

117TH CONGRESS
1ST SESSION

H. R. 4169

To increase market access for Black farmers and socially disadvantaged farmers and ranchers, to ensure civil rights accountability, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2021

Mr. DAVID SCOTT of Georgia introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To increase market access for Black farmers and socially disadvantaged farmers and ranchers, to ensure civil rights accountability, 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 “Black Farmers and
5 Socially Disadvantaged Farmers Increased Market Share
6 Act”.

1 **SEC. 2. FOOD HUB GRANTS TO INCREASE MARKET ACCESS**
2 **FOR SOCIALLY DISADVANTAGED FARMERS**
3 **AND RANCHERS.**

4 (a) DEFINITIONS.—In this section:

5 (1) AGRICULTURAL FOOD PRODUCT.—The term
6 “agricultural food product” means a raw, cooked, or
7 a processed edible substance, beverage, or ingredient
8 produced and otherwise prepared for sale in the
9 United States (including any insular area (as de-
10 fined in section 1404 of the National Agricultural,
11 Research, Extension, and Teaching Policy Act of
12 1977 (7 U.S.C. 3103))), derived from one or more
13 agricultural commodities of United States origin,
14 and used or intended for use or for sale in whole or
15 in part for human consumption.

16 (2) DONATED FOOD.—The term “donated
17 food” has the meaning given the term in section
18 250.2 of title 7 of the Code of Federal Regulations
19 (or any successor regulation).

20 (3) ELIGIBLE ENTITY.—The term “eligible enti-
21 ty” means—

22 (A) an entity formed by two or more agri-
23 cultural producers, not less than half of whom
24 are members of a socially disadvantaged group;
25 or

1 (B) a non-profit organization or Tribal or-
2 ganization with demonstrated experience work-
3 ing with socially disadvantaged farmers or
4 ranchers.

5 (4) ELIGIBLE PARTNER.—The term “eligible
6 partner” means a non-profit organization, a State
7 cooperative extension service or a college or univer-
8 sity (as such terms are defined in section 1404 of
9 the National Agricultural Research, Extension, and
10 Teaching Policy Act of 1977 (7 U.S.C. 3103)), Trib-
11 al organization, or other State or local government
12 entities with demonstrated experience in providing
13 assistance such as grants management, technical as-
14 sistance, and business plan development, to agricul-
15 tural producers.

16 (5) FOOD HUB.—The term “food hub” means
17 a business or organization that actively manages the
18 aggregation, distribution, and marketing of source-
19 identified agricultural food products from producers
20 for wholesale, retail, or institutional markets.

21 (6) SECRETARY.—The term “Secretary” means
22 the Secretary of Agriculture.

23 (7) SOCIALLY DISADVANTAGED FARMER OR
24 RANCHER.—The term “socially disadvantaged farm-
25 er or rancher” has the meaning given the term in

1 section 2501(a) of the Food, Agriculture, Conserva-
2 tion, and Trade Act of 1990 (7 U.S.C. 2279(a)).

3 (8) SOCIALLY DISADVANTAGED GROUP.—The
4 term “socially disadvantaged group” has the mean-
5 ing given the term in section 2501(a) of the Food,
6 Agriculture, Conservation, and Trade Act of 1990 (7
7 U.S.C. 2279(a)).

8 (9) TRIBAL ORGANIZATION.—The term “Tribal
9 organization” has the meaning given the term in
10 section 3 of the Food and Nutrition Act of 2008 (7
11 U.S.C. 2012).

12 (b) GRANTS TO INCREASE MARKET ACCESS.—

13 (1) IN GENERAL.—The Secretary shall establish
14 a program to make grants on a competitive basis to
15 eligible entities to support new or expanding food
16 hubs designed to increase market access for socially
17 disadvantaged farmers and ranchers, but may also
18 increase market access for other farmers and ranch-
19 ers.

20 (2) USE OF FUNDS.—An eligible entity selected
21 to receive a grants under this subsection may use
22 grants funds—

23 (A) to purchase and develop land, build-
24 ings, and associated infrastructure for commer-
25 cial or industrial properties, including expansion

1 or modernization, for use in processing, distrib-
2 uting, aggregating, storing, transporting, or
3 marketing agricultural food products;

4 (B) to construct or equip facilities for use
5 in processing, distributing, aggregating, storing,
6 transporting, or marketing agricultural food
7 products;

8 (C) to purchase machinery and equipment
9 for use in processing, distributing, aggregating,
10 storing, transporting, or marketing agricultural
11 food products;

12 (D) for general operating expenses directly
13 related to a food hub, including planning and
14 development related to the establishment or ex-
15 pansion of any food hub;

16 (E) to provide marketing services for agri-
17 cultural food products, including providing plat-
18 forms (such as electronic or web-based plat-
19 forms) for sales, inventory, and aggregation;
20 and

21 (F) to conduct other activities supporting
22 the development or expansion of a food hub, as
23 determined by the Secretary.

24 (3) APPLICATION.—

1 (A) IN GENERAL.—An eligible entity seek-
2 ing a grant under this subsection shall submit
3 to the Secretary an application that contains—

4 (i) a description of the activities the
5 eligible entity will carry out to support one
6 or more new or existing food hubs, includ-
7 ing a plan for each such food hub to proc-
8 ess, distribute, store, or market agricul-
9 tural food products for wholesale, retail, or
10 institutional markets;

11 (ii) a description of the ways in which
12 each such food hub that the eligible entity
13 is proposing to establish or expand is de-
14 signed to increase market access for so-
15 cially disadvantaged farmers or ranchers;

16 (iii) except as provided in subpara-
17 graph (B), a description of the eligible en-
18 tity’s demonstrated competency to develop
19 and manage each such food hub, provide
20 fiscal accountability, collect data, and pre-
21 pare reports and other necessary docu-
22 mentation; and

23 (iv) any other information, as deter-
24 mined by the Secretary.

1 (B) REQUIREMENT TO INCLUDE ELIGIBLE
2 PARTNERS.—An eligible entity that does not
3 have one or more of the demonstrated com-
4 petencies described in clause (iii) of subpara-
5 graph (A) shall submit to the Secretary in its
6 application—

7 (i) a list of one or more eligible part-
8 ners such eligible entity is partnering with;

9 (ii) the responsibilities of each eligible
10 partner in supporting such eligible entity;

11 and

12 (iii) a description of the demonstrated
13 competencies of the eligible partner or
14 partners in performing such responsibil-
15 ities.

16 (C) ELIGIBLE ENTITIES SERVING AS ELI-
17 GIBLE PARTNERS.—An eligible entity specified
18 in subparagraph (B) of subsection (a)(3) seek-
19 ing a grant under this section may serve as an
20 eligible partner for other eligible entities in one
21 or more grant applications under this sub-
22 section.

23 (4) PRIORITY.—In making grants under this
24 subsection, the Secretary may give priority to grant
25 applications for food hubs that—

1 (A) benefit underserved communities, as
2 defined in section 310B(g)(9)(A)(ii) of the Con-
3 solidated Farm and Rural Development Act (7
4 U.S.C. 1932(g)(9)(A)(ii));

5 (B) aggregate, distribute, and market agri-
6 cultural food products that meet the standards
7 for donated foods, as determined by the Sec-
8 retary; or

9 (C) have not been awarded a Department
10 of Agriculture grant, including a grant under
11 section 210A of the Agricultural Marketing Act
12 of 1946 (7 U.S.C. 1627c), in the preceding or
13 current fiscal year.

14 (5) MAXIMUM GRANT TERM.—The term of a
15 grant under this subsection may not exceed 5 years.

16 (6) NO MATCHING FUNDS.—An eligible entity
17 receiving a grant under this section shall not be re-
18 quired to provide non-Federal matching funds with
19 respect to such grant.

20 (c) PRIORITIZING PURCHASES FOR USDA DOMESTIC
21 FOOD ASSISTANCE PROGRAMS.—

22 (1) IN GENERAL.—The Secretary shall establish
23 a process—

24 (A) to prioritize the purchase of agricul-
25 tural food products from socially disadvantaged

1 farmers and ranchers, including from food hubs
2 developed or expanded under this section, for
3 use in Department of Agriculture programs
4 that distribute agricultural food products within
5 the United States (including any insular area
6 (as defined in section 1404 of the National Ag-
7 ricultural, Research, Extension, and Teaching
8 Policy Act of 1977 (7 U.S.C. 3103))); and

9 (B) that is designed to account for barriers
10 to market entry faced by socially disadvantaged
11 farmers and ranchers while maintaining the in-
12 tegrity of the purchasing process established
13 under this subsection, including ensuring that
14 any entity that is suspended or debarred from
15 participation in any Federal program is not eli-
16 gible to participate in the purchasing process
17 established under this subsection.

18 (2) WAIVERS.—

19 (A) IN GENERAL.—In establishing the
20 process described in paragraph (1), the Sec-
21 retary may provide for the waiver of the full
22 and open competition procedures for the award
23 of Federal contracts, section 3324 of title 31,
24 United States Code, and section 725 of the Ag-
25 riculture, Rural Development, Food and Drug

1 Administration, and Related Agencies Appro-
2 priations Act, 2001 (7 U.S.C. 2209f), if the
3 Secretary identifies requirements under such
4 sections and procedures as presenting barriers
5 to market entry for socially disadvantaged
6 farmers and ranchers.

7 (B) NOTIFICATION.—Not later than 10
8 days after providing for any waiver under sub-
9 paragraph (A), the Secretary shall notify the
10 Committee on Agriculture of the House of Rep-
11 resentatives and the Committee on Agriculture,
12 Nutrition, and Forestry of the Senate of such
13 waivers and provide a description of how such
14 waivers would address barriers to market entry
15 for socially disadvantaged farmers and ranchers
16 for a particular agricultural food product.

17 (d) REPORTS.—Not later than December 31, 2022,
18 and each December thereafter until the completion of the
19 grants awarded under subsection (b), the Secretary shall
20 make publicly available on the Department of Agri-
21 culture’s website and submit to the Committee on Agri-
22 culture of the House of Representatives and the Com-
23 mittee on Agriculture, Nutrition, and Forestry of the Sen-
24 ate, a report that includes—

1 (1) a description of the status of each grant
2 awarded under subsection (b);

3 (2) the number of socially disadvantaged farm-
4 ers and ranchers participating in the food hub sup-
5 ported by such grant in the previous fiscal year;

6 (3) to the maximum extent practicable, the
7 amount of agricultural food products produced by
8 socially disadvantaged farmers and ranchers proc-
9 essed, distributed, aggregated, stored, or marketed
10 by the food hub supported by such grant in the pre-
11 vious fiscal year; and

12 (4) the total amount of donated food purchased
13 by the Secretary from food hubs supported with
14 grants awarded under this section in the previous
15 fiscal year.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out subsection
18 (b) \$100,000,000 for fiscal year 2022, to remain available
19 until expended.

20 **SEC. 3. AGRICULTURE HUB CREDIT.**

21 (a) IN GENERAL.—Subpart D of part IV of sub-
22 chapter A of chapter 1 of the Internal Revenue Code of
23 1986 is amended by adding at the end the following new
24 section:

1 **“SEC. 45U. AGRICULTURE HUB CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 38, the
3 agriculture hub credit determined under this section for
4 any taxable year is an amount equal to 25 percent of the
5 qualified food hub expenses for the taxable year.

6 “(b) QUALIFIED FOOD HUB EXPENSES.—For pur-
7 poses of this section, the term ‘qualified food hub ex-
8 penses’ means amounts paid or incurred by the taxpayer
9 during the taxable year—

10 “(1) for agricultural food products from a food
11 hub developed or expanded under section 2 of the
12 Black Farmers and Socially Disadvantaged Farmers
13 Increased Market Share Act, and

14 “(2) in accordance with a contract certified by
15 the Secretary of Agriculture under section 3(c) of
16 the Black Farmers and Socially Disadvantaged
17 Farmers Increased Market Share Act.

18 “(c) FOOD HUB.—The term ‘food hub’ has the mean-
19 ing given such term in section 2 of the Black Farmers
20 and Socially Disadvantaged Farmers Increased Market
21 Share Act.

22 “(d) TERMINATION.—This section shall not apply to
23 taxable years beginning after the Secretary determines the
24 grant program under section 2 of the Black Farmers and
25 Socially Disadvantaged Farmers Increased Market Share
26 Act has ended.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 38(b) of the Internal Revenue Code
3 of 1986 is amended—

4 (A) in paragraph (32), by striking “plus”
5 at the end,

6 (B) in paragraph (33), by striking the pe-
7 riod at the end and inserting “, plus”, and

8 (C) by adding at the end the following new
9 paragraph:

10 “(34) the agriculture hub credit determined
11 under section 45U(a).”.

12 (2) The table of sections for subpart D of part
13 IV of subchapter A of chapter 1 of such Code is
14 amended by adding at the end the following new
15 item:

“Sec. 45U. Agriculture hub credit.”.

16 (3) Section 280C of such Code is amended by
17 adding at the end the following new subsection:

18 “(i) AGRICULTURE HUB CREDIT.—Any deduction or
19 other credit otherwise allowable with respect to an expense
20 for which a credit is allowed under section 45U(a) shall
21 be reduced by the amount of the credit under section
22 45U(a) with respect to such expense. If a credit is allowed
23 under section 45U(a) with respect to property of a kind
24 which would properly be included in the inventory of the
25 taxpayer if on hand at the close of the taxable year or

1 property held by the taxpayer primarily for sale to cus-
2 tomers in the ordinary course of the trade or business of
3 such taxpayer, opening inventory or purchases shall be re-
4 duced by the amount of the credit so allowed.”.

5 (c) CERTIFICATION PROCESS.—Not later than 1 year
6 after the date of enactment of this section, the Secretary
7 of Agriculture shall issue regulations to establish a process
8 to certify, at the request of entities seeking an agriculture
9 hub credit section 45U of the Internal Revenue Code of
10 1986, as added by subsection (b), that a contract under
11 which expenditures referred to in such section 45U are
12 made—

13 (1) is not between related parties;

14 (2) is the result of arm’s length negotiations;

15 and

16 (3) meets any other requirements, as deter-
17 mined by the Secretary of Agriculture, in consulta-
18 tion with the Secretary of Treasury.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to expenses paid or incurred in
21 taxable years beginning after December 31, 2021.

22 **SEC. 4. CIVIL RIGHTS ACCOUNTABILITY FOR USDA EM-**
23 **PLOYEES.**

24 (a) IN GENERAL.—The Secretary of Agriculture shall
25 ensure that officials and employees of the Department of

1 Agriculture are held accountable in accordance with sub-
2 section (b) if, while in the course of their employment or
3 in administering a Department of Agriculture program,
4 such officials and employees are found to have engaged
5 in any discriminatory actions, retaliatory actions, harass-
6 ment, civil rights violations, or related misconduct, includ-
7 ing any such actions or misconduct involving any of the
8 following:

9 (1) Failure to provide a receipt for service in
10 accordance with section 2501A(e) of the Food, Agri-
11 culture, Conservation or Trade Act of 1990 (7
12 U.S.C. 2279–1(e)) to any current or prospective ap-
13 plicants of or participants in Department of Agri-
14 culture programs.

15 (2) Providing an inaccurate receipt for service
16 under such section 2501A(e) to any current or pro-
17 spective applicants of or participants in Department
18 of Agriculture programs.

19 (3) Failure to provide appropriate information
20 regarding relevant programs and services at the De-
21 partment of Agriculture, when requested by any cur-
22 rent or prospective applicants of or participants in
23 Department of Agriculture programs.

24 (4) Failure to timely process applications or
25 otherwise delaying program services to any current

1 or prospective applicants of or participants in, De-
2 partment of Agriculture programs.

3 (b) TAKING CORRECTIVE ACTION.—The Secretary
4 shall ensure that appropriate corrective action is taken
5 with respect to any official or employee of the Department
6 of Agriculture who has been found to have engaged in any
7 of the actions, violations, or misconduct referred to in sub-
8 section (a) while in the course of such official’s or employ-
9 ee’s employment or in administering a Department of Ag-
10 riculture program—

11 (1) in any administrative finding by the Depart-
12 ment of Agriculture, including any final agency deci-
13 sion issued by the Assistant Secretary of Agriculture
14 for Civil Rights and any civil rights compliance re-
15 view or misconduct investigation conducted by the
16 Department of Agriculture;

17 (2) in any administrative or judicial proceeding;

18 (3) in any civil rights settlement;

19 (4) in any audit or investigation conducted by
20 the Office of the Inspector General of the Depart-
21 ment of Agriculture; or

22 (5) in any investigation conducted by the Office
23 of the Special Counsel.

24 (c) CORRECTIVE ACTION DEFINED.—In this section,
25 the term “corrective action” means any action taken to

1 respond to any of the actions, violations, or misconduct
2 referred to in subsection (a) that—

3 (1) would enhance civil rights at the Depart-
4 ment of Agriculture, including any policy or pro-
5 grammatic changes to prevent similar misconduct
6 from occurring in the future; and

7 (2) may include disciplinary actions, includ-
8 ing—

9 (A) removal from Federal service;

10 (B) suspension without pay;

11 (C) any reduction in grade or pay; and

12 (D) letter of reprimand.

13 **SEC. 5. EQUITABLE RELIEF.**

14 (a) **EQUITABLE RELIEF FROM INELIGIBILITY FOR**
15 **LOANS, PAYMENTS, OR OTHER BENEFITS.**—Section 1613
16 of the Farm Security and Rural Investment Act of 2002
17 (7 U.S.C. 7996) is amended—

18 (1) by redesignating subsections (f) through (j)
19 as subsections (g) through (k), respectively;

20 (2) by inserting after subsection (e) the fol-
21 lowing:

22 “(f) **EQUITABLE RELIEF BY THE ASSISTANT SEC-**
23 **RETARY OF AGRICULTURE FOR CIVIL RIGHTS.**—

24 “(1) **IN GENERAL.**—The Assistant Secretary of
25 Agriculture for Civil Rights (or a designee of the

1 Secretary in the Office of the Assistant Secretary for
2 Civil Rights, if no Assistant Secretary of Agriculture
3 for Civil Rights is confirmed in accordance with sec-
4 tion 218(b) of the Department of Agriculture Reor-
5 ganization Act of 1994 (7 U.S.C. 6918(b))) may
6 grant relief in accordance with subsections (b)
7 through (d) to a participant who files a civil rights
8 program complaint.

9 “(2) DECISIONS.—The decision by the Assist-
10 ant Secretary of Agriculture for Civil Rights (or the
11 designee of the Secretary) to grant relief under this
12 subsection—

13 “(A) shall not require prior approval by
14 any officer or employee of the Department of
15 Agriculture; and

16 “(B) is subject to reversal only by the Sec-
17 retary (who may not delegate the reversal au-
18 thority).

19 “(3) OTHER AUTHORITY.—The authority pro-
20 vided to the Assistant Secretary of Agriculture for
21 Civil Rights (or the designee of the Secretary) under
22 this subsection is in addition to any other applicable
23 authority and does not limit other authority provided
24 by law or the Secretary.”;

1 (3) in subsection (g), as so redesignated, by
2 striking “or the State Conservationist” and inserting
3 “the State Conservationist, or the Assistant Sec-
4 retary of Agriculture for Civil Rights (or the des-
5 ignee of the Secretary)”; and

6 (4) in paragraph (1) of subsection (h), as so re-
7 designated, by striking “and (e)” and inserting “(e),
8 and (f)”.

9 (b) **EQUITABLE RELIEF FOR ACTIONS TAKEN IN**
10 **GOOD FAITH.**—Section 366 of the Consolidated Farm and
11 Rural Development Act (7 U.S.C. 2008a) is amended—

12 (1) by amending subsection (b) to read as fol-
13 lows:

14 “(b) **LIMITATION.**—The Secretary may only provide
15 relief to a farmer or rancher under subsection (a) if the
16 Secretary determines that the farmer or rancher—

17 “(1) acting in good faith, relied on an action of,
18 or the advice of, the Secretary (including any au-
19 thorized representative of the Secretary) to the det-
20 riment of the farming or ranching operation of the
21 farmer or rancher; or

22 “(2) failed to comply fully with the require-
23 ments of a program described in subsection (a)(1),
24 but made a good faith effort to comply with the re-
25 quirements.”;

1 (2) by inserting after subsection (d) the fol-
2 lowing:

3 “(e) **EQUITABLE RELIEF BY THE ASSISTANT SEC-**
4 **RETARY OF AGRICULTURE FOR CIVIL RIGHTS.—**

5 “(1) **IN GENERAL.—**The Assistant Secretary of
6 Agriculture for Civil Rights (or a designee of the
7 Secretary in the Office of the Assistant Secretary for
8 Civil Rights, if no Assistant Secretary of Agriculture
9 for Civil Rights is confirmed in accordance with sec-
10 tion 218(b) of the Department of Agriculture Reor-
11 ganization Act of 1994 (7 U.S.C. 6918(b))) may
12 grant relief in accordance with subsections (a)
13 through (d) to an individual who files a civil rights
14 program complaint.

15 “(2) **DECISIONS.—**The decision by the Assist-
16 ant Secretary of Agriculture for Civil Rights (or the
17 designee of the Secretary) to grant relief under this
18 subsection—

19 “(A) shall not require prior approval by
20 any officer or employee of the Department of
21 Agriculture; and

22 “(B) is subject to reversal only by the Sec-
23 retary (who may not delegate the reversal au-
24 thority).

1 “(3) OTHER AUTHORITY.—The authority pro-
2 vided to the Assistant Secretary of Agriculture for
3 Civil Rights (or the designee of the Secretary) under
4 this subsection is in addition to any other applicable
5 authority and does not limit other authority provided
6 by law or the Secretary.”;

7 (3) by redesignating subsection (e) as sub-
8 section (f); and

9 (4) in subsection (f), as so redesignated, by
10 striking “Secretary” and inserting “Secretary, or
11 the Assistant Secretary of Agriculture for Civil
12 Rights (or the designee of the Secretary)”.

13 **SEC. 6. BURDEN OF PROOF FOR NATIONAL APPEALS DIVI-**
14 **SION HEARINGS.**

15 Section 277(c)(4) of the Department of Agriculture
16 Reorganization Act of 1994 (7 U.S.C. 6997(c)(4)) is
17 amended to read as follows:

18 “(4) BURDEN OF PROOF.—The agency shall
19 bear the burden of proving by substantial evidence
20 that the adverse decision of the agency was valid.”.

○