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COMMITTEE ON  
EDUCATION AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
2176 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6100

September 4, 2024

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

Dear Secretary Vilsack:

The U.S. House Committee on Education and the Workforce (Committee) is engaged in ongoing oversight of the U.S. Department of Agriculture's (USDA) and the Minnesota Department of Education's (MDE) administration of federal child nutrition programs (FCNP) and Feeding Our Future (FOF).

On September 30, 2022, then Ranking Member Foxx and others sent you a letter requesting information to enable oversight of improper payments of USDA's FCNPs intended to provide nutrition assistance for hungry children.<sup>1</sup> The five requests for documents and information were due no later than October 31, 2022. Your response to this letter, dated December 15, 2022, was provided on March 28, 2023, and was only sent to Ranking Member Thompson and Representative Finstad.<sup>2</sup> In addition, you failed to provide any of the requested documents or information.

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<sup>1</sup> Ranking Member Comer, Ranking Member Thompson, Rep. Fischbach, Rep. Finstad, Rep. Emmer, and Rep. Stauber; Letter from Virginia Foxx et al., Ranking Member, Comm. on Educ. and the Workforce, to Thomas J. Vilsack, Sec'y, U.S. Dep't of Agric. (Sept. 30, 2022),

<https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Ausc%3AUS%3Aada680665-a587-3ee5-a7b6-f12a12e16d63&viewer%21megaVerb=group-discover>; Federal Child Nutrition Programs are collectively the Child and Adult Care Food Program and the Summer Food Service Program.

<sup>2</sup> Letter from Thomas J. Vilsack, Sec'y, U.S. Dep't of Agric. to Glenn Thompson, Ranking Member, Comm. On Agric. (Dec.15, 2022) (on file with the Committee).

On July 20, 2023, Chairwoman Foxx and the same signatories wrote to follow up on the September 30, 2022, letter reiterating the same five requests for documents and information.<sup>3</sup>

On August 2, 2023, the USDA responded stating that additional time was needed to respond to the letter.<sup>4</sup>

On August 4, 2023, the Committee again contacted the USDA and requested that USDA begin a rolling production of documents no later than August 11, 2023. Having not received any documents, the Committee once again contacted the USDA on August 22, 2023, recounting the history of USDA's failure to provide documents and again requesting a rolling production of documents.<sup>5</sup> On that same day, the Committee received an initial production of documents purportedly in response to requests four and five and consisting of 162 pages, including 9 pages of emails and attachments. On August 23, 2023, the Committee received additional documents purportedly in response to requests one, two, and three and consisting of 41 pages of emails and attachments (this includes duplicate emails).

On December 21, 2023, you sent a letter in response to the July 20, 2023, letter. This letter included an update and a copy of a study by the Food and Nutrition Service "Summer Food Service Program Integrity Study," but no additional documents or information related to the five requests for documents and information.<sup>6</sup>

The USDA's production of information has been neither timely nor fully responsive. The documents and information provided to the Committee do not explain how your agency and the MDE failed to identify what has been described as "the largest pandemic fraud in the nation."<sup>7</sup> Accordingly, the Committee is invoking compulsory process.

Rule X of the Rules of the House of Representatives authorizes the Committee to conduct oversight of all matters involving "education... generally" to inform potential legislation.<sup>8</sup> The fraud in the FCNPs is within the Committee's jurisdiction and is a "subject on which legislation 'could be had.'"<sup>9</sup>

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<sup>3</sup> Letter from Virginia Foxx et al., Chairwoman Comm. on Educ. and the Workforce, to Thomas J. Vilsack, Sec'y, U.S. Dep't of Agric. (July 20, 2023), [https://edworkforce.house.gov/uploadedfiles/ltr\\_to\\_vilsack\\_final.pdf](https://edworkforce.house.gov/uploadedfiles/ltr_to_vilsack_final.pdf).

<sup>4</sup> Letter from Adreienne Wojciechowski, Assistant Sec'y for Cong. Rels., U.S. Dep't of Agric., to Virginia Foxx et al., Chairwoman, Comm. On Educ. And the Workforce. (Aug. 2, 2023) (on file with the Committee).

<sup>5</sup> Email from Comm. Staff, to Ramon Correa Colon, Dir. of Oversight, U.S. Dep't of Agric. (Aug. 22, 2023) (on file with Committee).

<sup>6</sup> Letter from Thomas J. Vilsack, Sec'y, U.S. Dep't of Agric. to Virginia Foxx, Chairwoman, Comm. On Educ. and the Workforce (Dec. 21, 2023) (on file with the Committee).

<sup>7</sup>Off. of Pub. Affs., *U.S. Att'y Announces Fed. Charges Against 47 Defendants in \$250 Million Feeding Our Future Fraud Scheme*, U.S. DEP'T OF JUST.. (Sept. 20, 2022), <https://www.justice.gov/opa/pr/us-attorney-announces-federal-charges-against-47-defendants-250-million-feeding-our-future>.

<sup>8</sup> Rules of the U.S. House of Representatives, 118<sup>th</sup> Cong. at 6, 7, 9-12 (Jan. 10, 2023).

<sup>9</sup> *Trump v. Mazars USA, LLP*, 140 S.Ct. 2019, 2031 (2020) (internal citations omitted).

The Honorable Thomas J. Vilsack  
September 4, 2024  
Page 3 of 3

Attached is a subpoena compelling production of the documents and communications delineated in the attached schedule no later than 12:00 p.m. on September 18, 2024.

Sincerely,



Virginia Foxx  
Chairwoman  
U.S. House Committee on Education  
and the Workforce

Attachments

# SUBPOENA

## BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Secretary Thomas J. Vilsack, United States Department of Agriculture

You are hereby commanded to be and appear before the  
Committee on Education and the Workforce



of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2176 Rayburn House Office Building, Washington, D.C. 20515

Date: September 18, 2024

Time: 12:00 p.m. EDT

- to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

To the U.S. Marshal Service, or any authorized Member or congressional staff

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this 3<sup>rd</sup> day of September, 2024.

Virginia Foxx

Chairman or Authorized Member

Attest:

Kevin F. McQuinn

Clerk

**PROOF OF SERVICE**

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Subpoena for

Secretary Thomas J. Vilsack, United States Department of Agriculture

Address 1400 Independence Avenue, S.W., Washington, D.C. 20250

before the Committee on Education and the Workforce



*U.S. House of Representatives  
118th Congress*

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Served by (print name) Mindy Barry

Title General Counsel, U.S. House of Representatives Committee on Education and the Workforce

Manner of service email

Date \_\_\_\_\_

Signature of Server \_\_\_\_\_

Address 2176 Rayburn House Office Building, Washington D.C. 20515

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In accordance with the attached Schedule instructions and definitions, you, Thomas J. Vilsack, Secretary, U.S. Department of Agriculture (USDA), are required to produce all documents and communications described below in your possession, custody, or control, in complete and unredacted form:

1. All documents and communications referring to Feeding our Future (FOF), including but not limited to any records required to be made available by FOF for audit and inspection in connection with its participation in federal child nutrition program (FCNP);
2. All documents and communications relating to any actions taken or planned by USDA to establish additional integrity measures designed to prevent fraud and improper payments with respect to FCNP or funds administered by the Food and Nutrition Service;
3. All documents and communications referring to the 2019 complaint regarding FOF sent by Kara Lomen to USDA;
4. All documents and communications with the FBI referring to allegations involving fraud committed by FOF and/or FOF sites;
5. All documents and communications with Governor Walz referring to allegations involving fraud committed by FOF and/or FOF sites;
6. All documents and communications with Minnesota Department of Education (MDE) referring to allegations involving fraud committed by FOF and/or FOF sites;
7. All documents and communications referring to Congressional requests for documents and information to aid in the oversight of improper payments of FCNP in Minnesota;
8. All MOUs between USDA OIG and USDA, including the Food and Nutrition Service;
9. All documents and communications referring to the USDA's preparation for the June 10, 2024 briefing, that was cancelled by your staff, for the Committee on Education and the Workforce referring to the COVID waivers impacting state administration of the FCNP and questions based on information provided during a June 5, 2024 briefing by the USDA OIG referring to the FOF fraud; and
10. All documents and communications referring to the USDA's preparation for the July 2, 2024 briefing for the Committee on Education and the Workforce regarding the COVID waivers impacting state administration of the FCNP and FOF fraud.

## **Instructions for Responding to a Subpoena**

### **U.S. House Committee on Education and the Workforce**

#### **118th Congress**

1. In complying with the U.S. House Committee on Education and the Workforce's (Committee) subpoena, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You also should produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Subpoenaed records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or person denoted in the subpoena has been or is also known by any other name or alias than herein denoted, the subpoena should be read also to include the alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic form should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - a. All documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable should be produced in text searchable Portable Document Format (".pdf") format. Spreadsheets should also be provided in their native form. Audio and video files should be produced in their native format, although picture files associated with email or word processing programs should be produced in .pdf format along with the document it is contained in or to which it is attached.
  - b. Document numbers in the load file should match document Bates numbers and file names.
  - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - d. All electronic documents produced should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

- e. If any of the subpoenaed information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), consult with the Committee staff to determine the appropriate format in which to produce the information.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to the subpoena should be produced together with copies of file labels, dividers or identifying markers with which they were associated when the subpoena was served.
8. When producing documents, identify the paragraph in the Committee's schedule to which the documents respond.
9. Do not refuse to produce documents on the basis that any other person or entity also possesses non-identical or identical copies of the same documents.
10. This subpoena is continuing in nature and applies to any newly discovered information. Any record, document, compilation of data or information not produced because it has not been located or discovered by the return date, should be produced immediately upon subsequent location or discovery.
11. All documents should be Bates-stamped sequentially and produced sequentially. Each page should bear a unique Bates number.
12. Two sets of documents should be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets should be delivered to the Majority Staff in Room 2176 of the Rayburn House Office Building or provided electronically to the Majority General Counsel at [mindy.barry@mail.house.gov](mailto:mindy.barry@mail.house.gov) and the Minority Staff in Room 2101 of the Rayburn Office Building or provided electronically to the Minority General Counsels at [ilana.brunner@mail.house.gov](mailto:ilana.brunner@mail.house.gov) and [christian.haines@mail.house.gov](mailto:christian.haines@mail.house.gov).
13. If compliance with the subpoena cannot be made in full by the date specified in the subpoena, compliance should be made to the extent possible by that date. Notify Committee staff as soon as possible if full compliance cannot be made by the date



specified in the subpoena and provide an explanation for why full compliance is not possible by that date.

14. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
15. In the event that a portion of a document is redacted on the basis of alleged privilege, provide a privilege log containing the following information concerning any such redaction: (a) the privilege asserted; (b) the location of the redaction in the document; (c) the general subject matter of the redacted material; (d) the date, author, and addressee of the document, if not readily apparent; and (e) the relationship of the author and addressee to each other.
16. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, produce all documents which would be responsive as if the date or other descriptive detail were correct.
18. In the event a complete response requires the production of classified information, provide as much information in unclassified form as possible in your response and send all classified information under separate cover via the Office of Senate Security.
19. Unless otherwise specified, the period covered by this subpoena is from January 1, 2017, to the present.
20. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### **Schedule Definitions**

21. The term "document" in the subpoena, the schedule, or the instructions means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, forms, spreadsheets, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices,

transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings, and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

22. The term "communication" in the subpoena, the schedule, or the instructions means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, email (desktop or mobile device), computer, text message, instant message, MMS or SMS message, regular mail, telexes, discussions, releases, delivery, or otherwise.
23. The terms "and" and "or" in the subpoena, the schedule, or the instructions should be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
24. The terms "person" or "persons" in the subpoena, the schedule, or the instructions mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, businesses or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
25. The term "identify" in the subpoena, the schedule, or the instructions, when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
26. The terms "referring" or "relating" in the subpoena, the schedule, or the instructions, when used separately or collectively, with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
27. The term "employee" in the subpoena, the schedule, or the instructions means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, or subcontractor.

28. The terms "you" and "your" in the subpoena, the schedule, or the instructions refer to yourself; your firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions, including USDA's Midwest Regional Office.
29. The term "federal child nutrition program" in the subpoena, the schedule, or the instructions refer to the Child and Adult Food Program (CACFP) and the Summer Food Service Program (SFSP).
30. The terms "Feeding Our Future " and "FOF" in the subpoena, the schedule, or the instructions refer to the Feeding Our Future organization, firm, corporation, partnership, association, department, or other legal entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on Feeding Our Future's behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion and make decisions.
31. The terms "Partners in Nutrition (d/b/a Partners in Quality Care)" and "PIN/PIQC" in the subpoena, the schedule, or the instructions refer to the Partners in Nutrition and Partners in Quality Care organizations, firms, corporations, partnerships, associations, departments, or other legal entities, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on Feeding Our Future's behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion and make decisions.
32. The terms "Minnesota Department of Education" and "MDE" in the subpoena, the schedule, or the instructions refer to the Minnesota Department of Education firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions.
33. The terms "Governor Walz" or "Governor" in the subpoena, the schedule, or the instructions refer to the Governor himself; his firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, executive officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, executive officers, employees, agents, contractors, and all other individuals exercising or

purporting to exercise discretion, make policy, and/or decisions.

34. The terms "United States Department of Agriculture Office of Inspector General" and "USDA OIG" in the subpoena, the schedule, or the instructions refer to USDA OIG firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions, including USDA OIG's Headquarters and Midwest Regional Office.
35. The terms "United States Department of Agriculture" and "USDA" in the subpoena, the schedule, or the instructions refer to the USDA firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, executive officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, executive officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions, including USDA's Midwest Regional Office and the Food and Nutrition Service.

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