



Support for Local and Regional Food Systems in COVID-19 Response

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Emily Broad Leib, Chris Mawhorter, Brianna Johnson-King, and Emma Scott

As the United States responds to the coronavirus (COVID-19) crisis, the Harvard Law School Food Law and Policy Clinic (FLPC) is tracking a variety of anticipated challenges across the food system. One of these concerns is the loss of market access for the many farmers and food producers who primarily sell to local and regional food systems.

These producers rely primarily on direct-to-consumer markets, like farmers markets and farm stands, and purchases by large institutions, like schools and universities, all of which have been and will be heavily disrupted due to social distancing measures. CRS estimates show that the direct-to-consumer markets accounted for nearly \$12 billion in farm sales in 2017.¹ Many farmers markets have already been canceled for the coming weeks, and schools are no longer operating their farm-to-school procurement programs. Farmers selling in local and regional markets stand to lose much or all of their revenue for the coming weeks and months, and tons of good food will go to waste. At the same time, given business closures, more consumers will be struggling to purchase food and food banks and pantries will be stretched thin.

As policymakers evaluate actions to protect the food system, particular care is needed to address the strains on local and regional producers, and to

use all available funds for that purpose. **This fact sheet includes several legislative and administrative actions that Congress and USDA can take to unlock already-appropriated funding to these farmers.** Such actions include redirecting funds from programs that will be underutilized in this crisis, supplementing funding for vital purchases to ensure small farmers do not go out of business, and allowing greater latitude for existing funding to meet the needs of the crisis.

The Emergency Food Assistance Program (TEFAP)

TEFAP is the largest federal program providing direct food assistance for vulnerable populations. USDA's Food and Nutrition Service (FNS) administers the program in partnership with purchasing agencies the Agricultural Marketing Service (AMS) and Commodity Credit Corporation (CCC), buying surplus commodities from producers and distributing them to state TEFAP agencies. Those state agencies, in turn, pass the commodities on to local Emergency Feeding Organizations (EFOs) - most commonly food banks - who distribute them to community organizations combating hunger.² Allowing more latitude for TEFAP programs procuring food could support redirecting foods from

¹ RENEE JOHNSON, CRS, REP NO. IF11252, 2018 FARM BILL PRIMER: SUPPORT FOR LOCAL FOOD SYSTEMS (2019), <https://fas.org/sgp/crs/misc/IF11252.pdf>.

² KARA CLIFFORD BILLINGS, CRS REPORT NO. R45408, THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP): BACKGROUND AND FUNDING (2020), <https://fas.org/sgp/crs/misc/R45408.pdf>.

local producers into the emergency feeding system to facilitate a more robust response to the current emergency, while getting dollars to those farmers impacted by lack of their traditional markets.

TEFAP Farm to Food Bank (FTFB) program

First authorized in the 2018 Farm Bill, the FTFB program provides \$4 million in mandatory annual funds to state TEFAP agencies and EFOs to cover the “harvesting, processing, packaging, or transportation” of commodities that would otherwise be waste.³ The program requires that these products be donated by producers, processors, or distributors for use by EFOs; typically, the program may not be used to purchase the foods outright. To support struggling local farmers, **Congress should direct USDA to allow FTFB FY2020 funds to be for EFOs purchasing commodities that would have otherwise been sold through direct-marketing or institutional procurement that are not operating as a result of COVID-19 social distancing measures.** This would involve the following changes: relaxing the purpose for which funds can be used to include purchasing food, rather than simply funding costs associated with donation; expediting the approval process for grants (applications opened on March 12 and are currently due March 31); and eliminating the 50% cost-sharing requirement for states to participate in this program.⁴

Congress should also direct additional TEFAP funds appropriated in COVID-related stimulus packages to be added to the FTFB program, as retooled above, to allow states and food banks to purchase directly from struggling local and regional food system using TEFAP funds. Furthermore, Congress should grant USDA authority to direct **additional TEFAP funds appropriated specifically for transport and storage to states and EFOs to assist with acquisition and transportation of local foods into**

the emergency food system. Congress may appropriate such funds and direct them to jurisdictions under emergency or disaster designations, as it did most recently in the Bipartisan Budget Act of 2018 for Hurricanes Harvey, Irma, and Maria and wildfire response.⁵

Bonus and Emergency Foods Purchasing

Congress should direct USDA to work with states to prioritize relief for local and regional food systems in the allocation of bonus and emergency foods purchasing. Bonus foods are purchased for the TEFAP program using separate USDA budget authority - Section 32 and Commodity Credit Corporation (CCC) funds. Bonus foods purchasing often follows the needs of the agricultural market and input from state and local partners in a given year. For example, USDA purchased bonus commodities worth \$1.2 billion in FY2018 and \$1.4 billion in FY2019 to offset losses related to retaliatory tariffs.⁶ Given the impending impacts on the local and regional food system as a result of COVID-19 response, purchasing or allowing states to purchase bonus foods from local producers should be a priority of this program.

USDA should also use its authority under Section 413(b) of the Stafford Act, which allows the Secretary of Agriculture to use Section 32 funds to purchase foods for disaster relief during Presidentially-declared emergencies and disasters.⁷ Section 101(g) of the Families First Coronavirus Act (H.R. 6201) would further reinforce this authority, directing the Secretary to purchase foods for the emergency response from “any area of the United States.”⁸ These funds should be used, at least in part, to purchase directly from and support local and regional food producers.

³ BILLINGS, *supra* note 2, <https://fas.org/sgp/crs/misc/R45408.pdf>; see also TEFAP – Farm to Food Bank Projects State Plan Requests and Fiscal Year 2020 Allocations, USDA-FNS (2020), <https://www.fns.usda.gov/tefap/farm-food-bank-projects>.

⁴ TEFAP – Farm to Food Bank Projects State Plan Requests and Fiscal Year 2020 Allocations, USDA-FNS (2020), <https://www.fns.usda.gov/tefap/farm-food-bank-projects>.

⁵ BILLINGS, *supra* note 2; see also BIPARTISAN BUDGET ACT OF 2018, PUB. L. NO. 115-123, § 10101, 132 Stat. 67 (2018).

⁶ BILLINGS, *supra* note 2.

⁷ 42 U.S.C. 5180(b).

⁸ H.R. 6201, 116th Cong., Sec. 101(g) (2020).

Local Agriculture Market Program (LAMP)

LAMP was created in the 2018 Farm Bill and joins together several preexisting programs: the Local Food Promotion Program (LFPP) and the Farmers Market Promotion Program (FMPP), administered by AMS, and the Value Added Producer Grant (VAPG) program, administered by the Rural Business-Cooperative Service under Rural Development. LAMP grants provide one of the few sources of dedicated support for local and regional food systems in the farm bill. Eligible organizations—such as growers and co-ops, CSA networks, regional farmers market boards, and food policy councils—receive support to promote or create direct-to-consumer markets or other innovative means of promoting local and regional food economies.⁹ Given that farmers markets, farm stands, and CSAs will be shut down in many cities across the U.S., either due to fear from citizens or formalized social distancing requirements, funding for several of these programs that rely on physical farmers markets will likely go unused in 2020. Administrative flexibility is needed to support producers concerned about market loss. Congress should make the following changes to allow flexibility in these programs for 2020.

Farmers Market and Local Food Promotion Program (FMLFPP)

FY2020 funding provides \$13.5 million for both FMPP and LFPP.¹⁰ **Congress should grant USDA authority to remove the 25% matching funds requirement and to expedite review and approval of projects under the FMPP and LFPP.** The application period for FMPP and LFPP opened on March 9, 2020 with a due date of May 11 and expected implementation starting September 30. Expediting the application and approval timeline for 2020 can help unlock those funds for farmers

⁹ USDA-AMS, FARMERS MARKET PROMOTION PROGRAM: FISCAL YEAR 2020 REQUEST FOR APPLICATIONS (2020), https://www.ams.usda.gov/sites/default/files/media/2020_FMPP_RFA.pdf.

¹⁰ *Id.*

impacted by lack of direct-marketing and institutional procurement opportunities right now.

Value Added Producer Grants (VAPG)

The VAPG program helps agricultural producers grow their market share through opportunities to process and market new, value-added products. The FY2020 cycle is funded for \$37 million.¹¹ Flexibility would allow grantees to respond to changing market conditions from COVID response.

Congress should grant USDA the authority to remove the 50% matching funds requirement, to relax eligibility requirements, and to expedite review and approval of VAPG projects.

VAPG applications closed on March 10 with awards anticipated on July 31. **USDA should allow VAPG applicants to submit an amendment to a proposal for processing product from producers affected by COVID response, and should expedite approval and disbursement of funds for such projects for 2020.** Further, if an applicant proposes a COVID-related project, **eligibility requirements should be relaxed, including waiving:** the need to demonstrate customer base expansion under the definition of Value-Added Agricultural Product at 7 C.F.R. 4284.902(2)(i); and use of funds for only economic planning or working capital acquisition in 7 C.F.R. 4284.925.

Senior Farmers' Market Nutrition Program (SFMNP)

SFMNP provides low-income seniors with vouchers to use to purchase produce at farmers markets.¹² This population is especially vulnerable to COVID-19 and is advised against traveling outside of their homes. Yet, many low-income seniors rely on programs, such as SFMNP as a source of food. USDA can take steps to ensure income to farmers market vendors and food access to program participants.

USDA should recommend that state agencies purchase bulk quantities of eligible foods when

¹¹ *Value Added Producer Grants*, USDA-RURAL BUSINESS-COOPERATIVE SERVICE (2019), <https://www.rd.usda.gov/programs-services/value-added-producer-grants>.

¹² *Senior Farmers' Market Nutrition Program*, USDA-FNS (2020), <https://www.fns.usda.gov/sfmnp/senior-farmers-market-nutrition-program>.

farmers markets and food stands are shut down.

Under 7 C.F.R. § 249.10(a)(6), USDA says that:

The State agency may purchase bulk quantities of eligible foods directly from authorized farmers. Such foods must then be equitably divided among and distributed directly to eligible SFMNP participants. SFMNP participants who have received checks or coupons to purchase eligible foods earlier in the season may also receive foods through the bulk purchase option as long as the total combined value of the benefits provided to each SFMNP participant does not exceed \$50[.]

This provision gives the state agencies the authority to make bulk purchases. **USDA should encourage state agencies to conduct such bulk purchases for 2020**, especially when markets completely shut down. This option enables farmers to receive payment for their produce and ensures continuing access to low-income seniors.

WIC-Farmers' Market Nutrition Program (FMNP)

FMNP provides coupons to low-income pregnant/postpartum/breastfeeding woman, infants, and children for use at farmers markets, farm stands, and CSA programs.¹³ This financial assistance enables this vulnerable population to purchase healthy food. USDA can take steps to use this program to support financial stability of farmers market vendors and ensure food access to women, infants, and children who are FMNP recipients.

USDA should ensure that farmers' produce does not go to waste and is accessible to FMNP participants. Unlike SFMNP, there is no provision allowing state agencies to purchase FMNP farmers' produce in bulk. **Congress can require or USDA can amend**

FMNP regulations to create this purchasing power and encourage states to utilize such flexibility for 2020.

Gus Schumacher Nutrition Incentives Program (GusNIP)

GusNIP provides grants to incentivize consumer purchases of fruits and vegetables for SNAP recipients at locations like farmers markets, CSAs, and local retail grocers. Authorized by the farm bill and administered by the USDA's National Institute of Food and Agriculture (NIFA), GusNIP primarily funds local and regional food system organizations, as well as emergency feed organizations, to pass these incentives on to SNAP shoppers.¹⁴ The program explicitly preferences organizations offering online ordering, transportation between home and store, and delivery services – services that are sure to see an increase in demand with social distancing measures in place.¹⁵

Grant applications opened for GusNIP's FY2020 cycle on March 13 and proposals are due May 18, with \$41.5 million in awards available.¹⁶ **Congress should grant USDA authority to remove the 50% cost matching requirement for applicants, and should instruct USDA to expedite applications for organizations seeking to use funds to provide relief for producers affected by COVID-19 response. Congress should also make additional funds available to enhance organizations' ability to provide online ordering, transportation, and delivery services.** With potential cost-sharing organizations devoting resources to COVID-19 response, reducing cost-sharing would allow GusNIP programs to meet the needs of the local food system and beneficiaries. Increased funding for transportation and delivery would also ensure the continued flow of healthy, locally produced foods to recipients without cutting into existing incentive programs.

¹³ *Farmers' Market Nutrition Program*, USDA-FNS, (2020), <https://www.fns.usda.gov/fmnp/wic-farmers-market-nutrition-program>.

¹⁴ *The Gus Schumacher Nutrition Incentives Program*, NATIONAL SUSTAINABLE AGRICULTURE COALITION (May 2019), <https://sustainableagriculture.net/publications/grassrootsguide>

</local-food-systems-rural-development/food-insecurity-nutrition-incentives/>.

¹⁵ USDA-NIFA, REQUEST FOR APPLICATION: THE GUS SCHUMACHER NUTRITION INCENTIVE PROGRAM (GUSNIP) (2020), <https://nifa.usda.gov/sites/default/files/rfa/GusNIP-RFA-FY-2020.pdf>.

¹⁶ *Id.*