s ability to responsibly execute the requirements of the contract as they pertain to administrative, ethical, safety, compliance, and financial prowess of the offeror.

- 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.**

We appreciate the opportunity to provide a debrief to those interested. Offerors were provided an opportunity to request a debriefing no later than 8:00 a.m. Eastern Time on Thursday, May 14, 2020, by sending an email to ERacquisition@usda.gov with “Debriefing Request” and the offeror name in the subject line of the email. To the maximum extent practicable, the debriefing should have occurred within 5 days after receipt of the written request. USDA completed all debriefings on May 18, 2020.

- 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?**

USDA provides oversight throughout the contract period—conducting audits to ensure food safety plans are followed; that only domestic produce is provided; and that quality products are delivered, among other contract administration matters. Contracts require suppliers to source food from producers, prepare the boxes of items identified in their proposal, and deliver the boxes to non-profit organizations on a mutually agreeable, recurring schedule. Payments will be made upon the submission of an invoice documenting evidence of delivery and adherence to the contractual requirements. FAR Part 49 provides guidance regarding termination of Federal contracts, including contracts approved for the Farmers to Families Food Box Program.

- 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?**

Previously denied offerors cannot be given the opportunity to perform under this solicitation. However, we welcome these offerors’ participation in other USDA purchase program opportunities.

- 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?**

Payment on contracts will be made upon the submission of an invoice documenting evidence of delivery and adherence to the contractual requirements.

- 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?**

Proposals for the USDA Farmers to Families Food Box Program were evaluated by (in descending order of importance) the technical information documented; past performance of the offeror; the offeror's capability to perform; and the prices offered. As previously noted, successful proposals included many small businesses and those that will support local and regional farmers, which was part of the evaluation criteria for contract award. All proposals were carefully reviewed by a team of contracting and technical experts, and contracts were made accordingly.

- 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"?**

Each awarded offeror provided three past performance references for similar contracts and orders completed within the past 3 years (or contracts and orders which were currently being completed).

- 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?**

USDA will reconsider current offers if mistakes were made in the evaluation. A company should utilize the processes outlined in FAR Part 15 pertaining to debriefing to address any concerns.

13. What will be USDA's process for subsequent bid periods to ensure that additional vendors are approved and awarded?

USDA may elect to extend the period of performance of the contracts, via option periods, and/or solicit additional proposals, dependent upon the program's success and available remaining funds—up to \$3 billion. If applicable, information regarding additional proposals will be announced on the Agricultural Marketing Service website.

14. What was the price range of each CLIN that were awarded to contractors (by the pound)?

The total dollar award amounts are available through www.USASpending.gov.

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?

The USDA Farmers to Families Food Box Program provides a new approach to support American farmers and families, and USDA moved as expeditiously as Federal procurement rules allow to stand up the program and solicit offers. While many conversations took place with non-profit organizations during the 3 weeks between the announcement of the program and the award of contracts, the short timeframe to begin the much-needed shipments of produce did not allow for extensive dialogue. As was explained during various webinars, the program was dependent upon current and developed relationships between contractors and non-profit and other Governmental organizations, taking advantage of the marketplace and natural supply chains.

Again, thank you for your letter and for supporting this innovative approach to provide timely and critical support to American farmers and families during these challenging times. USDA will continue to look for new and better ways to accomplish our mission, support American agriculture and the American people. If you or your staff have any additional questions or concerns, please do not hesitate to contact us.

Sincerely,



Bruce Summers
Administrator

Enclosure

United Fresh Produce Association Member Contracts

Company	Amount Awarded	Box Type
4Earth Farms LLC	\$1,921,500	Solely FFV
Alsum Farms & Produce, Inc.	\$424,113	Solely FFV
Alta/Chelan Fresh	\$5,928,922	Solely FFV
Capital City Fruit Co. Inc	\$145,000	Solely FFV
Caribbean Produce Exchange	\$107,040,000	Solely Combination Boxes
CDS Distributing, Inc	\$1,552,320	Solely FFV
Coastal Sunbelt Produce	\$4,540,000	Solely FFV
Coosemans Houston	\$404,663	Solely FFV
Costa Fruit and Produce Co.	\$3,512,000	Solely FFV
Dairyland Produce Sid Wainer & Son	\$250,000	Solely FFV
DiMare Fresh	\$24,363,660	Solely FFV
Easterday Farms Produce	\$344,400	Solely FFV
Ford's Produce Co	\$609,644	Solely FFV
Garden Fresh Foods	\$1,126,199	Solely FFV
Gotham Greens	\$648,000	Solely FFV
Heartland Produce Co	\$1,080,000	Solely FFV
Interfresh, Inc	\$2,877,600	Solely FFV
James Desiderio Inc	\$2,079,350	Solely FFV
Joe Granato Produce	\$364,500	Solely FFV
John Vena Inc	\$1,800,000	Solely FFV
L&M Companies	\$1,874,880	Solely FFV
Liberty Fruit Company	\$1,220,400	Solely FFV
Limehouse Produce	\$744,000	Solely FFV
Mpalazola Produce	\$2,940,000	Solely FFV
Melissa's World Variety Produce Inc	\$306,000	Solely FFV
Old Tyme Produce Inc.	\$1,920,000	Solely FFV
Oneonta Trading Corp	\$4,959,900	Solely FFV
Pacific Coast Fruit Co.	\$24,840,000	Solely FFV
Paragon Wholesale Foods	\$3,816,000	Solely FFV
ProduceOne, Inc.	\$905,000	Solely FFV
Sanson Company	\$2,901,750	FFV- Also Received \$3.181M for Dairy Box
Seashore Fruit & Produce	\$7,580,000	Solely FFV
Segovia's Distributing, Inc.	\$5,716,800	Solely FFV
Stern Produce Co.	\$550,000	FFV- Also Received about 20K for Fluid Milk
T&T Produce	\$1,800,000	Solely FFV
T.M. Kovacevich	\$2,054,333	Solely FFV

**United Fresh Produce Association Member Contracts
(Continued)**

Testa Produce, Inc.	\$534,600	Solely FFV
The Fresh Group LTD	\$338,008	FFV- Also Received 990K for Combination Box
Tulsa Fruit, DBA: GoFresh	\$17,922,400	FFV- Also Received 15.7M Dairy Products Box; 12.029M for Combination Box; \$8.235M for Fluid Milk Box
Van Eerden Foodservice	\$3,168,750	FFV- Also received 1.740M for Dairy Box; 19K for precooked meat box
Wiers Farm, Incorporated	\$2,414,720	Solely FFV