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January 9, 2020

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

Each year, the U.S. Department of Agriculture (USDA) makes billions of dollars in farm program payments to agricultural producers, both individuals and entities, such as partnerships, corporations, and trusts. Since at least the 1980s, there have been criteria to limit certain farm program payments and to discourage farming operations from avoiding program payment limits. Under the most recent Farm Bill, each member of a farming operation that is a general partnership can receive up to $125,000 per year through the applicable programs if the member meets eligibility requirements, including demonstrating that they are 'actively engaged in farming' and having an average adjusted gross income (AGI) of not more than $900,000. USDA's Farm Service Agency (FSA) is responsible for administering these rules and ensuring that (1) farming operation members meet the criteria to receive these payments and (2) they do not receive payments in excess of program payment limits.

In August 2018, the Administration announced the Market Facilitation Program (MFP) for the 2018 crop year, which was intended to provide payments to producers of agricultural commodities that had been adversely affected by tariffs imposed by foreign nations. At that time, the Administration pledged up to $12 billion in financial assistance for certain commodities. Even though USDA had indicated that it had wide discretion on eligibility and payment limits, USDA decided these payments would have to abide by the $125,000 payment limit and $900,000 AGI limit as used with other applicable agricultural programs, and were tied directly to a producer's actual level of production of eligible commodities, which the producer was to self-certify. Additionally, there appears to be limited verification since a FSA Notice issued in April (Notice MFP-10) allows for producers to receive payments for self-certified production up to 15 percent higher than the production determined through a randomly-selected spot check, and in excess of 15 percent if FSA determines that the producer acted in "good faith," defined as attempting to comply with MFP provisions.

In May 2019, the Administration announced an MFP for the 2019 crop year, pledging an additional $14.5 billion to assist agricultural producers, but changed the method used to calculate the payments from having a payment rate that varies based on the crop produced to being based on a single county rate multiplied by a farm's total plantings to those eligible crops in 2019. In addition, despite the President's FY2020 budget proposal that would have slashed payment limits and tightened eligibility requirements even beyond Farm Bill requirements on Farm Bill commodity programs, this new MFP went the opposite direction and doubled the payment limit for non-specialty crops to $250,000. It also remains unclear how or if FSA will ensure program integrity or verify the farm's total plantings.

Several factors and observations about the MFP raise concerns about whether the USDA's approach is appropriately estimating harm to farmers and whether USDA is distributing the payments equitably. For example:

- USDA excluded non-tariff trade damages from the calculation, despite ongoing trade damage from unfair non-tariff trade practices such as dumping or artificial barriers to US exports.
- The actual volume of exports and prices received by farmers do not appear to correspond with the calculated damage to trade, such that some crops that supposedly had significant trade damage did not experience a similar reduction in overall exports or drop in domestic price. Similarly, the USDA approach doesn't seem to account for crops such as feed grains that have interrelated prices and presumably suffered trade damages.
- The formula and payment methodology for the new MFP results in wide differences in payments between regions, counties, and even farmers in the same county that are difficult to explain or understand. Fourteen states had average county payment rates below $20 per acre while 5 predominately southern states had average rates of above $70. The 402 counties that had the minimum payment rate of $15 per acre were concentrated in the North and West. Of the 193 counties with a payment rate at or over $100, 184 (95%) were in the South.
    - The USDA's approach for row crops does not take into account any localized differences in price, such as a change in crop basis, in reaction to a trade announcement, which creates regional disparities.
    - The decision to average all commodities in a county together and to pay an average per acre rate creates further inequities both within and between counties.
    - Farmers that had prevented planting are limited to the minimum payment, even if the county rate was higher.
- Some farmers that were harmed did not even get an option to have direct assistance. For most specialty crops, the USDA decided to rely on a trickle-down approach through the purchase of commodities from wholesalers, despite the needs of those growers for direct assistance as well. This is in contrast to some commodity producers that did not even have any direct trade-related harm, but were still eligible for direct non-specialty crop payments.
- Despite having time to learn lessons from 2018 MFP, the USDA approach fails to target assistance to more vulnerable producers, including beginning farmers, small farms, and operations that have recently taken on additional debt.

Given the variety of questions surrounding the ongoing payments, I request GAO conduct a review to address the following questions:

1. What would be the impact of applying the payment limits and eligibility requirements from the 2018 Farm Bill or the 2020 President's Budget proposal to the 2018 and 2019 MFP? Please include a specific state-by-state and commodity-by-commodity analysis for each year of the program, an actively-engaged analysis of the 20 farming operations that received the largest payments (similar to GAO-18-384R) and an estimate of the

proportion of payments that went to farm operators that did not have a substantial beneficial interest in the farm operation.

2. What steps is USDA taking to prevent waste, fraud, and abuse in the 2018 and 2019 MFP, including the policy rationale for deciding which eligibility and payment limits to use or to change? In evaluating this question please include a comparison of the degree that USDA relies on producer self-certification for Market Facilitation Program and other Farm Service Agency farm programs, versus either targeted reviews and enforcement such that required under Federal Crop Insurance or the significant regular reporting required under the Supplemental Nutrition Assistance Program (e.g. level of record-keeping between actively-engaged determinations and employment or job training for SNAP).
3. Does the USDA model for trade damages in the 2018 and 2019 MFP programs accurately reflect all of the trade-related damage felt by specific commodities and actual harm to farmers? Were any damages over-looked or over-estimated in the 2018 and 2019 MFP? Would another model or adjustments to the models better match particular payments with actual trade damage? What criteria or targeting of payment could be used to make sure that farmers that are most vulnerable to going out of business due to trade damage are prioritized?

Thank you for your assistance in this matter.

Sincerely yours,

Debbie Stabenow

Debbie Stabenow
Ranking Member