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LAWRENCE J. BRADY
STAFF DIRECTOR

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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February 21, 2012

The Honorable Kevin Concannon
Under Secretary for Food, Nutrition and Consumer Services
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250

Dear Mr. Concannon:

On February 6, 2012, I wrote to Secretary Vilsack regarding the Department of Agriculture's investigation into the Supplemental Nutrition Assistance Program (SNAP), commonly known as the food stamp program. That letter is enclosed for your ready reference. Recent media reports indicate that the scope and magnitude of fraud in the program may be much greater than initially reported. According to *Scripps Howard News Service*, food stamp fraud is a widespread problem in many cities:

Dozens of individuals who had been banned as food-stamp vendors nonetheless remained in the business in New York; Los Angeles; Phoenix; San Diego; Tulsa, Okla.; West Palm Beach, Fla.; Baltimore and other communities across the country.¹

In light of these new concerns, the Committee is requesting additional documents and information.

Clearly, there is a pressing need for decisive action. With record numbers of Americans using food stamps, with an annual price tag of \$75.3 billion, anything short of rigorous anti-fraud measures will be very costly to taxpayers.² According to *Reuters*, food stamp fraud accounts for "just 1 percent of food stamp benefits, but equals about \$750 million each year."³ Since President Obama took office three years ago, the number of SNAP enrollees has drastically increased.⁴ Today, approximately 46.1 million people receive food stamps, with 14 million of those individuals enrolling since President Obama took office.⁵ According to the *Washington Times*, SNAP enrolled six million new people in Fiscal Year 2011 at an increased cost of \$7 billion.⁶

Although USDA's press releases tout the agency's efforts to combat fraud, the *Scripps* story makes clear USDA needs to expand these efforts. Federal regulations prescribe penalties for retailers

¹ Isaac Wolf, *Scripps Investigation Unveils Food Stamp Fraud*, SCRIPPS HOWARD NEWS SERVICE (Feb. 19, 2012).

² Lisa Baertlein, *Food Stamp Fraud Targeted As Election Season Brings Criticism*, REUTERS (Feb. 6, 2012).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Cheryl Wetzstein, *Government Fighting Food Stamp Fraud*, WASH. TIMES (Dec. 6, 2011).

who engage in misconduct related to the food stamp program.⁷ For egregious misconduct, in addition to civil monetary penalties, regulations require the potentially permanent disqualification of the retailer.⁸ Enhanced use of the disqualification process is needed to prevent taxpayer dollars from flowing to fraudsters. According to *Scripps*, a startling number of barred retailers “disobey the permanent prohibitions and continue to shortchange complicit customers and unwitting taxpayers.”⁹ In fact, some retailers have been busted repeatedly – *Scripps* identified at least 137 merchants that have been disqualified more than once. Some have been disqualified as many as four times.¹⁰

Previously disqualified retailers are gaining reentry into SNAP through various schemes and misrepresentations.¹¹ Often, a storeowner who was disqualified by USDA will rename his or her store and continue perpetrating the fraud under a new corporate name.¹² In some cases, the disqualified storeowner will have a third party pose as the new storeowner and reenter SNAP under the guise of new ownership. In other cases, the disqualified storeowner continues under the exact same name.¹³

Individual program participants assist the merchants in schemes to defraud the government. Fraud in the food stamp program appears to be a nationwide problem according to news reports from across the country. In my February 6, 2012, letter, I detailed SNAP-related waste and fraud in Connecticut. The most recent report from *Scripps* provides details of similar problems in Ohio. For example, auditors from the Ohio Department of Job and Family Services discovered that 17,000 SNAP participants ordered 10 or more electronic benefit transfer (EBT) cards, the debit-like cards that replaced the traditional paper coupon system.¹⁴ In most cases, this is a clear indicator of fraud. According to investigators in the Ohio case, “the cards are easily traded just like the old food stamps” and at the end of each improper transaction is “an unscrupulous merchant.”¹⁵ Retailers without sophisticated scanners to read barcodes, ring up prohibited items like beer and cigarettes as vegetables. They inflate the prices and receive full reimbursement from the government.¹⁶ In some instances, a merchant paid cash for a card, sometimes for pennies on the dollar.¹⁷ For example, a SNAP participant might receive \$50 in cash for a \$100 benefit card.¹⁸ Later, the merchant rings up \$100 worth of fake purchases and redeems the full amount.¹⁹

Investigators and prosecutors believe data mining is the key to identifying where the criminal conduct is occurring and stopping the flow of government dollars to bad actors.²⁰ Technology can track, identify, and stop this practice at the participant level. It has been unable, however, to address the issue of retailers taking advantage of the system. According to one press report, between October 1 and December 31, 2011, USDA “sanctioned more than 225 stores found to be violating program rules and permanently disqualified 350 stores for trafficking” food stamp benefits.²¹ Unfortunately, the *Scripps*

⁷ See 7 C.F.R. 278.6.

⁸ See *id.*

⁹ Wolf, *supra* note 1.

¹⁰ *Id.*

¹¹ Brendan Keefe, *I-Team: Food Stamp Fraud Continues Despite Electronic Tracking*, KYPOST.COM (Feb. 6, 2012).

¹² *Id.*

¹³ Wolf, *supra* note 1.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Baertlein, *supra* note 2.

article found pervasive weaknesses in USDA's process for disqualifying and reauthorizing merchants to accept benefits.

The Committee appreciates USDA's cooperation in agreeing to provide an initial set of documents by the end of this week. In addition to the documents already requested, the Committee now further requests the full list of disqualified SNAP retailers, including name of store, location, and disqualification date, from January 1, 2009 to the present. Additionally, please provide responses to the following questions, and also include any relevant documents:

- 1) When a retailer becomes disqualified for engaging in fraud, what steps does USDA take to ensure that the retailer does not reenter the SNAP program?
- 2) Has USDA considered taking steps to place retailers who engage in egregious misconduct on the excluded parties list? If not, please provide a narrative explaining the rationale.

Also provide to the Committee on a continuing basis any additional responsive materials that are created, written or otherwise produced after initial receipt of this request.

We look forward to receiving the aforementioned documents and information as soon as possible, but by no later than noon on March 8, 2012. When producing documents to the Committee, please deliver separate production sets to both the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

If you have any questions regarding any aspect of this request, please contact Ashley Callen or Jessica Donlon of the Committee staff at (202) 225-5074. Thank you for your prompt attention to this matter.

Sincerely,



Darrell Issa
Chairman

Enclosures

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform

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February 6, 2012

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JACKIE SPEIER, CALIFORNIA

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250

Dear Mr. Secretary:

The Committee on Oversight and Government Reform is conducting an investigation of the Supplemental Nutrition Assistance Program (SNAP), administered by the U.S. Department of Agriculture (USDA). As part of this investigation, we are writing to request documents and information relating to persistent issues of fraud in the SNAP program.

Despite an increased focus by President Obama on combating food stamp fraud, allegations have come to the attention of the Committee regarding mismanagement of SNAP in various states, as well as abuse of food stamps by SNAP recipients. The abuse of food stamps includes such behavior as trading in food stamps for cash,¹ using food stamps to buy non-food products such as alcohol and cigarettes,² and using food stamps for non-approved items such as Starbucks Frappuccinos.³

Ensuring the integrity of SNAP is critical because of both the important purpose the program serves – helping “low-income people eat a more nutritious diet by supplementing their food budget”⁴ – and the enormous size of the program. In fiscal year 2009, taxpayers spent

¹ The Associated Press, “Texas grocer gets prison over food stamp fraud.” January 18, 2012. Available at: <http://www.statesman.com/news/texas/texas-grocer-gets-prison-over-food-stamp-fraud-2108642.html>.

² Jeff Weiner, “Stores took SNAP funds for cigarettes, alcohol, police say,” *Orlando Sentinel*, January 24, 2012. Available at: http://articles.orlandosentinel.com/2012-01-24/news/os-snap-ebt-card-scheme-daytona-20120124_1_ebt-cards-informant-three-face-charges.

³ “Food Stamps Used for Starbucks Frappuccinos,” FoxNews, December 2, 2011. Available at: <http://www.foxnews.com/us/2011/12/02/food-stamps-used-for-starbucks-frappuccinos/>.

⁴ U.S. Department of Agriculture, Basics/SNAP Name Change, viewed January 18, 2012. Available at: http://www.fns.usda.gov/snap/outreach/pdfs/toolkit/2011/State/Basics/SNAP_Name.pdf#xml=http://65.216.150.153/texis/search/pdfhi.txt?query=SNAP&pr=FNS&prox=page&rorder=500&rprox=500&rdfreq=500&rwfreq=500&rle=500&rdepth=0&sufs=0&order=r&cq=&id=4ea8940011.

nearly \$50 billion on the program.⁵ Any credible allegation of taxpayer dollars wasted or defrauded as a result of mismanagement by USDA – or as a result of state failures in their SNAP partnership with the federal government – must be resolved immediately.

According to documents provided to the Committee, in the aftermath of Tropical Storm Irene, the Connecticut Department of Social Services (DSS) received \$12.4 million to assist approximately 22,000 residents. A dozen Connecticut State employees are currently being investigated for allegedly committing fraud in obtaining SNAP benefits from DSS. The documents provided to the Committee include the following allegations:

- “DSS workers (some brought in from Child Support to assist in the overwhelming response) spending as little as 35 seconds to 3 minutes in processing D-SNAP applications”;⁶
- “DSS workers telling applicants that even if they had money in the bank, the applicant could qualify if ‘they had bills to pay’”;⁷
- “DSS workers were able to give out D-SNAP benefits to illegal undocumented immigrants who presented expired identifications cards”;⁸
- “DSS workers were told that it was not necessary to verify social security numbers such that applicants could apply multiple times at different offices and not be denied benefits”;⁹
- “DSS workers accepting applications on which children named ‘Wall’ and ‘Chimney’ were listed.”¹⁰

Connecticut has a history of SNAP-related waste and fraud. In February 2011, James Arena-DeRose, Northeast Regional Administrator of the USDA Food and Nutrition Service, testified before the Connecticut legislature that Connecticut was the second worst in the entire country in SNAP administration.¹¹ Mr. Arena-DeRose expounded by stating that 26% of

⁵ Recovery.gov, “The Stimulus Package & SNAP: How the American Recovery and Reinvestment Act Affects SNAP Benefits and Policies,” viewed January 18, 2012. *Available at:* http://www.fns.usda.gov/fns/recovery/ARRA_Powerpoint.pdf

⁶ Documents produced to Committee, December 19, 2011.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ U.S. Department of Agriculture, Testimony of James Arena-DeRosa Northeast Regional Administrator USDA – Food and Nutrition Services before the Connecticut General Assembly, Appropriations & Human Services Joint Briefing on the Supplemental Nutrition Assistance Program, February 22, 2011. *Available at*

Connecticut cases in which food stamps were denied or cut off were a result of errors, and that fewer than 60% of applications were processed in a timely manner.¹²

Widespread SNAP-related waste and fraud is not limited to Connecticut. Nationwide, SNAP defrauders use both traditional and high tech methods to abuse the system. A *Milwaukee Journal Sentinel* investigation of the food stamp program in Wisconsin revealed various ways that people can violate SNAP rules to receive additional benefits or convert benefits to cash. SNAP recipients can convert their benefits into cash either by buying food and selling the food for cash or by selling their food stamps benefits card for cash.¹³ The *Journal Sentinel* report also uncovered SNAP recipients who claimed that they have lost their benefit cards and received replacement cards over twenty times in one year; Wisconsin officials “rarely” asked questions before issuing a replacement card.¹⁴ In addition to these more traditional methods, SNAP recipients are utilizing social media to commit fraud. SNAP recipients now use Facebook and Twitter to sell SNAP benefits for cash.¹⁵

All of these examples of fraud are troubling, especially considering that in certain jurisdictions, funding for SNAP oversight has declined significantly.¹⁶ With a \$50 billion annual investment in the SNAP program, taxpayers cannot afford this pervasive mismanagement. To better understand how USDA is addressing waste, fraud, abuse and mismanagement in SNAP, please provide the following requests in electronic format:

1. All USDA monitoring and auditing reports referring or related to waste and fraud in SNAP conducted in 2010 and 2011;
2. All state monitoring and auditing reports submitted to USDA referring or related to waste and fraud in SNAP conducted in 2010 and 2011;
3. USDA’s estimate for the dollar amount of SNAP funds lost to waste and fraud or abuse for the past ten years; and
4. A written explanation for the steps that USDA is taking to combat SNAP waste and fraud committed using social media sites such as Facebook, Twitter, and Craigslist.

<http://www.cga.ct.gov/2011/APPdata/OD/2011ZZ-00000-R000222-USDA%20-%20Northeast%20Office%20-%20SNAP%20Presentation%20-%20Northeast%20Regional%20Administrator%20James%20Arena-DeRosa-TMY.PDF>.

¹² *Id.*

¹³ Raquel Rutledge and Jason Stein, “Fraud taints state’s FoodShare program,” *Milwaukee Journal Sentinel*, April 23, 2011. Available at: <http://www.jsonline.com/watchdog/watchdogreports/120550974.html>.

¹⁴ *Id.*

¹⁵ Jason Stein and Raquel Rutledge, “Buyers, sellers of food stamps use Facebook to connect,” *Milwaukee Journal Sentinel*, June 4, 2011. Available at: <http://www.jsonline.com/watchdog/watchdogreports/123172423.html>.

¹⁶ “Fraud taints state’s FoodShare program.”

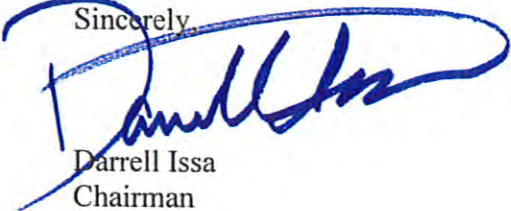
The Honorable Tom Vilsack
February 6, 2012
Page 4 of 4

In addition, the Committee requests that you designate officials within the Department to provide a briefing to the Committee staff on or before February 16, 2011.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

We request that you provide the requested documents and information as soon as possible but no later than 5:00 p.m. on Tuesday, February 21, 2012. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

Thank you for your cooperation in this matter. If you have any questions regarding this request, please contact Sery Kim or Mike Whatley of the Oversight and Government Reform Committee staff at (202) 225-5074.

Sincerely,

Darrell Issa
Chairman

cc: The Honorable Elijah Cummings, Ranking Minority Member
Committee on Oversight and Government Reform

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Responding to Committee Document Requests

1. In complying with this request, you should 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 should also 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. Requested 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 individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that 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 format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF 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.

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 this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. 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.
13. If any document responsive to this request 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.
14. If a date or other descriptive detail set forth in this request 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 request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. This request 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, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. 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.

Definitions

1. The term "document" 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, 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 call, meeting or other communication, 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.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request 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.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," 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.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.