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April 8, 2025

Via Email

Secretary Brooke Rollins
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250

Attorney General Pamela Bondi
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Director Russell Vought
Office of Management and Budget
1650 Pennsylvania Avenue, NW
Washington, D.C. 20503

RE: Ongoing Race & Sex Discrimination by USDA

Dear Secretary Rollins, Attorney General Bondi, and Director Vought:

We represent Adam Faust, a dairy farmer from Chilton, Wisconsin. Like over 2 million American farmers (representing over 60% of all farmers), Mr. Faust is a white male. In 2021, Mr. Faust successfully sued the Biden Administration for race discrimination in the Farmer Loan Forgiveness Program. In that case, *Faust v. Vilsack*, the U.S. District Court for the Eastern District of Wisconsin held that granting loan forgiveness only to “socially disadvantaged farmers” constituted unconstitutional race discrimination.¹ After the court entered a nationwide temporary restraining order, and several other courts followed suit, the Biden Administration suspended the program and Congress repealed it.

Although the Trump Administration has taken several commendable steps to root out race discrimination in many agencies, race-based policies and programs persist. USDA is the worst offender, running over two dozen race-based programs that unconstitutionally discriminate against farmers and ranchers every day.²

Today, we are demanding that you eliminate the race- and sex-based preferences in three USDA programs. **If you do not reform these programs within sixty days, Mr. Faust has authorized us to file a federal lawsuit against USDA.** We do not want to take this step, and understand it takes time to implement President Trump’s agenda, but there is no excuse for this continued discrimination. It must end immediately.

¹ *Faust v. Vilsack*, 519 F. Supp. 3d 470 (E.D. Wis. 2021).

² See Wisconsin Institute for Law & Liberty, Inc., *Roadmap to Equality*, available here: <https://will-law.org/roadmaptoequality/>.

I. Discriminatory Dairy Margin Coverage Administrative Fee

Every year, Mr. Faust enrolls in USDA's Dairy Margin Coverage (DMC) Program, which is administered by the Farm Service Agency. DMC offers financial assistance when the margin between the milk price and the average feed cost falls below a coverage level chosen by the producer. By participating in DMC, dairy farmers like Mr. Faust can protect themselves against declines in milk prices and increases in feed costs.

On March 25, 2025, Mr. Faust signed up for DMC (as he does every year). To participate in the program, USDA required Mr. Faust to pay a \$100 Dairy Margin Coverage Administrative Fee, which he paid.

USDA only charges this fee to white male farmers like Mr. Faust.

Secretary Rollins exempts "socially disadvantaged farmers" from the fee.³ While Secretary Rollins may define this phrase as she sees fit, current USDA regulations define this phrase to include only the following racial groups: American Indians or Alaskan Natives, Asians or Asian Americans, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.⁴ White males are excluded from the exemption, meaning that only they must pay the \$100 annual fee.

II. Discriminatory Loan Guarantee Program

On August 1, 2024, Mr. Faust refinanced his dairy farm and received a loan for \$890,000. Like many farmers, Mr. Faust took advantage of USDA's Loan Guarantee Program, which is run by the Farm Service Agency. Under this program,⁵ FSA guarantees farm loans up to 95 percent against possible financial loss of principal and interest. As a result, because of the guarantee, farmers like Mr. Faust can borrow more money at a lower interest rate. The cost of the guarantee is 1.5%. Mr. Faust paid this guarantee (\$12,015) and received a 90% guarantee from USDA.

White males may only receive a guarantee of 90% of the value of the loan, while women and minorities receive a 95% guarantee. A lower guarantee means higher interest rates and loan costs, and lower overall loan amounts.

Secretary Rollins may provide a guarantee equal to 95% of the outstanding principal of the loan to "socially disadvantaged farmers."⁶ This phrase is defined based on race and gender.⁷ The standard plan (for farmers who are white males) is only a 90% guarantee.⁸

³ 7 U.S.C. § 9054(c)(4).

⁴ 7 C.F.R. § 1430.402.

⁵ USDA, *Guaranteed Farm Loans*, available at this [link](#).

⁶ 7 U.S.C. § 2008b.

⁷ See 7 U.S.C. § 2003(e).

⁸ USDA, *Farm Loans Overview*, available at this [link](#); USDA, *Guaranteed Loan Program*, available at this [link](#); USDA, *Farm Loan Programs*, Final Rule, 87 FR 13117 (March 9, 2022), available [here](#) (rule

III. The Environmental Quality Incentives Program

Earlier this year, Mr. Faust contracted with an engineering firm to design a new manure storage system. Work on this plan is ongoing. In November, Mr. Faust intends to apply for a grant and technical assistance under USDA’s Environmental Quality Incentives Program (EQIP). The program is run by the Natural Resource Conservation Service.

Under EQIP, “socially disadvantaged farmers” may receive more than white male farmers.

Secretary Rollins may award up to 90% of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, and training to “socially disadvantaged farmers,”⁹ which includes farmers in only certain racial groups.¹⁰ White male farmers, like Mr. Faust, are only entitled to 75% of their costs reimbursed under this program.

IV. These Programs, and Other Similar Programs, Are Unconstitutional

“It is a sordid business, this divvying us up by race.”¹¹ Supreme Court precedent does not tolerate this practice in the slightest.¹² As Attorney General Bondi has repeated herself,¹³ “[e]liminating racial discrimination means eliminating all of it.”¹⁴ That is because “[d]istinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.”¹⁵ And “[w]ithout this principle of equal justice . . . there is no republican government and none that is really worth maintaining.”¹⁶ The Fifth Amendment prohibits such practices.¹⁷

In several lawsuits filed over the past four years, federal courts have held that USDA’s race- and gender-based preferences for “socially disadvantaged farmers” are

changes allow socially disadvantaged farmers “to receive a guarantee equal to 95 percent, rather than the otherwise applicable 90 percent guarantee”).

⁹ 16 U.S.C. § 3839aa-2(d)(4).

¹⁰ 7 C.F.R. § 1466.3.

¹¹ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 51 I (2006) (Roberts, C.J., concurring).

¹² *Parents Involved in Community Schools v. Seattle School Dist. No. I*, 551 U.S. 701, 748 (2007) (“The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”).

¹³ Attorney General Bondi, *Ending Illegal DEI and DEIA Discrimination and Preferences*, Feb. 5, 2025, available [here](#).

¹⁴ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.* (SFFA), 600 U.S. 181, 206 (2023).

¹⁵ *Id.* at 208 (quoting *Rice v. Cayetano*, 528 U.S. 495, 517 (2000)).

¹⁶ *SFFA*, 600 US at 202 (quotation omitted).

¹⁷ *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 217 (1995).

unconstitutional.¹⁸ There is no question that USDA’s continued use of race- and sex-based preferences through the term “socially disadvantaged farmers” is, and continues to be, unconstitutional.¹⁹

Moreover, President Trump, through his executive orders, has prohibited the continued use of such practices. He has ordered each of you to, among other things:

- assess and “terminate ... all DEI, DEIA ... offices and positions”; “all equity action plans, equity actions, initiatives, or programs, equity-related grants or contracts; and all DEI or DEIA performance requirements for employees, contractors, or grantees”;
- “terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirement”;
- “enforce our longstanding civil-rights laws,” including “combat[ing] illegal private-sector DEI preferences, mandates, policies, programs, and activities”; and
- “recommend actions, such as Congressional notifications under 28 U.S.C. 530D, to align agency or department programs, activities, policies, regulations, guidance, employment practices, enforcement activities, contracts (including set-asides), grants, consent orders, and litigating positions with “the policy of equal dignity and respect.”²⁰

In short, “the Government must treat citizens as individuals, not as simply components of a racial ... or national class.”²¹ This is “the heart of the Constitution’s guarantee of equal protection.”²² This discrimination must end now.

V. Unless USDA Reforms These Programs, Mr. Faust Will File a Federal Lawsuit

Within 60 days, we demand that you reform these programs to prohibit discrimination based on race and gender. Unless we receive notification that Mr. Faust will no longer be

¹⁸ *E.g.*, *Faust v. Vilsack*, 519 F. Supp. 3d 470 (E.D. Wis. 2021); *Strickland v. USDA*, No. 2:24-cv-00060-Z (N.D. Tx., June 7, 2024), available [here](#).

¹⁹ *See, e.g.*, *Mid-Am. Milling Co. v. U.S. Dep’t of Transp.*, No. 3:23-cv-00072-GFVT, 2024 WL 4267183 (E.D. Ky. Sept. 23, 2024) (“MAMCO”) (holding that the federal DBE programs preferences for companies owned by “socially and economically disadvantaged individuals” is unconstitutional); *Nuziard v. Minority Bus. Dev. Agency*, 721 F. Supp. 3d 431 (N.D. Tex. Mar. 5, 2024) (same); *Vitolo v. Guzman*, 999 F.3d 353 (6th Cir. 2021) (same).

²⁰ Exec. Order No. 14,151 (Jan. 20, 2025), 90 Fed. Reg. 8339 (Jan. 29, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-29/pdf/2025-01953.pdf>; Exec. Order No. 14,173 (Jan. 21, 2025), 90 Fed. Reg. 8633 (Jan. 31, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-31/pdf/2025-02097.pdf> (internal citation marks omitted).

²¹ *SFFA*, 600 U.S. at 223.

²² *Id.*

subject to race and sex discrimination (or otherwise receive reasonable assurances that you are starting the process of reforming these programs), we will file a federal lawsuit on Mr. Faust's behalf.

Please acknowledge receipt of this letter as soon as possible.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

A handwritten signature in blue ink, appearing to read "Dan P. Lenington". The signature is fluid and cursive, with the first name "Dan" and last name "Lenington" clearly visible.

Daniel P. Lenington
Managing Vice President & Deputy Counsel