

118TH CONGRESS  
1ST SESSION

# H. R. 5589

To provide fresh produce to individuals facing food and nutrition insecurity,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2023

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

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## A BILL

To provide fresh produce to individuals facing food and  
nutrition insecurity, 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 2023”.

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

7 (a) DEFINITIONS.—In this section:

8 (1) BEGINNING FARMER.—The term “begin-  
9 ning farmer” has the meaning given the term “be-  
10 ginning farmer or rancher” in section 343(a) of the

1 Consolidated Farm and Rural Development Act (7  
2 U.S.C. 1991(a)).

3 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means an entity that—

5 (A) is—

6 (i) a grower, packer, distributor, or  
7 food-hub;

8 (ii) a nonprofit organization; or

9 (iii) a cooperative; and

10 (B)(i) is located in the State or locality in  
11 which the produce shall be distributed; or

12 (ii) has demonstrated experience distrib-  
13 uting to that State or locality.

14 (3) FAMILY FARM.—The term “family farm”  
15 has the meaning given the term in section 761.2 of  
16 title 7, Code of Federal Regulations (as in effect on  
17 December 30, 2007).

18 (4) PROGRAM.—The term “program” means  
19 the program established under subsection (b).

20 (5) QUALIFYING ENTITY.—The term “quali-  
21 fying entity” means a nonprofit food bank, a non-  
22 profit food pantry, a nonprofit school, a nonprofit  
23 child or senior care center, a nonprofit youth-serving  
24 community based organization, a Tribal organiza-  
25 tion, or a public agency that—

1 (A) participates in a nutrition program ad-  
2 ministered by the Secretary, including—

3 (i) the school lunch program estab-  
4 lished under the Richard B. Russell Na-  
5 tional School Lunch Act (42 U.S.C. 1751  
6 et seq.);

7 (ii) the summer food service program  
8 established under section 13 of that Act  
9 (42 U.S.C. 1761);

10 (iii) the child and adult care food pro-  
11 gram established under section 17 of that  
12 Act (42 U.S.C. 1766);

13 (iv) the food distribution program on  
14 Indian reservations established under sec-  
15 tion 4(b) of the Food and Nutrition Act of  
16 2008 (7 U.S.C. 2013(b));

17 (v) the commodity supplemental food  
18 program established under section 4 of the  
19 Agriculture and Consumer Protection Act  
20 of 1973 (7 U.S.C. 612c note; Public Law  
21 93–86); and

22 (vi) the emergency food assistance  
23 program established pursuant to the Emer-  
24 gency Food Assistance Act of 1983 (7  
25 U.S.C. 7501 et seq.); or

1 (B) does not participate in a nutrition pro-  
2 gram described in subparagraph (A) but has  
3 demonstrated experience in serving the needs of  
4 vulnerable populations facing food and nutrition  
5 insecurity.

6 (6) SECRETARY.—The term “Secretary” means  
7 the Secretary of Agriculture, acting through the Ad-  
8 ministrator of the Agricultural Marketing Service.

9 (7) SOCIALLY DISADVANTAGED FARMER.—The  
10 term “socially disadvantaged farmer” has the mean-  
11 ing given the term “socially disadvantaged farmer or  
12 rancher” in section 2501(a) of the Food, Agri-  
13 culture, Conservation, and Trade Act of 1990 (7  
14 U.S.C. 2279(a)).

15 (8) STATE.—The term “State” means—

16 (A) a State;

17 (B) the District of Columbia;

18 (C) an Indian Tribe (as defined in section  
19 4 of the Indian Self-Determination and Edu-  
20 cation Assistance Act (25 U.S.C. 5304)); and

21 (D) a territory or possession of the United  
22 States.

23 (9) VETERAN FARMER.—The term “veteran  
24 farmer” has the meaning given the term “veteran  
25 farmer or rancher” in section 2501(a) of the Food,

1 Agriculture, Conservation, and Trade Act of 1990 (7  
2 U.S.C. 2279(a)).

3 (b) ESTABLISHMENT.—Not later than 90 days after  
4 the date of enactment of this Act, the Secretary, in con-  
5 sultation with the Administrator of the Food and Nutri-  
6 tion Service, shall establish a program under which the  
7 Secretary shall enter into contracts with eligible entities  
8 to procure fresh produce (excluding legumes) for distribu-  
9 tion to qualifying entities that serve individuals at risk of  
10 food and nutrition insecurity.

11 (c) PURPOSES.—The purposes of the program are—

12 (1) to increase access of low-income households  
13 to a wide variety of fresh produce;

14 (2) to directly connect produce producers and  
15 distributors to nonprofit emergency feeding entities;

16 (3) to increase the procurement of fresh  
17 produce by the Federal Government;

18 (4) to strengthen the local and regional food  
19 supply chain;

20 (5) to reduce on-farm food loss caused by a  
21 market disruption; and

22 (6) to model nimbleness and responsiveness in  
23 and out of emergency situations relating to food in-  
24 security, nutrition security, and disruptions to the  
25 food supply chain.

1 (d) SELECTION.—

2 (1) CRITERIA.—In selecting eligible entities  
3 with which to enter into contracts under the pro-  
4 gram, the Secretary shall consider whether the eligi-  
5 ble entity—

6 (A) has demonstrated experience in fresh  
7 produce supply chain distribution;

8 (B) is a small business concern (as defined  
9 in section 3 of the Small Business Act (15  
10 U.S.C. 632));

11 (C) holds a PACA license, relevant food  
12 safety certifications, and any other relevant li-  
13 censes or certifications, as determined by the  
14 Secretary;

15 (D) sources from small- and medium-sized  
16 growers, and local and regional produce, as geo-  
17 graphically and seasonally feasible;

18 (E) has demonstrated relationships with at  
19 least 2 qualifying entities, including a qualifying  
20 entity that does not receive resources through  
21 the emergency food assistance program estab-  
22 lished pursuant to the Emergency Food Assist-  
23 ance Act of 1983 (7 U.S.C. 7501 et seq.); and

24 (F) offers the Secretary a price determined  
25 by the Secretary to be the overall best value

1 without limiting evaluation factors to lowest  
2 price or highest technical rating.

3 (2) PRIORITY.—In selecting eligible entities  
4 with which to enter into contracts under the pro-  
5 gram, the Secretary shall give priority to eligible en-  
6 tities that—

7 (A) grow the produce that will be provided  
8 and distributed to qualifying entities;

9 (B) are, or source from—

10 (i) beginning farmers;

11 (ii) small or mid-sized farms that are  
12 structured as family farms; or

13 (iii) socially disadvantaged farmers,  
14 including women-owned and veteran-owned  
15 eligible entities; and

16 (C) are able to deliver to areas most in  
17 need of fresh produce, as determined by the  
18 Secretary.

19 (e) CONTRACT TERMS.—

20 (1) PERIOD OF PERFORMANCE.—The period of  
21 performance for a contract entered into under the  
22 program shall be—

23 (A) not less than 90 days; and

24 (B) not more than 120 days.

1           (2) PRICE.—The price paid by the Secretary  
2 under a contract entered into under the program  
3 shall be inclusive of all transportation and distribu-  
4 tion costs associated with delivering fresh produce to  
5 the final destination of the applicable qualifying en-  
6 tity.

7           (3) PRODUCE MAKEUP.—A contract entered  
8 into under the program shall require that the fresh  
9 produce procured for distribution to a qualifying en-  
10 tity meets the following requirements:

11           (A) The fresh produce is grown in the  
12 United States.

13           (B) The fresh produce includes locally  
14 grown produce as geographically and seasonally  
15 feasible, as determined by the Secretary.

16           (C) Not fewer than 7 varieties of fresh  
17 produce are distributed.

18           (D) The variety of fresh produce distrib-  
19 uted is consistent with the most recent Dietary  
20 Guidelines for Americans published under sec-  
21 tion 301 of the National Nutrition Monitoring  
22 and Related Research Act of 1990 (7 U.S.C.  
23 5341).

24           (E) The fresh produce includes specialty  
25 crops of cultural importance to the recipients of



1 the fresh produce, as determined by the Sec-  
2 retary, in consultation with the distributing  
3 qualifying entity.

4 (4) PAYMENT UNDER CONTRACT.—Under a  
5 contract entered into under the program, the Sec-  
6 retary shall—

7 (A) make a payment to the eligible entity  
8 of not less than 30 percent of the contract price  
9 in advance of the first distribution of produce  
10 under the contract; and

11 (B) after the eligible entity provides docu-  
12 mentation that the payment under subpara-  
13 graph (A) has been spent, pay the remaining  
14 amount under the contract in 2 disbursements  
15 of equal value.

16 (f) PROGRAM ADMINISTRATION.—

17 (1) QUALIFYING ENTITIES.—The Secretary  
18 shall—

19 (A) maintain a list of qualifying entities  
20 that participate in the program; and

21 (B) conduct outreach to ensure that quali-  
22 fying entities are made aware of the program.

23 (2) EQUITY AND GEOGRAPHIC REACH.—

24 (A) IN GENERAL.—In carrying out the  
25 program each fiscal year, the Secretary shall

1 enter into contracts with eligible entities in a  
2 manner that ensures that the total value of con-  
3 tracts entered into in each State is propor-  
4 tionate to the number of households and indi-  
5 viduals living in poverty within the State, as de-  
6 termined by the Secretary.

7 (B) DIVERSITY.—The Secretary shall  
8 award multiple contracts under the program to  
9 eligible entities located in or serving each region  
10 of the Food and Nutrition Service to provide  
11 opportunities to a broad range of producers and  
12 eligible entities.

13 (3) VULNERABLE AREAS.—In carrying out the  
14 program, the Secretary shall establish a process—

15 (A) to determine the areas most in need of  
16 produce provision under the program, including  
17 rural areas, the territories and possessions of  
18 the United States, and areas under the jurisdic-  
19 tion of a Tribal government; and

20 (B) to ensure that those areas are served  
21 by the program.

22 (4) FINANCIAL INFORMATION AND ASSIST-  
23 ANCE.—The Secretary shall provide—

24 (A) information to assist small farmers,  
25 beginning farmers, veteran farmers, and socially

1           disadvantaged farmers in obtaining food safety  
2           certifications; and

3                   (B) financial assistance to cover the associ-  
4           ated costs of necessary changes and upgrades  
5           to practices and equipment to improve food  
6           safety.

7           (5) TECHNICAL ASSISTANCE.—The Secretary  
8           shall provide technical assistance to eligible entities  
9           participating in the program with respect to—

10                   (A) the contract terms and expectations  
11           applicable to those eligible entities;

12                   (B) best practices for the distribution of  
13           produce and expectations of the Secretary relat-  
14           ing to distribution; and

15                   (C) food safety certification.

16           (g) REPORTING.—

17                   (1) IN GENERAL.—Not later than 1 year after  
18           the date of enactment of this Act, the Secretary  
19           shall submit to the Committee on Agriculture, Nutri-  
20           tion, and Forestry of the Senate and the Committee  
21           on Agriculture of the House of Representatives a re-  
22           port that describes the activities carried out under  
23           the program, including, within a State—

24                   (A) the counties and percentage of coun-  
25           ties served;

1 (B) the number of produce packages pro-  
2 vided;

3 (C) the quantity and variety of fresh  
4 produce distributed;

5 (D) the number of farms from which  
6 produce is sourced, including the size of those  
7 farms;

8 (E) the percentage of fresh produce pro-  
9 cured locally and regionally; and

10 (F) any other data determined relevant by  
11 the Secretary.

12 (2) GAO REPORT.—Not later than 1 year after  
13 the date of enactment of this Act, the Comptroller  
14 General of the United States shall submit to the  
15 Committee on Agriculture, Nutrition, and Forestry  
16 of the Senate and the Committee on Agriculture of  
17 the House of Representatives a report that evaluates  
18 the effectiveness of the program with respect to the  
19 purposes of the program described in subsection (c).

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