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Industry leaders reach out to USDA about stimulus funds

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In the \$2.2 trillion Coronavirus Aid, Relief, and Economic Security Act (CARES Act) passed by the U.S. Congress in late March, there is a \$9.5 billion emergency fund carve-out for the U.S. Department of Agriculture specifically earmarked for specific agricultural sectors, including fruit and vegetable production.

Produce industry leaders have already reached out to federal officials to make sure they get their fair share of the pie. The United Fresh Produce Association, Western Growers Association, Florida Fresh

Fruit & Vegetable Association, The Potato Council and dozens of other industry organization are signers to a letter to Secretary of Agriculture Sonny Perdue that has recommendations about the use of those funds.

UFPA President Tom Stenzel said that during the debate over the CARES Act, which was the third stimulus bill passed by Congress since the outbreak began in the United States in late January, the produce industry estimated that the financial damage to its members could top \$5 billion. As such, Stenzel said the industry is actively engaged in the allocation of those dollars. He noted that industry members across the entire supply chain will undoubtedly suffer losses in both lost inventory and reduced sales.

Stenzel said that foodservice distributors have seen the sales in their sector dry up over night as restaurants and schools all over the nation have closed their dining facilities and greatly cut back on their operations, with many only able to offer take-out service.

He agreed that the process of allocating the money will obviously take some time. He urged industry members in need to work with their bankers immediately to try and access the Small Business Administration loan dollars also allocated in the stimulus package. Stenzel said that money was made available immediately. Although it has restrictions (less than 500 employees) and companies have to qualify for the loan, it also has some attractive terms, including the potential for the forgiveness of the debt if a company continues to employ its workforce over the next six months.

Jason Resnick, vice president and general counsel of Western Growers, said the industry has offered several proposals over the past week, including: USDA stepping into the shoes of schools who have cancelled contracts as a way to provide immediate relief for products already contracted for; setting up an aggressive government purchasing program; and USDA stepping in and fulfilling unpaid PACA claims.

The latest letter, which was sent to Perdue on Monday, March 30, asks the USDA “to aggregate all data on losses by PACA licensees due to the COVID-19 pandemic.” It suggests that this data could then be used to support the segments of the industry most in need. It also calls for the immediate development of a disbursement plan to get money in the hands of affected companies as quickly as possible. The letter also calls for a plan to help companies that have lost international sales.

In an interview with *The Produce News*, Stenzel emphasized that suppliers should not do anything to invalidate their PACA Trust rights, which basically gives growers, shippers and others along the supply chain a priority position in the event of a bankruptcy. That position, however, is only guaranteed if the supplier-buyer contract adheres to specified payment practices. “It’s natural that a supplier would like to help out the buyer (with relaxed terms) during these times,” Stenzel said. “But you have to make sure you don’t invalidate your Trust rights.”

Under amended rules of the PACA Trust provision added about a decade ago, a seller can offer relaxed terms once the buyer defaults on his payment, but not before... not even informally.

Stenzel urged the USDA PACA Division to consider posting general information to the industry about their rights and responsibilities under PACA informing PACA licensees where there can be flexibility in extending payment terms without losing their PACA Trust rights.

In separate interviews with *The Produce News* both Resnick and Stenzel reiterated that they are not advocating any legislative adjustment to the PACA Trust, but rather utilizing stimulus funds to help

the fresh produce industry get through these challenging times.

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