

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE STATE OF ALABAMA DEPARTMENT OF FINANCE AND
THE ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
FOR THE DISTRIBUTION OF CARES ACT CORONAVIRUS RELIEF FUNDS**

This Memorandum of Understanding (“Agreement”) is made by and between the State of Alabama Department of Finance, at 600 Dexter Avenue, Montgomery, Alabama 36130, hereinafter referred to as “DOF” and the Alabama Department of Agriculture and Industries, at 1445 Federal Drive, Montgomery, Alabama 36107, hereinafter referred to as “ADAI.” DOF and ADAI are hereinafter collectively referred to as the “parties.” This Agreement becomes effective upon approval of the parties and the Governor.

1. PURPOSE AND SCOPE

(a). The federal Coronavirus Aid, Relief, and Economic Security Act, hereinafter referred to as the CARES Act, established the Coronavirus Relief Fund, hereinafter referred to as CRF. The CARES Act appropriated \$150,000,000,000 to the CRF to make payments to state, local, and tribal governments for the purposes enumerated in the CARES Act, namely to respond to and mitigate the coronavirus pandemic. The State of Alabama received approximately \$1,900,000,000 from the CRF. CRF funds may only be used to cover costs that 1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); 2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and 3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

(b). Alabama Act 2020-199 divided the State of Alabama’s share of CRF funds into ten categories and charged DOF with the responsibility of administering the funds on behalf of the people of Alabama. One such category provides, “Up to \$300,000,000 to be used to support citizens, businesses, and non-profit and faith-based organizations of the state directly impacted by the coronavirus pandemic.” ADAI is requesting, and DOF agrees to provide, \$26,000,000 from this category of CRF funds to support ADAI’s Alabama Agricultural Stabilization Program, hereinafter referred to as “AASP” or the “Program.” A detailed description of AASP is attached hereto as Appendix A.

(c). As AASP has been presented to DOF by ADAI, DOF has concluded that the Program is necessary to respond to and mitigate the coronavirus pandemic in Alabama. Further, DOF concludes that funding the Program using the State’s CRF funds is an appropriate use of these funds under both federal and state law. DOF fully supports ADAI in its efforts to support and protect the citizens of Alabama.

2. PARTIES’ RESPONSIBILITIES

(a). DOF agrees to the following:

(i). To provide written notice to the Legislature at least fourteen days prior to providing funds to ADAI under this agreement as required by Act 2020-199;

(ii). To provide \$26,000,000 to ADAI from the State's CRF funds as described herein to fund AASP and for no other purpose; and

(iii). To provide ADAI with forms required by DOF to be completed by Program participants.

(b). ADAI agrees to the following:

(i). To develop, implement, and administer AASP as described in Appendix A, including establishing an AASP review committee;

(ii). To obtain completed forms required by DOF from Program participants prior to distributing funds;

(iii). To provide to the State Finance Director's Office, on the Fifteenth of every month, beginning September 15, 2020 until conclusion of the Program by either completion or termination, a report detailing the progress made on the Program and an itemized list of expenditures for these programs for the preceding month;

(iv). To use the funds provided by DOF under this Agreement in accordance with federal and state law and for the purposes set forth in this Agreement and for no other purpose; and

(v). To spend or return any funds provided by DOF under this Agreement by December 15, 2020.

(c). The parties acknowledge and agree that, prior to December 15, 2020 and with the written consent of DOF, ADAI may reallocate funds within the Program.

3. AMENDMENT OR TERMINATION OF AGREEMENT

(a). This Agreement may be amended only by a writing signed by each party or representatives of each party.

(b). Except as set forth in this section, this Agreement may be terminated only by a writing signed by each party or representatives of each party. If DOF concludes, after a reasonable investigation and in its sole discretion as administrator of the funds under Act 2020-199, that the funds provided hereunder have been used in a manner inconsistent with federal or state law, DOF may terminate this Agreement immediately upon written notice to ADAI. In the event that this agreement is terminated under this section, ADAI agrees to immediately return to DOF any unspent funds provided to ADAI under this agreement.

4. MISCELLANEOUS PROVISIONS

(a). The terms and commitments contained herein shall not constitute a debt of the State of Alabama, which is prohibited by Section 213 of the Official Recompilation of the Constitution of Alabama, 1901, as amended by Amendment No. 26.

(b). By signing this contract, the contracting parties affirm, for the duration of this Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of this Agreement and shall be responsible for all damages resulting therefrom.

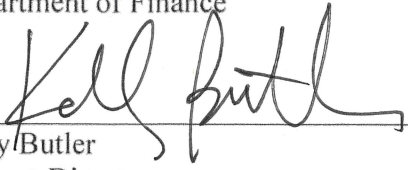
(c). In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

(d). In order to comply with federal requirements relating to the administration of grants and other federal assistance funds, DOF provides the following information to ADAI: This subaward is provided to ADAI through a grant to the State of Alabama in the amount of \$1,901,262,000 from the U.S. Treasury via Section 601(a)(1) of the Social Security Act (42 U.S.C. 301 et seq.), known as the Coronavirus Relief Fund, as created by Section 5001 of the CARES Act, Pub. L. No. 116-136 (March 27, 2020) under Federal Award Identification Number SLT0002 and SLT0223, CFDA #21.019 Coronavirus Relief Fund for the period March 1, 2020 to December 30, 2020. This subaward is provided in accordance with the requirements set forth in the CARES Act and other applicable federal and state law and policy, and ADAI affirms that all information it has provided to DOF relating to this subaward is true and accurate. This subaward does not include research and development. The parties acknowledge and understand that each subrecipient of CRF funds will be evaluated in accordance with Code of Federal Regulations, Title 2, § 200.331(b) for risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward. Further, each subrecipients' activities will be monitored as necessary to ensure that the subaward is used for authorized purposes, in compliance with law, and that subaward performance goals are achieved. Other monitoring tools may be implemented depending on the level of risk posed by the subrecipient.

In witness whereof, the parties hereto have caused this Agreement to be executed by those officers, officials, and persons thereunto duly authorized on this _____ day of August, 2020.


[SIGNATURES APPEAR ON THE NEXT PAGE]

State of Alabama
Department of Finance



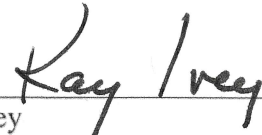
Kelly Butler
Finance Director

State of Alabama
Department of Agriculture and Industries



Rick Pate
Commissioner

APPROVED:



Kay Ivey
Governor of Alabama

Date: 8-11-2020

Alabama Agricultural Stabilization Program Proposal Outline

To assist Alabama's agricultural community's response to COVID-19, ADAI and our stakeholders offer this request for a \$26 million stabilization program. These stakeholders include the Alabama Cattlemen's Association, Alabama Farmers Federation, Alabama Poultry & Egg Association, Alabama Agribusiness Council, and various individuals and businesses. At this time, our request consists of the following seven programs that are detailed below:

1. Direct Payment Business Stabilization Grants to Cattle Producers- \$10.5 million
 2. Meat Processing Plant Reimbursement Program- \$1.5 million
 3. Poultry Farmer Stabilization Grant Program- \$4 million
 4. Catfish Processor Reimbursement Program- \$500,000
 5. Fruit & Vegetable Processor Reimbursement Program- \$500,000
 6. State Supplemental CFAP Grant Program- \$8 million
 7. Nursery Grower Reimbursement Program- \$1 million
- 1. \$ 10.5 MILLION DIRECT PAYMENT BUSINESS STABILIZATION GRANT FOR FEEDER CATTLE PRODUCERS AND DAIRY CATTLE PRODUCERS**

ADAI proposes a \$ 10.5 million direct payment business stabilization grant program to assist cattle producers due to the direct impacts that COVID-19 has had on all aspects of cattle production. \$3 million of this amount would be dedicated for feeder cattle producers with the remaining \$7.5 million available for fed cattle producers and as supplemental Coronavirus Food Assistance Program (CFAP) payments for dairy producers. Alabama's cattle industry represents an annual \$2.5 billion economic impact for our state, and producers across the state have suffered tremendous economic impact during the Coronavirus pandemic to the point it threatens the future of their cattle operations. Across our state, cattlemen have borne the brunt of disrupted beef and dairy supply chains, uncertainty in the marketplace, added input costs and a complete collapse in foodservice beef business, creating detrimental volatility in market conditions for those who recently sold cattle or dairy.

Cattle are sold in a free market system. Like in the stock market, uncertainty causes volatility in the cattle marketplace. From the inception of the pandemic, uncertainty caused a complete collapse in the cattle market. In the weeks following, the virus spread across large processing plants causing shutdowns for days and weeks. In some cases, plants processing 6,000 head of cattle per day were shut down for several days. This has caused a tremendous impediment to the normal marketing and sale of cattle which will continue for months to come. Because of these issues in the supply chain, cattle prices have remained volatile and depressed. While CFAP was helpful to producers in Alabama who sold cattle after April 15, 2020, these CFAP payments were minimal compensation for the losses they incurred, or the added expenses seen on the farm to hold cattle through the pandemic. Our proposal would assist producers that sold cattle from April 16th through May 15th of 2020 who did not receive adequate assistance from CFAP. Producers will not be eligible for more than their documented losses due to COVID-19 minus any CFAP payment they have or will receive from USDA or any other federal or state assistance received to address COVID-19 related losses.

Our proposed feeder cattle program will create a program that will be open to Alabama resident cattlemen who can document they sold cattle during the date range of April 16, 2020, through May 15, 2020. Our stakeholders estimate that over 1500 producers would qualify. Data was obtained from the USDA Agricultural Marketing Service to estimate the number of feeder cattle less than 900 lbs. sold in the state from April 16-May 15. CFAP data was used to estimate the total inventory number of fed

cattle at 41,000 head, but all of this number may not have been sold during the timeframe covered by this program therefore we anticipate actual payments for fed cattle to be less than \$7.5 million. It is estimated that this program would provide payment on the following number of cattle:

- o Calves less than 600 lbs. = 25,793 cattle
- o Calves 600-900 lbs. = 9,558 cattle
- o Fed Cattle (over 900 lbs.) = maximum of 41,000 cattle

The proposed payment structure (price per head/class) and estimated number of cattle in each class is listed below:

- o 25,793 cattle less than 600 lbs. x \$69/head = \$1,779,717
- o 9,558 cattle 600-900 lbs. x \$106/head = \$1,013,148
- o 41,000 fed cattle (over 900 lbs.) x \$181/head = \$7,421,000

Our dairy cattle program will utilize funds remaining after payment of the feeder and fed cattle described above. Alabama resident dairy producers would be eligible for a payment in addition to their CFAP payment in an amount not to exceed the difference between losses and CFAP assistance received from USDA or other federal or state assistance. The exact percentage to be used for the state payment will be determined after all beef cattle payments have been processed and all dairy cattle applications have been received.

2. \$1.5 MILLION ALABAMA MEAT PROCESSING PLANT REIMBURSEMENT PROGRAM

Our nation's meat supply, especially beef and pork, is largely dependent on a relatively small number of large-scale meat processing facilities located in the central United States. Due to COVID-19 infections in employees at these locations, numerous meat processing facilities ceased or significantly reduced operational capacity at various times. These closures or reductions have placed a strain on existing smaller meat processing facilities in Alabama to continue to meet the demand for protein. Additionally, more localized processing capacity is needed to relieve the pressure on supply lines caused by the closures or reductions at the large centralized facilities. Many facilities in Alabama are operating at maximum capacity with no way to meet the increased demand for protein without additional equipment. To meet this need, ADAI proposes a \$1.5 million program to meet the current needs of small Alabama meat processing facilities as they expand to meet COVID-19 related demand and relieve stress on our food supply chains. Grocery stores would not be eligible. This program would be very similar to North Dakota's CARES Act Cost-Share Program, and there are approximately 35 Alabama facilities that could participate to some extent.

This program would provide a reimbursement of up to \$50,000.00 for facilities that purchase additional coolers/freezers, dehydrators, vacuum sealers, hoist hangers and rail systems, mixers/grinders, smokers, saws/blades, and similar items to expand their capacity and output to meet the demand caused by COVID-19. The program would not reimburse a facility for construction/remodel costs, livestock holding facilities, repairs, or salaries.

3. \$4 MILLION ALABAMA POULTRY FARMER STABILIZATION GRANT PROGRAM

Alabama's poultry industry is extremely vital to our state's economy and our national food supply chain. Alabama ranks as the third largest broiler producing state in the country. We have approximately 2,500 broiler producers that grow birds for the various poultry companies operating in the state. Most

poultry farmers expect a 21-day downtime between flocks of birds, and the business model for poultry farms anticipates this downtime. Due to COVID-19 related outbreaks in poultry processing facilities, the demand for broilers has been extremely volatile as processing plants have often reduced processing capacity due to COVID -19 related worker shortages or increased social distancing practices on the processing floors. As companies have tried to adjust the poultry supply chain and avoid depopulations, some companies have increased the downtime that farmers have between flocks to longer than 21-days causing significant financial impact on the poultry farmer's ability to pay debts based on a normal business model. Some poultry companies have been able to compensate growers for these extended downtime days and some companies have not.

We propose a stabilization grant program that will provide direct payments to Alabama resident broiler farmers that have experienced above normal "downtimes" between flocks and have not been fully compensated for that downtime by their integrator. Our plan sets aside \$4 million for these growers and would compensate those farmers based on the following formula: "number of days of downtime over 21 days x \$0.005 sq. foot x number of square feet in houses." For example, if a grower with 120,000 square feet within their poultry houses experienced a downtime of 31 days between a flock and the grower was not compensated by their integrator, the farmer could receive a payment for (10 days x \$0.005 sq. foot x 120,000) or \$6,000.00.

4. \$500,000 CATFISH PROCESSOR REIMBURSEMENT PROGRAM

Alabama is the second largest catfish producing state in the nation and our two processing plants are vital to ensuring that our farmers have an ability to sell their fish and that consumers will have access to catfish as a source of protein. In order to remain open and processing while protecting the safety of the employees at these facilities, our catfish processing plants have incurred significant expenses related to COVID-19 testing of employees and the purchase of PPE, thermometers, workstation dividers, extra disinfectants, telecommunication equipment, and similar items. We propose a \$500,000 program that would reimburse our catfish processors for these expenses up to a maximum of \$250,000 per facility. These funds would not be used for capital improvements/renovations, salaries or overtime for employees. This program would allow reimbursement for purchases made between March 13, 2020 and July 31, 2020.

5. \$500,000 FRUIT & VEGETABLE PROCESSING FACILITY REIMBURSEMENT PROGRAM

Like the meat processing plant reimbursement program, we recommend a \$500,000.00 reimbursement program for Alabama's fruit and vegetable processing facilities in order to help them meet the increased demand for fruits and vegetables caused by increased consumer purchases related to COVID-19. There are approximately five of these facilities in Alabama. Our current facilities are operating at capacity and cannot expand production to meet increased demand without increased washing stations, chopping equipment, flash freezers, and packaging equipment. In addition to the equipment to increase processing and meet consumer demand, we would also utilize these funds to reimburse the facilities for PPE, sanitizer, etc. related to protecting their employees from COVID-19. These funds would not be used for capital improvements/renovations, salaries or overtime for employees. In addition to reimbursement of the equipment described above, this program would allow reimbursement for PPE, sanitizer and related purchases made between March 13, 2020 and July 31, 2020. The applicant will not be reimbursed for items that have been purchased or reimbursed utilizing funds provided by any other state or federal program.

6. \$8 MILLION ALABAMA CFAP SUPPLEMENTAL GRANT PROGRAM

USDA's CFAP program identified various commodities that have suffered significant price declines and market volatility due to COVID-19. CFAP provided payments to eligible producers of commodities that suffered a 5% or greater decline in price because of COVID-19's impact. We propose a state supplemental CFAP program for all CFAP eligible commodities, other than cattle. Alabama resident CFAP commodity producers would be eligible for a payment in addition to their CFAP payment in an amount not to exceed the documented losses minus any CFAP payment they received from USDA or any other federal or state assistance received to address COVID-19 related losses. The exact percentage to be used for the state payment will be determined after all state supplemental CFAP applications have been received and after all USDA CFAP payments have been issued. These payments will provide additional assistance to over 1,300 farmers.

7. \$1 MILLION NURSERY GROWER REIMBURSEMENT PROGRAM

Alabama's green industry employs approximately 43,000 individuals throughout the state and generates about \$2.9 billion each year for our economy. In order to remain open and meet the demand for plants while protecting the safety of the employees at these farms, our green industry members have incurred significant expenses related to COVID-19 testing of employees and the purchase of PPE, thermometers, workstation dividers, extra disinfectants, telecommunication equipment, and similar items. We propose a \$1 million program that would reimburse our nursery growers for these expenses. A maximum reimbursement amount may be established depending on the total number of applicants and the amount of need within this program. These funds would not be used for capital improvements/renovations, salaries or overtime for employees. This program would allow reimbursement for purchases made between March 13, 2020 and July 31, 2020. The applicant will not be reimbursed for items that have been purchased or reimbursed utilizing funds provided by any other state or federal program.

NOTES:

ADAI request that it retains the ability to reallocate these funds between programs if it becomes evident that there will be excess funds in one area that may be utilized to meet outstanding need in another program.

ADAI will require program participants to certify, prior to receiving funds under any component of this program, that 1) they have incurred losses as a result of COVID-19; and that 2) they have not received reimbursement from a federal or state program to cover said losses, or if federal or state assistance has been received or is expected to be received to cover said losses, participants agree to claim only the amount of incurred losses related to COVID-19 that were not covered with other federal or state assistance funds.

In an effort to ensure that all producers impacted by COVID-19, have an opportunity to establish their eligibility for any program administered by the Alabama Department of Agriculture and Industries, Commissioner Pate will establish an Alabama Agricultural Stabilization Program Review Committee consisting of private individuals with knowledge of farming, agricultural practices, and business operations. This committee will review any producer complaints concerning implementation of the programs and make recommendations to the department concerning a producer's eligibility for a program if the department initially denied or questioned the producer's eligibility.