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Dr. Melissa R. Bailey
Agricultural Marketing Service
USDA
Room 2055-S, STOP 0201
1400 Independence Avenue SW
Washington, DC 20250-0201

RE: Docket AMS-TM-21-0034
Supply Chains for the Production of Agricultural Commodities and
Food Products

Dear Dr. Bailey,

The Rural Advancement Foundation International - USA (RAFI-USA) is a nonprofit organization which challenges the root causes of unjust food systems, supporting and advocating for economically, racially, and ecologically just farm communities. We envision a thriving, sustainable, and equitable food system: where farmers and farmworkers have dignity and agency; where they are supported by just agricultural policies; and where corporations and institutions are accountable to their community.

We work directly with farmers: we help farmers find markets, advocate for and with farmers who are experiencing financial crisis, convene a Farmers of Color Network, work with farmers markets and rural faith communities to increase food access, provide infrastructure and emergency grants to farmers, and help coordinate a seed breeding cooperative. Our recommendations for supply chain resilience come directly from this work.

We thank you for the opportunity to comment. Below we summarize the principles we believe USDA needs to abide by for resilient supply chains, followed by specific responses to the policy objectives listed in the request for comment.

Resilience means the ability to withstand or recover quickly from difficult conditions. Resilient systems are dynamic, adaptable, diverse, and redundant. For a resilient food and agriculture system, these principles must be applied on both a macro and micro level so that the structure

of the system reflects those principles, while the individual players in the system - farmers, workers, and small food businesses - also reflect these characteristics.

Biodiversity contributes to ecosystem resilience because many different organisms have the opportunity to fill and adapt to ecological niches: where one struggles, another may thrive. A large variety of organisms increases the stability of the ecosystem. Similarly, for a stable and adaptive food supply chain, USDA must work to increase diversity in every aspect of its programming and policies - by supporting innovation and creativity, encouraging many kinds and scales of agriculture, and by providing support for a more racially diverse group of farmers in our country. On the individual farm production scale, USDA must recognize that while monocropping is an efficient way to produce large quantities of commodities, monocropping also carries with it inherent risks because of its lack of biodiversity - especially given future disruptions that may be hard to predict given our changing climate. Efficiency and resilience often have an inverse relationship. USDA needs to provide better support for farms which are incorporating biodiversity into their production practices.

Redundancy is another key characteristic of resilience: when one component of a system fails, others should be able to fill its function: the more entities available to fill a function, the more resilient the system is. In our food supply chain, the twin trends of farm consolidation and corporate consolidation endanger the resilience of our agricultural supply chains. No farm, company, or facility should be too big to fail; and we have already reached this point. When farms fail, they are not easily replaced: farming is a skilled profession with a steep learning curve, high entry cost, and a challenging if not hostile economic environment for new entrants.

Farm viability/survival and antitrust enforcement should be two of USDA's top priorities for a more resilient supply chain.

Resilient systems are adaptable. There is no one-size-fits all solution for our vast and diverse nation; instead, local communities must have the flexibility and sovereignty to build local and regional supply chains that work for their unique needs.

Please find responses to specific questions from the request for comment below.

(ii) other essential goods and materials underlying agricultural and food product supply chains, including digital products, and infrastructure... USDA is particularly interested in comments on the following goods and materials pertaining to agricultural and food supply chain resilience including, but not limited to: Seed, ...energy (availability, access, infrastructure), viability of pollinators, the agricultural workforce (sufficiency, reliability, documentation, health and well-being), access to capital/financing, access to farm production tools (including for farmers interested in value-added agriculture such as USDA organic certification), access to critical food distribution assets (shipping containers, cold chain equipment, and materials such as packaging) and technology, access to food processing and markets (including traceability and transparency), and access to training, education, and technical assistance;

Seed

Farmers are experiencing the financial pressure of higher input costs and lower prices for their products. (Unsurprisingly, both of these markets are increasingly dominated by a smaller and smaller number of massive companies¹.)

In particular, seeds are more expensive. There are also fewer varieties available and less choice. With fewer and fewer companies dominating the market, farmers are at the mercy of the companies: whatever the company dictates is what the farmer will get, and at the price the company sets. Relatedly, almost all seed available for commodity crops are genetically modified for pest or herbicide resistance, bred for midwest conditions and for conventional agricultural practices which require the use of those herbicides. There is very little seed adapted to other bioregions or bred for organic production practices. For this reason, RAFI-USA helped organize a group of organic farmers to form a seed-breeding cooperative which breeds and markets soy and corn seeds for organic production in the Southeast: those seeds were not otherwise available.

With the increasing prevalence of GMO seeds, farmers cannot save seeds the way they used to. Giant seed companies buy the rights to seed varieties and insert one gene in order to completely control its propagation in the future.

Viability of pollinators

Seeds for pollinator-friendly plantings are expensive and often not available for regionally-appropriate ecotypes. Farmers can play a role in planting pollinator habitat but will need to be financially supported in order to be able to afford the seed. Funding for the Conservation Stewardship Program and for the Conservation Reserve Program (CRP),— Pollinator Habitat Initiative (CP-42) should be increased to enable more farmers to adopt those practices.

The agricultural workforce (sufficiency, reliability, documentation, health and well-being)

We consider “the agricultural workforce” to encompass farmers, farmworkers, and food processing workers, among others.

Farm loss threatens the agricultural workforce because every farm lost is a loss of that farmer’s hard-earned years of knowledge and experience. The trend of farm loss and farm consolidation must be slowed, and USDA should use all the tools at its disposal, especially within its FSA loan programs, to keep farmers on the land and farming. (Please see Appendix A: RAFI-USA’s recommendations for improving FSA loan servicing)

¹ Willingham, Z., & Green, A. (2019, May 7). *A Fair Deal for Farmers*. Center for American Progress. <https://www.americanprogress.org/issues/economy/reports/2019/05/07/469385/fair-deal-farmers/>.

Our immigration policy and the H2A program threaten the health and wellbeing of farmworkers. Nonimmigrant agricultural workers (i.e. H2A) should have visa portability rights so that their visa belongs to them and not an employer. The structure of the H2A program incentivizes employers to employ undocumented workers or to try to recover the costs of the program from transportation and housing costs for the workers. When farmers employ undocumented workers, those workers are additionally vulnerable to exploitation. The combination of 1) immigrant residents with few legal protections 2) weak labor laws and poor enforcement 3) a costly agricultural guestworker program and 4) poor prices and economic pressures on farmers together create a system in which farmers and farmworkers are pitted against each other in an unequal power relationship, without enough money to go around. Some solutions to this situations include a path to citizenship and better legal protections for undocumented residents; stonger labor laws coupled with vigilant enforcement; and prices for farmers' products that adequately account for their costs of production.

At the small-farm scale, farmers in our networks experienced labor shortages during the pandemic. For those farmers as well, getting a higher price for their products would allow them to offer higher wages in hopes of attracting more workers.

The pandemic illustrated a very clear and very real danger to the health and wellbeing of workers in our food supply chain. When workers do not have the leverage to negotiate safer conditions for themselves, their safety and sometimes their lives will be sacrificed to the demands of our industrial food system. Some of the worst outbreaks of the pandemic occurred in meatpacking plants: *"According to data collected by FERN, as of June 14 at 12pm ET, at least 1,445 meatpacking and food processing plants (574 meatpacking and 871 food processing) and 407 farms and production facilities have had confirmed cases of Covid-19. At least 90,172 workers (58,856 meatpacking workers, 18,155 food processing workers, and 13,161 farmworkers) have tested positive for Covid-19 and at least 400 workers (297 meatpacking workers, 60 food processing workers, and 43 farmworkers) have died."*²

Access to capital/financing

Differential access to capital and financing between white farmers and farmers of color has been a major driver in the current disparities between them. Approximately 80% of land was lost by Black farmers from 1910 to 2007, and in 2012 less than 2% of farmers were Black. Predatory lending (and the resulting reasonable lack of trust in FSA it engendered), and lack of access to capital altogether for farmers of color, was one primary contributing factor.

Our *Recommendations for Improved Servicing of Farm Service Agency Loan Clients* (Appendix A) include many steps which USDA can take to improve servicing for loan clients, increase accountability at the agency, and reduce the places in the process where discrimination occurs. Here we highlight one in particular: in a world where climate disasters (whether drought,

² Douglas, L. (2020, April 22). *Mapping Covid-19 outbreaks in the food system*. Food and Environment Reporting Network. <https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/>.

wildfire, hurricanes, derechos, or other disasters) occur on a yearly basis, farmers are likely to have multiple bad years in a row. Barring farmers who have caused a loss to the agency from accessing FSA credit in the future means the loss of farms which could have continued to contribute to our nation's food security if they had been given access to credit. USDA should encourage Congress to eliminate the provision that excludes farmers who previously had write-downs from eligibility for future lending.

Access to farm production tools (including for farmers interested in value-added agriculture such as USDA organic certification)

Providing an annual maximum cost of \$750 per year for organic certification is particularly important to small to mid-sized organic farmers, and those just starting out with organic certification. The organic cost-share certification program should be fully-funded to ensure that beginning farmers have access to this important tool for receiving a price premium in recognition of sustainable growing practices which build soil health.

Access to critical food distribution assets (shipping containers, cold chain equipment, and materials such as packaging) and technology

RAFI-USA previously submitted a comment to AMS on Coronavirus Response Grants related to CAA funding, which addressed this question (included in Appendix B) which highlights the need for cold-chain related infrastructure for farmers and emergency food system stakeholders.

Access to food processing and markets (including traceability and transparency)

When the pandemic shut down large meat processing plants, packers shifted some processing to smaller plants used by independent farmers and that overflow meant that many farmers were not able to access processing at all. Some processors' slaughter dates were booked more than a year in advance.

However, access to food processors was an issue even before the pandemic. For contract poultry growers who lose their contract, if they cannot get picked up by another massive integrator company, there is no alternative processing suitable and there are no market channels available for the scale of production they need to make payments on their poultry houses.

(iv) the ... climate, environmental, natural, market, economic... [or] human-rights ... risks or other contingencies that may disrupt, strain, compromise, or eliminate the supply chain

Climate change obviously poses incredible risks to farmers and the rest of the food supply chain. In North Carolina, hurricane seasons are starting sooner, ending later, and becoming more and more intense. As often as not, thunderstorms spawn tornadoes or hail. Wildfires are becoming more frequent and ever harder to control across the country. Droughts and floods ruin farmers' seasons on a regular basis. Wetter years mean more disease for vegetable growers, or a sprouted and ruined soybean crop. RAFI-USA previously submitted a comment related to the

Executive Order on Tackling the Climate Crisis at Home and Abroad, which addressed this question; it is included here as Appendix C.

Market consolidation also puts farmers at risk as they have fewer and fewer options for where to buy inputs and sell their own products. Commodity growers have no control over the prices they will receive for their products.

The pandemic created an unacceptable level of risk to the health and safety of agricultural and food chain workers. These risks were exacerbated by the pre-existing economic insecurity created by low wages and absent state and federal regulatory agencies who declined to implement temporary emergency standards or to follow up on worker complaints.

(v) the resilience and capacity of American manufacturing supply chains, including food processing (e.g., meat, poultry, and seafood processing) and distribution, and the industrial and agricultural base...in the event any of the contingencies identified in subsection (iv) of this section occurs, including an assessment of:

- A) The manufacturing or other needed capacities of the United States, including the ability to modernize to meet future needs, including food processing (such as meat, poultry, and seafood processing) and distribution;*
- (B) gaps in domestic manufacturing capabilities, including nonexistent, extinct, threatened, or single-point-of-failure capabilities;*
- (C) supply chains with a single point of failure, single or dual suppliers, or limited resilience, especially for subcontractors, as defined by section 44.101 of title 48, Code of Federal Regulations (Federal Acquisition Regulation). USDA is particularly interested in comments related to the role of market concentration and consolidation in agricultural sectors and how it affects food system resilience, including potential system failures in the face of supply chain disruptions;*

Industrial corporate meat production, and especially industrial poultry production, is a poster child for a non-resilient supply chain which both creates and is vulnerable to risk unnecessarily. However, much of the risk created is carefully and deliberately placed on contract farmers through one-sided contracts of adhesion, the structure of risky asset ownership, the tournament system of farmer payment, and the lack of enforcement authority of the Packers and Stockyards Division. Horizontal market consolidation has effectively eliminated free market competition. Vertical integration has given “integrator” companies control of virtually every step of production, and eliminated market transparency.

We now have an industrial meat production system built by giant integrator companies who dictate the structure and rules of the industry to result in the greatest profit to themselves, while treating people, land, and animals as disposable units of production. The result is a system which, while efficient, is not adaptable or diverse and lacks sufficient redundancy at many points in the supply chain, to be resilient. At the production level, large populations of animals of a single breed in an enclosed space are vulnerable to disease. Farmers are treated as

disposable: dropped from their contracts and left with millions of dollars of debt incurred to purchase single-production use structures which no longer have the ability to generate revenue. The rural landscape across the Southeast, littered with abandoned chicken houses, is a testament to this pattern. Processing is also a vulnerable part of the supply chain, as the pandemic showed us. Processing plant workers were treated without regard for their safety or health, resulting in catastrophic outbreaks. When these outbreaks closed or slowed plants, the entire supply chain was impacted. Farmers faced losses from depopulation, longer layout times (the times between flock placement), and reduced bird density. The industrial meat production industry was built to generate volume as efficiently as possible, and this extremely tightly choreographed supply chain left no room or ability for adaptation.

Integrators' response to this catastrophe was to cry out the dire consequences of plant closures until the Trump Administration issued an order to keep plants open. One crucial lesson to draw from these events is that no single company should be "too big to fail." No single company's continued production or its cessation should endanger the health and wellbeing of huge numbers of people. The pandemic was not an anomalous event which we can now put behind us. The recent ransomware attack on JBS demonstrates that the hyper-concentrated industrial meat production system will continue to be vulnerable to disruption because of its intense concentration.

(v) the resilience and capacity of American manufacturing supply chains, including food processing (e.g., meat, poultry, and seafood processing) and distribution, and the industrial and agricultural base...in the event any of the contingencies identified in subsection (iv) of this section occurs, including an assessment of:

(H) the need for research and development capacity to sustain leadership in the development of critical goods and materials and other essential goods and materials... USDA is particularly interested in comments related to education, technical assistance, capacity building... and support necessary for success in U.S. agriculture and food production, processing, distribution, and marketing, including how to best target support for socially disadvantaged producers and processors, tribal communities, small businesses, beginning farmers and ranchers, and other key stakeholder groups

RAFI-USA works with a wide range of farmers of color as a part of our Farmers of Color Network (FOCN). One aspect of the FOCN Program is our Infrastructure Grant Fund, which provides support to farmers of color across the Southeast for new and innovative agricultural projects and ideas that will increase farm viability, support community food sovereignty efforts, and preserve traditional and cultural farming practices, as well as assist local food economies. We awarded 50 grants to farmers in 2021, out of over 230 applications. From those applications, we identified trends for what kind of technical assistance needs were mentioned on the applications. Those trends are summarized in Appendix D. The second page of Appendix D identifies the trends for what kinds of impacts applicant farmers reported experiencing from COVID-19.

(ix) specific policy recommendations important to transforming the food system and increasing reliance in the supply chain for the sector.

(x) any executive, legislative, regulatory, and policy changes and any other actions to strengthen the capabilities identified in subsection (iii) of this section, and to prevent, avoid, or prepare for any of the contingencies identified in subsection (iv) of this section; and

RAFI-USA recommends the following executive, legislative, and regulatory policy changes to discuss the concerns enumerated above:

Packers and Stockyards Act Reforms & Enforcement: Farmer Fair Practice Rules

- Ensure that the re-proposed rule clarifying the “competitive injury” standard as it applied to Sections 202(a) and (b) of the Packers and Stockyards Act (PSA) states that conduct can be found to violate the PSA without a finding of harm or likely harm to competition.
- Issue a new rule to strengthen enforcement of unfair and deceptive practices, undue preferences, and unjust prejudices. Specifically, the rule should be revised to add the following farmer protection provisions:
 - Clearly designate any tournament system as one providing an undue preference.
 - Clarify that it is unlawful for packers to provide preferential marketing arrangements to large-volume livestock producers over smaller-volume producers.
 - Provide protection based on the right to association and communication.
 - Provide protection based on protected class.
 - Clearly state that there is no requirement to prove competitive injury.
 - Clarify that a reasonable business decision does not justify an undue or unreasonable preference or advantage.
 - Existing recordkeeping requirements under Section 401 of the PSA should be strengthened to increase market transparency and facilitate appropriate USDA enforcement actions.
 - Establish methods to continuously review and monitor industry practices to ensure that new practices do not result in violations of the Act.
- USDA should seek congressional action to grant the Packers and Stockyards Division enforcement authority for poultry under the Packers and Stockyards Act. Currently, from the poultry company’s perspective, breaking the law through fraudulent or deceptive practices carries little legal or financial risk.

Provide support for more local processing

- Provide small plants with the funds needed to grow and expand, and support a scale-appropriate approach to small scale slaughter and processing as detailed in the Strengthening Local Processing Act

Address Agricultural Concentration & Consolidation

- Strengthen antitrust enforcement of the Sherman and Clayton Antitrust Acts.
- Encourage Congress to pass the Competition and Antitrust Law Enforcement Reform Act to add "monopsony" (buyer power) explicitly to antitrust laws to address consolidation in agricultural markets and to shift the burden of proof onto the firms either merging or proposing acquisitions to show such will not harm competition.

Invest in Farmers of Color

- Ensure set-asides for farmers of color in all USDA funding opportunities and prioritize the outreach and funding necessary, including for trusted community organizations, to ensure that farmers of color can take advantage of them.
- Matching requirements should be modest or eliminated.
- Programs need to be designed from the outset to work specifically for small-scale farmers rather than modified after the event to attempt to make them fit.
- USDA must prioritize accurate and comprehensive collection of demographic data (including race/ethnicity and gender), self-certified by the farmer, across all USDA programs to determine whether USDA resources are being distributed equitably.

Reinvest in public plant cultivar and animal-breeding programs with a focus on regional adaptation.

- Unless action is taken quickly, we stand to lose both agricultural diversity of seeds and breeds and our capacity for public variety development. USDA should invest \$100 million annually through its competitive grants research programs to significantly expand resources for public cultivar and animal breed development to ensure that farmers have access to seeds and breeds that are regionally adapted to changing climates and to optimize production using climate-smart farming systems.

Improved FSA loan servicing

- Eliminate the provision that excludes farmers who previously had write-downs from eligibility for future lending.
- See Appendix A for additional recommendations

We appreciate your consideration of these recommendations and welcome the opportunity to answer any questions or provide additional information.

Sincerely,

Edna Rodriguez

Executive Director

Rural Advancement Foundation International - USA