

Congress of the United States

March 3, 2008

The Honorable Ed Schafer
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20520

Dear Secretary Schafer:

On April 27, 2006 we wrote to the Government Accountability Office asking that they undertake a comprehensive review of USDA's civil rights performance following passage of the Farm Security and Rural Investment Act of 2002. We initiated this review because of USDA's long and troubled history with respect to civil rights compliance.

According to its normal operating procedure, the GAO has periodically kept us apprised of its progress on this review. We are concerned by the reports that GAO has provided to us.

First, GAO has informed us that the Office of the Assistant Secretary for Civil Rights at USDA has repeatedly withheld access to certain records that GAO feels are critical to performing its work, and rather than providing full cooperation, USDA officials have told GAO that GAO either does not have rights to access documents, or that USDA's Office of General Counsel has advised them that records should be withheld. If true, doing so would either obstruct or delay GAO's work.

Second, GAO has informed us that USDA officials have stated that should GAO request access to certain discrimination complaint case files, USDA may provide access but will "sanitize" those files beforehand.

Third, we understand that USDA told its employees not to cooperate with GAO and actually forced GAO investigators to depart from USDA premises when GAO was seeking to interview USDA employees as part of its review of the Office of the Assistant Secretary for Civil Rights.

Congress clearly vested GAO with the authority to access records of government agencies. Each federal agency is required to give "the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. . . ." 31 U.S.C. § 716 [1921].

The actions of the Department of Agriculture are unjustified. Given USDA's documented history of civil rights abuses, one of which led to a consent decree that, to date, has paid out nearly one billion dollars in settlements to black farmers, USDA's unwillingness to provide documentation to GAO raises very serious questions whether the Department is serious about stopping civil rights abuses. In addition, because GAO is an independent, nonpartisan agency that works for Congress, your Department's denial of access of GAO to records and employees also denies Congress its role in providing effective and appropriate oversight.

Accordingly, without further delay, we expect USDA to provide to GAO at its request any such records, employee access, or other matters requested by GAO for it to provide to Congress a full and accurate account of the civil rights performance of the Department of Agriculture. If USDA persists in denying GAO's requests, we expect, no later than close of business March 10, 2008, a written response to the following questions.

1. What has been the rationale and legal basis for USDA's delaying and denying GAO requests for records?
2. On what basis does USDA claim that it can "sanitize" records and files before granting GAO access to documents?
3. What is the rational and legal basis for denying GAO access to interview employees necessary to provide to Congress the requested report?

Sincerely,



Tom Harkin
United States Senate



Edolphus Towns
Member of Congress



Richard G. Lugar
United States Senate



Charles E. Grassley
United States Senate