

Seeking Lawyers To Help Hispanic and Women Farmers in Discrimination Claims Process

Seeking Your Help: We are seeking lawyers to assist Hispanic and women farmers to complete and submit claims forms in a non-judicial process to resolve past claims of discrimination in United States Department of Agriculture (USDA) Farm Loan Programs. The USDA Hispanic and Women Farmers and Ranchers Claims Process (HWFRCP) is described in more detail below. (Claims are based on actions that occurred between 1981 and 1996 or mid-October 1998 and mid-October 2000).

Farmers' Legal Action Group, Inc. (FLAG) and the National Agricultural Law Center are helping to develop a network of attorneys to assist claimants in the completion of the official HWFRCP Claim Form. Attorneys who agree to accept referrals of potential claimants will be included on the Legal Assistance Network Referral List which will be publicly available on the National Agricultural Law Center website (www.nationalaglawcenter.org) so that claimants and others can easily access the information and make contact. To be listed in the Legal Assistance Network, attorneys must first view a recorded training video about the HWFRCP. The video is available for online viewing along with written educational materials.

If you are an attorney interested in being listed in the Legal Assistance Network, please send an email to nataglaw@uark.edu that indicates the state(s) in which you are licensed to practice and the corresponding bar number(s) for those states, along with a request for a link to the training video and educational materials.

FLAG and the National Agricultural Law Center will also be available to respond to your questions regarding the Legal Assistance Network, the Claim Form, and the USDA Loan and Loan Servicing Programs that may arise while you are providing assistance to potential claimants. You may contact us with your questions by email at HWFRCP@flaginc.org or nataglaw@uark.edu, or by phone to Lynn Hayes at (651) 223-5400 or Harrison Pittman at (479) 575-7640.

Providing You Assistance: Lawyers interested in assisting potential claimants will have access to:

- *Free Legal Education Seminar*—in-person or web-based training seminar explaining information needed to assist claimants, including details of this discrimination claims process, the USDA Farm Loan Programs covered by the claims process, and eligibility criteria for claimants.
- *Free Legal Education Materials*—a training manual that includes detailed descriptions of USDA Farm Loan Programs, a sample claim form, tips for completing the claim form, and explanation of the claims procedures and decision framework.

- *Participation in Referral Network for Claimants*—upon completion of the legal education training and with a commitment to participate, lawyers will be included on a referral list available to thousands of potential claimants through the website of the Hispanic and Women Farmers Claims Assistance Network and that will be referenced in hundreds of outreach meetings for potential claimants that will be held throughout the nation.
- *Support During Claims Process*—lawyers with expertise on the USDA Farm Loan Programs and this discrimination claims process will be available throughout the claims filing period to answer questions from lawyers that participated in training and are included on the referral network.

(See below for more background information.)

Period for Filing Claims: September 24, 2012 through March 25, 2013.

BACKGROUND

Discrimination Lawsuits and Claims Processes

As part of USDA's efforts to make civil rights matters a top priority, USDA is committed to resolving past claims of discrimination in its farm loan programs. In recent years, USDA entered into settlement agreements in certified class action lawsuits filed on behalf of African American and Native American farmers. Class counsel assisted thousands of farmers to file their individual claims under those settlement agreements.

Lawsuits alleging past discrimination in USDA Farm Loan Programs were also filed on behalf of Hispanic farmers and women farmers. However, these cases were not certified as class actions. The United States government established a voluntary claims process to make available \$1.33 billion or more to farmers who alleged discrimination by the USDA based on being female, or based on being Hispanic, in making or servicing farm loans during certain periods between 1981 and 2000. This non-adversarial, non-judicial claims process will be administered by the same neutrals that issued decisions in and managed the claims processes for African American and Native American farmers. **Lawyers are needed to assist Hispanic and women farmers prepare and file their claims.**

Relief: Hispanic and Women Farmers' Claims

The United States government is making available \$1.33 billion or more from the Judgment Fund for monetary awards, up to \$160 million in debt relief, and, in some instances, tax relief for this claims process.

There are three tiers for payments. Each tier provides for a different payment amount and requires a different amount or type of evidence to prove the claim.

Payment Awards

TIER 1(a): If a claimant is successful under Tier 1(a), he or she will receive:

- A cash award of up to \$50,000, depending on the number of successful claims;
- Debt forgiveness from USDA for some or all of the claimant's eligible USDA/FSA Farm Loan Program debt; and
- A tax payment to the Internal Revenue Service (IRS) of 25 percent of the total of the cash award and debt relief.

TIER 1(b): If a claimant is successful under Tier 1(b), he or she will receive:

- A cash award for proven actual damages (that is, for the losses documented by a claimant) of up to \$250,000; and
- Debt forgiveness from USDA for some or all of the claimant's eligible USDA/FSA Farm Loan Program debt.
- The USDA will not make any tax payment to the IRS on a claimant's behalf. Claimants will have to pay the IRS for any taxes due on the award.

TIER 2: If a claimant is successful under Tier 2, he or she will receive:

- A \$50,000 cash award;
- Debt forgiveness from USDA for some or all of the claimant's eligible USDA/FSA Farm Loan Program debt; and
- A tax payment to the IRS of 25 percent of the total of the cash award and debt relief.

Additional information about the claims process is currently available at <https://www.farmerclaims.gov/> or <http://nationalaglawcenter.org/usda-claims/>.

Fees for Representation of Claimants

Lawyers representing claimants in the claims process may either provide their services pro bono or negotiate fees with the individual claimant. Claimants will be responsible for paying their attorney fees. Attorney fees will not be paid out directly from the cash award. USDA's *Framework for Hispanic and Female Farmers Claims Process* provides notice to claimants that reasonable fees for Tier 1(a) or Tier 2 shall not exceed \$1,500. For Tier 1(b), which requires a higher level of documentation, the Framework provides notice to claimants that a reasonable fee shall not exceed eight percent (8%) of the Tier 1(b) award.

USDA believes that the attorney fee guidelines in the Program are reasonable because this is a non-judicial, non-adversarial process. USDA and the U.S. Department of Justice (DOJ) endeavored to structure the Program so that the bulk of the funds being awarded in the

Program will go to the farmers. The amounts of cash awards will not be increased for individuals represented by an attorney. Claimants are always free to negotiate fee arrangements that best serve their needs.