Congress of the United States
Washington, DC 20515

May 14, 2019

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, DC 20250

Dear Secretary Perdue:

As Members of the National Capital Region, we write to express our concern regarding the U.S. Department of Agriculture's (USDA) proposal to move the Economic Research Service (ERS) and the National Institute of Food and Agriculture (NIFA) out of the National Capital Region and reorganize ERS under the Office of the Secretary. The current headquarters facility for NIFA is in General Services Administration (GSA) leased space in Washington, D.C. Essential questions regarding the legality of the proposal, the rationale for the proposal and the process used to develop the proposal remain unanswered, and we ask that you refrain from moving forward with the proposal unless and until these questions have been answered to the satisfaction of the committees of jurisdiction.

The USDA issued a Notice of Request for Expression of Interest (RFEI) for Potential Sites to relocate ERS and NIFA on August 15, 2018, but did so without a clear determination that the USDA has the legal authority to relocate an agency without congressional approval or the budget authority to acquire the real estate necessary to execute the move of these two agencies. In a highly unusual decision, the USDA decided to issue its RFEI under its own authority rather than under the leasing authority of GSA and to state its view that the scope of the RFEI encompassed the entire country. However, even if the USDA's leasing authority would provide adequate legal authority for a long-term lease agreement, a much larger question surrounds whether the USDA has the budget authority to proceed with this move. Section 717(a) of the Consolidated Appropriations Act of 2018 (P.L. 115-141) prohibits the expenditure of funds for the relocation of an office or employees or the reorganization of offices, programs or activities unless the House and Senate Appropriations Committees are given written notice and grant approval 30 days before funds are reprogrammed for those purposes. USDA's plan, which has not been approved by appropriators, would both relocate employees and reorganize an office by moving ERS into the Office of the Secretary.

The Government Accountability Office (GAO) has issued a report that makes clear that several federal agencies have incorrectly determined that their independent real estate leasing authority grants them the ability to sign long-term lease agreements without accompanying budget authority. We believe that the USDA may be similarly mistaken. On August 30, 2018, Democratic members of the House Appropriations Committee wrote to you expressing their concern about the move and requested more information from the USDA about the justification for the move. We share these concerns and believe that a proposal of this magnitude should not be allowed to move forward while such fundamental questions remain unanswered.

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In a May 6, 2019, meeting with staff of the House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies and staff of the Transportation and Infrastructure Committee's Subcommittee on Economic Development, Public Buildings, and Emergency Management, USDA noted that it has recently decided to use GSA's leasing authority going forward. While USDA indicated that it has been in contact with GSA regarding this proposal at various points throughout the year, we are concerned that GSA was not formally involved in this process until this month, nine months after USDA's initial announcement of its intention to relocate ERS and NIFA, and a time when USDA's short list of areas for relocation had already been selected. The USDA's tardy decision to use GSA's leasing authority without moving through the standard GSA procurement process from the beginning of this relocation effort is particularly troubling.

The USDA has cited three reasons for its proposal to move ERS and NIFA away from the nation's capital but has supplied insufficient evidence to support the accuracy of those reasons. You specifically cited the USDA's inability to attract and retain highly qualified staff, a need to place USDA resources closer to stakeholders and to reduce costs of employees and real estate. However, as recently as January 9, 2018, GSA submitted a prospectus on behalf of the USDA proposing the continued housing of NIFA in Washington, D.C., USDA's home since the 1800s and the hub of a workforce that ranks among the most highly educated in the nation. Since that submission, USDA has provided no evidence that it has had difficulty recruiting and retaining ERS and NIFA staff. Similarly, USDA has not provided the explanation for why ERS and NIFA, as opposed to other USDA agencies, need to move close to stakeholders and leave the Washington, D.C. area.

Finally, we are deeply concerned that the process used to develop USDA's relocation proposal may have omitted critical considerations. It is unclear whether a robust cost-benefit analysis was completed to justify relocation of two vital federal agencies. In fact, the proposed relocation may result in considerable harm to USDA. A number of press reports have indicated that USDA officials believe that many ERS and NIFA officials will choose not to relocate and that this potential relocation could deprive the agencies of many of their top economists and scientists with specialized knowledge.

In response to the many concerns enumerated in this letter, the USDA Office of Inspector General (OIG) began a review of USDA's relocation and reorganization proposal for ERS and NIFA in November of 2018. The scope of the OIG review includes: (1) a determination of USDA's legal and budgetary authority to undertake its proposed relocation of the agencies and realignment of ERS, and (2) a determination of USDA's adherence to any established procedures relating to agency realignment and relocation and procedures associated with cost-benefit analysis. This review is ongoing.

The explanatory statement accompanying the enacted FY 2019 appropriations bill echoed these concerns and directed the USDA to provide cost estimates and a detailed analysis of any research benefits of the proposed relocation of ERS and NIFA when the FY 2020 budget was submitted to Congress. House Appropriations staff have indicated that this information was not submitted when it was due and still has not been received. The report language also expressed support for an indefinite delay of the proposed transfer of ERS to the Office of the Chief

Economist, deeming both the proposed reorganization and relocation of ERS premature given the lack of information and justification for the proposal.

In light of the ongoing OIG review, report language calling for a delay in USDA's plans, and USDA's failure to comply with Congress's request for additional information, we ask that you halt USDA's plan to relocate ERS and NIFA unless and until the outstanding questions around this proposal are addressed to the satisfaction of the committees of jurisdiction.

Sincerely,

ELEANOR HOLMES NORTON
Member of Congress

STENY H. HOYER
Member of Congress

DONALD S. BEYER, Jr.
Member of Congress

ANTHONY G. BROWN
Member of Congress

BENJAMIN L. CARDIN
United States Senator

GERALD E. CONNOLLY
Member of Congress

TIM KAINE
United States Senator

JAMIE RASKIN
Member of Congress

C.A. DUTCH RUPPERSBERGER
Member of Congress

JOHN P. SARBANES
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DAVID TRONE
Member of Congress

CHRIS VAN HOLLEN
United States Senator

MARK R. WARNER
United States Senator

JENNIFER WEXTON
Member of Congress