

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY, USDA

Investments and Opportunities for Meat and Poultry Processing Infrastructure

[Docket No. AMS-TM-21-0058]

AGENCY: Office of the Secretary, USDA

ACTION: Request for public comment.

SUMMARY: On July 9, 2021, President Biden issued Executive Order #####

“PROMOTING COMPETITION IN THE AMERICAN ECONOMY,” laying out a whole-of-government approach to promoting competition, which directs the U.S. Department of Agriculture (USDA) to develop strategies to improve competition in agricultural markets. This complements USDA’s efforts to address meat and poultry processing bottlenecks as part of the Administration’s Supply Chain Disruptions Task Force (Task Force) and to Build Back Better following the COVID-19 pandemic. To develop strategies that support the Executive Order and enhance competitiveness in the meat and poultry processing sector, USDA is seeking input from the public on how to invest an estimated \$500 million of American Rescue Plan funds to improve infrastructure, increase capacity, and hasten diversification across the processing industry. USDA is interested in your comments in response to the topics, categories, and questions shown in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: We will consider comments that we receive by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments received after that date will be considered to the extent practicable.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments by either of the following methods:

- Federal Rulemaking Portal: Go to <http://www.regulations.gov> and search for Docket ID AMS-TM-21-0058. Follow the instructions for submitting comments.
- Mail: Sarah J. Helming, Whitten Building – Suite 312-E, 1400 Independence Avenue, SW, Washington, DC 20250. In your comment, specify Docket ID AMS-TM-21-0058.

Comments will be available for viewing online at www.regulations.gov.

Comments received will be posted without change, including any personal information provided. In addition, comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Sarah J. Helming, Supply Chain Resiliency Coordinator (detailed), Marketing and Regulatory Programs; (202) 799-7014; or email: sarah.j.helming@usda.gov.

SUPPLEMENTARY INFORMATION:

Decades of increasing concentration in the meat and poultry processing sector have harmed farmers and ranchers and created a bottleneck and vulnerability in America's food supply chain. During the COVID-19 pandemic, this bottleneck grew tighter when massive disruptions occurred across livestock operations, processing facilities, and retail, with some consumers experiencing constrained supplies of meat and poultry products due to processing shortages and panic buying. In parallel, those raising,

processing, and preparing our food earn less each year in a system that continues to reward size without regard to resiliency or vulnerability of the system to shocks. The Biden-Harris Administration aims to Build Back Better and strengthen the food system by addressing the growing concentration and lack of competition that have plagued the meat and poultry processing sector for decades. By making strategic investments in the addition and expansion of small- and medium-sized processing facilities, the technical assistance necessary to bolster local and regional capacity and markets, and high quality workforce development and creative partnerships that build local support for the sector, the Administration will support the market's transition towards a more diversified, transparent, and robust meat and poultry processing system.

This is consistent with Executive Order ##### “PROMOTING COMPETITION IN THE AMERICAN ECONOMY” that President Biden signed on July 9, 2021, laying out a whole-of-government competition policy. Designed to address the growing concentration that has a direct financial impact on American families, farmers and ranchers, and small businesses, the Executive Order directs USDA, among other agencies, to develop a range of strategies to enhance the competitive landscape in American agriculture. Identifying opportunities to invest directly in competition is one such strategy which may be particularly beneficial in addressing the challenges that farmers and ranchers in livestock and poultry face from high levels of market concentration in meat and poultry processing. Furthermore, increasing capacity will help relieve bottlenecks stemming from concentration in meat and poultry processing and complements work to address vulnerabilities and mismatches in America's supply chains, commenced under a new Supply Chain Disruptions Task Force (Task Force), led by the

Secretaries of Commerce, Transportation, and Agriculture and in support of ongoing supply chain work across the government in response to Executive Order 14017 “America’s Supply Chains”. The Task Force provides a whole-of-government response to address near-term supply chain challenges to our nation’s economic recovery, with a focus on areas where there is a mismatch between supply and demand. In furtherance of both the Executive Order on competition and the Task Force effort, USDA is interested in addressing competition constraints and supply chain bottlenecks through strategic investments in expanding meat and poultry processing capacity. To support increased capacity and competition across agricultural markets, USDA anticipates committing \$500 million in American Rescue Plan funds to address challenges in meat and poultry processing infrastructure and capabilities through a combination of loans, grants, and technical assistance projects, as part of a broader post-pandemic Build Back Better effort.

Through this notice, USDA is soliciting public comments on how to best address challenges and increase competition in meat and poultry processing through \$500 million in infrastructure and other investments. USDA is looking at existing programs, combinations of programs, and potentially new programs that can leverage the federal funds in combination with other funding sources (e.g. state and local investment, private, or philanthropic investment) to expand and diversify meat and poultry processing capacity and make the supply chain more resilient. In addition, USDA is considering how to incorporate other priorities – including climate, racial equity, creating good-quality jobs and support for underrepresented communities – into these programs. While USDA has identified a general direction to target these through a combination of partnerships, loans, grants, and technical assistance projects, we have a number of

specific questions related to implementation (e.g., which mix of loans and grants would be most impactful to support competitiveness, increased capacity, and build resilience; what type of customized investments are needed in different regions and for different size facilities; which technical assistance partners would be most effective and efficient to develop, deliver, and fill training gaps; what types of partnerships will best leverage the federal investment and encourage local support and long term viability). To guide implementation of these funds in an efficient and impactful way, USDA is interested in your comments in response to the topics, categories, and questions identified below.

USDA requests input from a range of stakeholders including, but not limited to: producers, meat and poultry processors, food supply chain workers, private sector, not-for-profits, trade associations, commodity boards, worker organizations, workforce training programs, lenders, community development organizations, State and local governments, community-based organizations, retailers, tribal organizations and governments, and others involved in this part of the supply chain (e.g., supplying and/or transporting animals to processors and products from processors, expanding or investing in processing facilities, providing technical support or training for such facilities). Submissions will be most helpful if they include reference citations or website links to research, economic analyses, feasibility studies, evaluations or other supporting documentation that support the comments provided. Consortia responses are also encouraged. USDA also notes that the information received through this notice will supplement our ongoing work to identify credit sources available for existing and new potential processors and to conduct a study to examine the role of credit and financing in expanding processing capacity as directed by the Consolidated Appropriations Act, 2021.

1. General Considerations

- What competition challenges and risks might new entrants face from high levels of market concentration or other relevant market conditions, and how can USDA and other Federal government agencies assist new entrants in mitigating those risks? What resources exist at the State, tribal, and local level, as well as at academic research centers, to assist new entrants in addressing competition challenges, and how can the Federal government support the effectiveness of those resources?
- What type of investor, developer, or new entrant would be best positioned to build a new facility, or expand an existing facility, and who could fund it? What level of experience is necessary for success?
- What business and operating structures (e.g. cooperatives, farmer-owned facilities, sole proprietorship, limited liability company, B corporation, etc.) can sustain these operations?
- How can workforce recruitment, training, and retention needs be addressed to maintain or increase processing capacity?
- What key job working conditions, salary, benefits, and other facility and community attributes are needed to create and maintain an adequate workforce?
- What information is available to help guide USDA's understanding of workforce needs of very small, small, and larger processors (e.g., access to labor, training, safety considerations), particularly as related to regional considerations and solutions?

- What factors should be considered when siting and designing a facility or renovation related to environmental justice to encourage energy efficiency and minimize the climate and environmental impacts of the facility?
- What regions show demonstrated processing needs, at what levels, and for which species?
- What constitutes sufficient actual demand for small and very small processing facilities to keep a business operational with appropriate cash flow? For context, USDA defines a “small” establishment as those with 10 or more employees but fewer than 500 employees; a “very small” establishment is one with fewer than 10 employees or less than \$2.5 million in annual sales. Any establishment with 500 or more employees is considered “large”; there is no mid-scale size category.
- How can USDA support access to processing services for smaller-scale producers? Are there opportunities for producers to engage in cooperative or collaborative arrangements with each other or other facilities to both ensure access and provide a sufficient supply for a plant to operate? If so, what government assistance would be needed to facilitate that type of arrangement?
- What metrics illuminate the extent of the competitive environment for the products or services that producers and growers offer, including at the local level? What factors up and down the supply chain affect that competitive environment?
- What seasonal throughput issues (e.g., under- and over-utilization during parts of the year) or regional challenges need to be considered for plant expansion or development?

- How do processing needs and challenges vary by species and by value-added product types (e.g., organic, local, grass-fed, kosher, halal)? Do these needs require special types of funding (e.g., to encourage continued innovation)?
- How can USDA and industry stakeholders partner with institutions of higher education, including community colleges and other academic institutions invested in the local community, such as Tribal colleges or land grant institutions, or other partners to start up or expand meat and poultry operations including workforce development and training programs related to entrepreneurship, meat cutting, or other necessary skills? Could these programs serve as technical education opportunities for non-university students? What type and level of funding would be required to support such programs?

2. Fair Treatment of Farmers and Workers and Ownership Considerations

- What conditions should be placed on federally funded projects to ensure fair and equitable outcomes (e.g., requirement that jobs that can support families; transparency in pricing; fair dealing)?
- What conditions should be included related to the sources of materials being used to construct or expand the facility (e.g., buy American)?
- What steps would require or encourage the creation of high-quality jobs for workers employed during construction and within the operational facility (e.g., prevailing wages and fair opportunities to collectively bargaining)?
- What health and safety standards would encourage a safe and healthy workplace?
- Should USDA have the ability to block the sale of processing facilities built or invested in through federal funds to large or foreign-owned corporations? What

other options should USDA consider in order to prevent new, expanded, and successful facilities from being acquired by the large corporations whose consolidated operations can suffer from bottlenecks and create significant supply chain vulnerabilities?

- Should the processor be required to purchase a minimum volume through auctions or other public transactions?
- If contracts are utilized, should practices like tournament systems that have been found to be prone to anti-competitive abuse be prohibited? Should contracts have at least a portion of the payments to producers be based on wholesale meat prices?
- If contract grower relationships are used that require a purpose-built production facility, should contract be required to cover at least the length of the loan term?

3. Loans and Other Financing Considerations

While USDA is requesting feedback in the following three sections on loans, grants, and technical assistance, our intention is to combine and integrate these tools together along with strategic partnerships to achieve the right mix of investments and support for processors. To that end, we have specific questions on partnerships and combined funding opportunities in the last numbered section.

- What financing tools facilitate access to capital for small meat and poultry processing companies? In your response, please consider the stage of corporate development (e.g., startup, onsite expansion, restarting an idled facility, new location), the potential use of funds (e.g., working capital, construction, credit lines, equipment), and the type of financing (e.g., grants, installment loans, balloon payment loans, equity like investments). Please also consider the

prospective borrowers' type of business model (e.g., cooperative, farmer joint-ownership, employee-ownership, mobile meat- and poultry processing operations).

- What financing tools facilitate provision of capital by lenders who finance meat and poultry processors? In your response, please consider the type of lender (e.g., bank, credit union, loan fund) and the type of tool (e.g., loan guarantee, direct loan, debt to establish a revolving loan fund, grant to establish a revolving loan fund).
- What are the barriers or challenges to financing tools (e.g., gap between local lender expertise to support meat and poultry processing and the need for processing capacity), and are there changes that can be made to existing programs to mitigate these challenges?
- What type of upstream analysis of customers/product demand is needed to justify the level of lending or financial support?
- What barriers, if any, exist that reduce the ability of meat and poultry processor lenders to extend their geography?
- What barriers, if any, exist that reduce the ability of meat and poultry processor lenders to provide capital for multiple types of meat and poultry processors (e.g., different meats and poultry, different size processors, cooperatives, tribally owned or tribally affiliated operation)?
- What barriers, if any, exist that reduce access to capital for very small and small meat and poultry processors? In your response, consider collateral, capital, capacity, and other factors.

- What are the most pressing needs of the meat and poultry processing sector with regard to financing, and what action should USDA take in the immediate term to improve access to capital for small and very small meat and poultry processors?
- What types of technical assistance or capacity building support would be useful to lenders interested in starting or expanding their meat and poultry processing lending?
- What types of technical assistance or capacity-building support would be useful to lenders interested in starting or expanding lending to tribally owned or affiliated meat and poultry processing operations?
- What types of technical assistance or capacity building support would be useful to lenders interested in starting or expanding lending to meat and poultry processing cooperatives?
- How could federal funds be best leveraged with state and local resources (matching funds, in-kind support, government assistance)?

4. Grant Considerations

- Would a small plant expansion program structured similarly to USDA's [Meat and Poultry Inspection Readiness Grant \(MPIRG\)](#), but with a focus on expanding slaughter and processing capacity for small federally inspected plants, be beneficial? If so, at what award (\$) level per grant and for what types of costs?
- What types of planning grants are necessary that are not already covered by an existing USDA grant or other financial assistance program? What other federal programs could finance or have funded processing efforts and with which USDA

could partner? Are sufficient grants available now for business planning for new ventures, or is that a gap that needs to be filled?

- Are grant funds (or other funds) needed for marketing or outreach activities, including recruiting new participants in the industry?
- Would pilot grants that provide awards to small plants for training and other support (e.g., cover wage gap during apprenticeships) to develop their local workforce be effective to address some of the labor challenges associated with operating a current, expanded, or new facility?

5. Technical Assistance Considerations

- What are the top priorities for technical assistance that would facilitate processing expansion or increased capacity (e.g., butchery for key markets, HACCP, humane handling best practices for plant operators, labeling approval and processes, brand and market development)?
- Would regional or local cooperative agreements with strategic partners be the best way to provide this type of assistance, or are alternative ways preferable and more effective?
- In what ways could technical assistance support best be deployed to enhance competition and address challenges in the marketplace, how is it best delivered, and by whom?
- What workforce-related technical assistance is most needed, how is it best delivered, and by whom (e.g., best industry practices, training on equipment, new tools for safety)?

6. Partnerships and Combined Funding Considerations

- Who can USDA partner with to best leverage the federal funds (e.g. State and local governments, private investors, philanthropic organizations)?
- Should loans and grants be combined to support these facilities? If so, what criteria should be used to determine what portion of the funds are offered as loans versus grants?
- What conditions should be placed on grants or loans? If those conditions are not met, should the grants require repayment? If the conditions are met, should the loan be forgivable?

In coordination with this public comment process, USDA anticipates hosting a series of stakeholder meetings to learn more about existing plants that could serve as a model for other regions; identify plants that are looking to expand; identify strategies to overcome barriers to building new, maintaining, or expanding existing processing facilities; scope out financial needs to expand processing capacity; scope out the workforce challenges, including safety considerations, and needs for research, innovation, and investment to address workforce and workplace issues; and understand the non-financial barriers that USDA can break down to expand this sector.

Thomas J. Vilsack, Secretary,
U.S. Department of Agriculture.