

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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June 17, 2022

The Honorable Thomas J. Vilsack
Secretary
Department of Agriculture
1400 Independence Ave, S.W.
Washington, D.C. 20250

Dear Secretary Vilsack:

I write to express my concern that the United States Department of Agriculture (USDA) has continued to award government contracts to JBS USA (JBS), a large meat processor, despite a series of major criminal and civil actions against the parent company and its affiliates for bribery, price fixing, and fraud. As the world's largest purchaser of goods and services, and as stewards of taxpayer dollars, the federal government must conduct business with companies exhibiting integrity and business ethics. While many Americans are struggling to put food on their tables, it is troubling to see taxpayer dollars going to a major agribusiness that has such an egregious record of legal violations.

The Federal Acquisition Regulation (FAR) requires that government contractors "conduct themselves with the highest degree of integrity and honesty."¹ Contractors are required to have written codes of business ethics to facilitate the discovery and disclosure of improper conduct and to ensure that corrective measures are promptly taken.

Federal agencies are required by the FAR to contract only with companies that are deemed "responsible." To receive such a designation, a company must have a "satisfactory record of integrity and business ethics."² Contracting officers must make an "affirmative determination of responsibility" before proceeding with the award of a contract.

Agencies are authorized to impose suspensions or debarments on contractors to protect the government from unscrupulous contractors.³ Among the causes for suspension or debarment that are delineated in the FAR are "violation[s] of Federal or State antitrust statutes," "bribery," and the "[c]ommission of any other offense indicating a lack of business integrity."⁴ While

¹ Federal Acquisition Regulation § 3.1002.

² Federal Acquisition Regulation §§ 9.103(a), 9.104-1(d).

³ Federal Acquisition Regulation Subpart 9.4.

⁴ Federal Acquisition Regulation § 9.406-2.

suspensions and debarments are serious sanctions that must be carefully deliberated, they play a crucial role in safeguarding the federal procurement process from waste, fraud, and abuse.

In October 2020, J&F Investimentos S.A. (J&F), a Brazil-based investment company that controls JBS and other meat-processing and agricultural companies, agreed to pay a criminal penalty of over \$250 million for violations of the Foreign Corrupt Practices Act.⁵ USDA has awarded over \$25 million in government contracts to JBS since this guilty plea.⁶ Another company affiliated with J&F, Pilgrim's Pride Corporation, separately pled guilty to price fixing in a federal criminal antitrust prosecution in February 2021, agreeing to pay a fine of over \$100 million.⁷ Pilgrim's Pride has received over \$35 million in contracts from USDA since the guilty plea.⁸

The Committee is seeking to determine whether USDA is properly screening contractors that have had criminal and civil violations related to their business integrity. In order to inform the Committee's inquiry, please provide the following information to the Committee by July 1, 2022:

1. Explain whether JBS, Pilgrim's Pride, or their affiliates have been subject to suspension or debarment proceedings and, if so, the resolution of each of those proceedings;
2. Explain the rationale for determining that JBS, Pilgrim's Pride, or their affiliates were "responsible" contractors, pursuant to FAR Part 9, in connection with the award of contracts by USDA since April 1, 2020;
3. Describe any commitments made or corrective actions taken by JBS, Pilgrim's Pride, or its affiliates to demonstrate their present responsibility to USDA pursuant to FAR Part 9;
4. Identify any instance, including the date, when JBS, Pilgrim's Pride, or their affiliates notified USDA of violations of "[f]ederal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act," pursuant to FAR §

⁵ Department of Justice, *Press Release: J&F Investimentos S.A. Pleads Guilty and Agrees to Pay Over \$256 Million to Resolve Criminal Foreign Bribery Case* (Oct. 14, 2020) (online at www.justice.gov/opa/pr/jf-investimentos-sa-pleads-guilty-and-agrees-pay-over-256-million-resolve-criminal-foreign).

⁶ See USASpending.gov Database (online at www.usaspending.gov/recipient/688a065f-41ca-31f7-9b1e-13a5feb0d362-C/latest) (accessed May 24, 2022).

⁷ Department of Justice, *Press Release: One of the Nation's Largest Chicken Producers Pleads Guilty to Price Fixing and Is Sentenced to a \$107 Million Criminal Fine* (Feb. 23, 2021) (online at www.justice.gov/opa/pr/one-nation-s-largest-chicken-producers-pleads-guilty-price-fixing-and-sentenced-107-million).

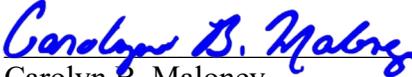
⁸ See USASpending.gov, *Pilgrim's Pride* (online at www.usaspending.gov/recipient/0f8dc632-48a1-a14c-cf90-cdabdb22682f-C/latest) (accessed May 24, 2022).

3.1003(a)(2);

5. Identify any instance in the last five years in which USDA suspended, debarred, or made a negative determination of responsibility for a contractor or potential contractor based on a guilty plea or a conviction for fraud or other legal actions that may reasonably raise questions about the entity's integrity or business ethics; and
6. Identify the processes that USDA has in place for ensuring that the Department awards contracts only to responsible companies without records of fraud, bribery, and other misconduct, including coordination with the USDA Inspector General, the Department of Justice, or any other entities.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,


Carolyn B. Maloney
Chairwoman

cc: The Honorable James Comer, Ranking Member