



June 13, 2024

Mr. Daron Calhoun, Director  
Ms. Melinda Dugas, Regional Attorney  
U.S. Equal Employment Opportunity Commission  
400 N. Eight Street Suite 350  
Richmond, VA 23219

**Investigation Request: Unlawful Racial Discrimination by Smithfield Foods, Inc.**

Dear Mr. Calhoun and Ms. Dugas:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans.

We write pursuant to 29 C.F.R. § 1601.6(a), which provides that “Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systemic discrimination” to request that the Equal Employment Opportunity Commission open an investigation into Smithfield Foods, Inc. (the “Company”) for engaging in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2. An unlawful employment practice is established when the evidence demonstrates that race, color, religion, sex, or national origin is a motivating factor for any employment practice. 42 U.S.C. § 2000e-2(m). Here, the Company admits and affirms that it knowingly and intentionally uses race, color, and sex as a motivating factor in its employment practices.

Smithfield Foods, Inc. describes itself as the world’s largest pork processor.<sup>1</sup> It is incorporated under the laws of the Commonwealth of Virginia and has its principal office located at 200 Commerce Street, Smithfield, Virginia.<sup>2</sup> It operates as a wholly owned subsidiary of the Chinese-owned conglomerate WH Group.<sup>3</sup> The Company’s Sustainability Report states:

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<sup>1</sup> *Our Brands*, SMITHFIELD, <https://bit.ly/3VAnU8c> (last accessed June 10, 2024) (located at the bottom of the page under the words “Benefitting from Vertical Integration”).

<sup>2</sup> Smithfield Foods, Inc. Amend. 1, 2016 at 1 (Form 10-K) (Jan. 3, 2016) (available at <https://bit.ly/3UWTo77>); see *Entity Information, State Corporation Commission Clerk’s Information System* (available at <https://bit.ly/4aFI1X4>) (last accessed June 10, 2024).

<sup>3</sup> *Investors*, SMITHFIELD, <https://bit.ly/4eemqYF> (last accessed June 10, 2024) (located under the bolded words “OUR PARENT COMPANY, WH GROUP”).

The majority of Smithfield’s operations are located in the U.S., where we have more than 34,000 team members. We operate 43 processing facilities and more than 300 company-owned farms, and we contract with more than 1,900 family-owned farms to raise hogs for processing. We also buy pigs from thousands of independent suppliers.<sup>4</sup>

Reportedly, the “Hong Kong-based WH Group purchased Smithfield in 2013 for \$4.7 billion. According to [Jim] Monroe, [Smithfield’s vice president of corporate affairs], the company’s annual revenue has grown over the decade from \$13 billion at the time of the sale to \$19 billion in 2022. The company employs nearly 40,000 people across the U.S., and 3,000 locally between its headquarters and the meatpacking plant in town.”<sup>5</sup>

The Company admits to limiting, segregating, or classifying employees or applicants for employment and new business in ways that would deprive, or tend to deprive, white and/or male individuals of employment opportunities because of their race, color, sex, or national origin. Smithfield’s website suggests that it uses numerical race and sex-based quotas for hiring, training, and promotion, and it establishes that it has taken extraordinary steps to ensure such quotas are deeply embedded in its business operations.<sup>6</sup> For example:

- “By 2030, increase the racial diversity of our leadership team by promoting and hiring qualified Black, Hispanic and other underrepresented individuals to positions of supervisor and above in support of our current goal of 30% representation.” The status is marked as “Achieved.”<sup>7</sup>
- “By 2030, increase the gender diversity of our leadership team by promoting and hiring qualified female leaders to positions of supervisor and above in support of our current goal of 35% representation.” The status is marked as “On Track.”<sup>8</sup>
- “Increase [the] promotion rate of graduates from our diversity pipeline programs to 45% by 2030.” The status is marked as “Achieved.”<sup>9</sup>
- “Increase [the] production facility spending with minority-owned businesses by 14% to achieve a more inclusive supply chain by 2025.” The status is marked as “On Track.”<sup>10</sup>

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<sup>4</sup> *Smithfield 2023 Sustainability Impact Report*, SMITHFIELD FOODS, INC. at 9 (2023), <https://bit.ly/3wiYulY> [hereinafter *Sustainability Report*].

<sup>5</sup> Stephen Faleski, *Smithfield Foods Going Public?*, SMITHFIELD TIMES (Oct. 20, 2023), <https://bit.ly/3xf9LUC>.

<sup>6</sup> The Company’s illegal conduct also includes hundreds of millions of dollars annually in explicitly race-based procurement and purchasing, which violates 42 U.S.C. § 1981 and analogous state laws.

<sup>7</sup> *Diversity, Culture and Engagement, Sustainability*, SMITHFIELD, <https://bit.ly/4atThFH> (last accessed June 10, 2024) (located under the subheading “OUR TARGETS”).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

The Company advertises these quotas in a chart labeled “Highlights”:

- “\$83 Million our production facility spending with minority owned businesses in 2023”; “30% of supervisors and above are Black, Hispanic and other underrepresented individuals”; and “27% of supervisors and above are female.”<sup>11</sup>

The Company’s 2023 Sustainability Report lists the following commitments:

By 2030, increase the racial diversity of our leadership team by promoting and hiring qualified Black, Hispanic and other underrepresented individuals to positions of supervisor and above in support of our current goal of 30% representation.

By 2030, increase the gender diversity of our leadership team by promoting and hiring qualified female leaders to positions of supervisor and above in support of our current goal of 35% representation.

Increase promotion rate of graduates from our diversity pipeline programs to 45% by 2030.

Fund education programs that provide access to quality education and bridge divides.

Increase production facility spending with minority-owned businesses by 14% to achieve a more inclusive supply chain by 2025.

Further diversify our Smithfield Foods Scholarship Program to include additional historically Black colleges and universities (HBCUs).

Establish and maintain a minority grower program to increase the number of hog suppliers from diverse backgrounds within our agricultural supply chain.<sup>12</sup>

The evidence is that Smithfield’s hiring, and promotion policies are targeting white males based on their skin color and are, indeed, designed to have a disparate impact on white and/or male individuals. For example, women are targeted for hiring simply based on sex to achieve “gender diversity” in the Company’s “leadership.” The Company’s numerical targets for promoting and hiring “Black individuals,” “Hispanic individuals,” and “other underrepresented individuals” necessarily means that it is not promoting or hiring “White individuals” because of their race.

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<sup>11</sup> *Id.* (located under the heading “HIGHLIGHTS”).

<sup>12</sup> *Smithfield 2023 Sustainability Impact Report* at 17, SMITHFIELD FOODS, INC., (available at <https://bit.ly/3wiYulY>).

Racial, ethnic, and sex-based “balancing” in hiring, training, compensation, and promotion is patently unlawful. *See* 42 U.S.C. §§ 2000e-2(a), (d). Therefore, the Company’s website admissions strongly suggest that it is knowingly and intentionally violating 42 U.S.C. §§ 2000e-2(a) and (d). If the Company is not engaged in such unlawful conduct but merely pretending to do so, then it is cynically and deliberately misleading customers, employees, and applicants. There is no third alternative.

The Company’s employment practices, as described herein, are unlawful.<sup>13</sup> They are also profoundly harmful. Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.”<sup>14</sup> More broadly, the discrimination highlighted in this case necessarily foments contention and resentment; it is “odious and destructive.”<sup>15</sup> “Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.”<sup>16</sup> It truly “is a sordid business, this divvying us up” by race or sex.<sup>17</sup>

AFL respectfully requests that the Commission investigate and charge accordingly. Thank you in advance for your consideration.

Sincerely,

/s/ Julia Haller  
America First Legal Foundation

cc: The Honorable Charlotte A. Burrows, Chair  
The Honorable Jocelyn Samuels, Vice Chair  
The Honorable Keith E. Sonderling, Commissioner  
The Honorable Andrea R. Lucas, Commissioner  
The Honorable Kalpana Kotagal, Commissioner

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<sup>13</sup> *See, e.g.*, “What the transferee does not have to show, according to the relevant text, is that the harm incurred was “significant.” [] Or serious, or substantial, or any similar adjective suggesting that the disadvantage to the employee must exceed a heightened bar[] “Discriminate against” means treat worse, here based on sex.” *Muldrow v. City of St. Louis, Missouri*, 144 S. Ct. 967, 974 (2024) (internal citations omitted); *see also United Steelworkers of Am. v. Weber*, 443 U.S. 193, 208 (1979); *Johnson v. Transp. Agency*, 480 U.S. 616, 621-641 (1987); *see also Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731 (2020).

<sup>14</sup> *Brown v. Bd. of Education*, 347 U.S. 484, 494 (1954).

<sup>15</sup> *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

<sup>16</sup> *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 208 (2023) (further citations omitted).

<sup>17</sup> *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

# Appendix



About Us ▾

Our Brands

workplace. To learn more, view our [diversity, equity and inclusion video](#).

## Our Approach

In 2023, we continued to build a culture that values diversity, inclusiveness, employee development and a highly engaged team as the best way to retain our people and enhance the employee experience. We hired a new chief human resource officer to create and execute a comprehensive talent strategy that further aligns Smithfield's business plan with our human resources function and lead our recruiting, retention, training and development, and diversity, culture and engagement programs. We continue to promote an aggressive set of goals to increase gender and racial representation in all parts of our business, from senior management to suppliers to production partners. We also continue to take steps to model our leadership team to reflect the diversity within our company and our supply chain.

The diversity of our workforce and the value we place on having — and considering — different perspectives have been part of our culture for decades. We have continued to strengthen this culture and foster an environment that allows all our team members and partners to have a voice in every aspect of our company.

## OUR COMMITMENTS



Further diversify our Smithfield Scholarship Program to include additional historically Black colleges and universities (HBCUs).



Establish and maintain a minority grower program to increase the number of hog suppliers from diverse backgrounds within our agricultural supply chain.

## HIGHLIGHTS



## Diversity Statement

We know that diversity within our employee and leadership ranks promotes innovation. We believe the same is true across the agricultural supply chain. Yet, just 5% of farmers in the United States identify as Black, Indigenous or people of color. Through our Unity and Action strategy, we aim to change that.

We have pledged \$10 million over the next three years to build a stronger, more inclusive agricultural future by financially and technically supporting America's minority farmers. This includes a commitment to implement a minority contract grower program to increase the number of diverse hog suppliers within our agricultural supply chain.

We have also targeted to increase spending across our processing operations to minority-owned businesses. Our aim is to grow our annual spend by 14%, to over \$105 million by 2025, to better reflect the communities where we live and work across our supply chain.



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»» Achieved » On Track » Needs Work



By 2030, increase the racial diversity of our leadership team by promoting and hiring qualified Black, Hispanic and other underrepresented individuals to positions of supervisor and above in support of our current goal of 30% representation.

Status: »»»



By 2030, increase the gender diversity of our leadership team by promoting and hiring qualified female leaders to positions of supervisor and above in support of our current goal of 35% representation.

Status: »»



Increase promotion rate of graduates from our diversity pipeline programs to 45% by 2030.

Status: »»»



Increase production facility spending with minority-owned businesses by 14% to achieve a more inclusive supply chain by 2025.

Status: »»



Fund education programs that provide access to quality education and bridge divides in communities.

Status: »»»

**NORTH AMERICAN OPERATIONS**

The majority of Smithfield's operations are located in the U.S., where we have more than 34,000 team members. We operate 43 processing facilities and more than 300 company-owned farms, and we contract with more than 1,900 family-owned farms to raise hogs for processing. We also buy pigs from thousands of independent suppliers.

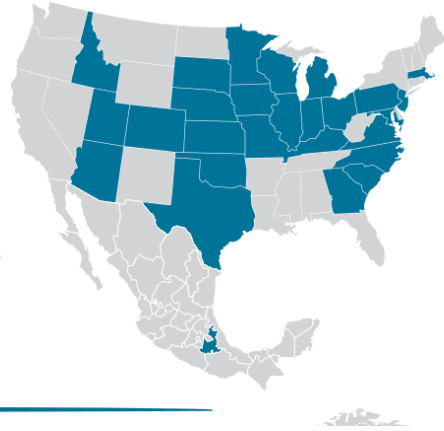
In Mexico, we have a controlling interest in Altosano, a fully integrated pork company that supplies domestic retail, wholesale and industrial trade channels, as well as numerous export markets. Altosano includes 115 company hog farms and one pork-processing facility, and employs more than 2,700 team members.

37,000  
Team Members

44  
Processing Facilities

415  
Company-owned Farms

1,900  
Family-owned Farms




**GOOD WORK**

**DIVERSITY, CULTURE AND ENGAGEMENT**

**PROGRESS**

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- 

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