

Milestones of the Hispanic and Women Farmer and Rancher Claims Process

How *Garcia and Love* arrived to Secretary Vilsack:

- On October 13, 2000, and October 19, 2000, Hispanic and female farmer and ranchers filed separate class action lawsuits in the District Court for the District of Columbia. Counsel for Hispanic farmers estimated over \$2 billion in damages while counsel for female farmers estimated damages in the range of \$4 billion dollars.
- In 2004, the Court denied motions for class certification in both cases. Plaintiffs in both actions brought numerous appeals to the DC Court of Appeals. All appeals were decided in favor of the Government.
- On April 24, 2009, the Court of Appeals affirmed the rulings of the district court and denied plaintiffs' motions in Love and Garcia. On September 15, 2009, plaintiffs filed an appeal to the Supreme Court which was denied on January 19, 2010.
- In December 2009, the Administration supported efforts by Representatives Rosa DeLauro and Anna Eshoo to establish a compensation fund for female farmers who alleged discrimination in USDA loan programs.
- In 2010, counsel in Garcia again filed a motion to certify a class, citing changed circumstances while counsel in Love argued for a multi-district litigation structure. The Court denied both motions. Individual farmers are left with the option of litigating their own cases.

Obama Administration Efforts to Resolve Claims of Past Discrimination:

- In 2010, attorneys and outreach specialists from the USDA Team worked very closely with the management teams and trial attorneys of the Department of Justice to create a voluntary and promising path to resolution for Hispanic and female farmers harmed by past discriminatory acts by USDA personnel.
- On February 25, 2011, Secretary Vilsack and Assistant Attorney General Tony West announced a unified claims process to resolve discrimination claims of Hispanic and women farmers and ranchers.

USDA Outreach About the Claims Resolution Process:

Following the announcement, USDA's outreach efforts includes:

- Conducted interviews with over 100 media outlets across the country regarding the announcement of the claims process;
- Held 14 Stakeholder meetings in 4 states with USDA officials present; Conducted 3 conference calls and 16 webinars with stakeholders;
- USDA field staff have hosted or participated in hundreds of informational community events across the country;
- Sought the cooperation of national bar associations, asking that bar associations contact their members regarding the need to supervise law students, and provide pro bono assistance to potential HWFCP claimants; On January 13 and June 29, 2011 the USDA Office of the Assistant Secretary for Civil Rights (ASCR) testified before the American Bar Association (ABA) Commission on Hispanic Rights and Responsibilities;
- As of September 5, ASCR has visited several law schools to meet with clinical and pro bono faculty, and students in Texas, California, Florida, and New Mexico;
- ASCR has contacted law schools in 17 states. As of November 2, 21 law schools have indicated a willingness to assist potential claimants in the following states: Texas (6 law schools), California (3 law schools), Florida (2 Law Schools), Arkansas, New Mexico, Missouri, Michigan (2), Wisconsin, Ohio, Colorado, and Kentucky;
- Seeking cooperation from legal aid offices, law school legal clinics, pro bono programs, Latino law student associations, and women law student associations in every state to provide assistance for potential claimants;
- Executed cooperative agreements with Drake University School of Law, National Agricultural Law Center, Rural Coalition, and Farmers' Legal Action Group for the purpose assisting in outreach and the development of a network of legal assistance providers for potential claimants.
- Obtained assistance from the White House Office of Public Engagement media outreach; and met with congressional members and staffers to brief them on the claims process.

USDA and DOJ Improve the Claims Resolution Process:

- On January 25, 2012, USDA and DOJ announced an updated claims process, which increased the maximum cash recovery to \$250,000, instead of \$50,000. The process offers a streamlined alternative to litigation for each Hispanic or woman farmer and rancher who can prove that USDA denied their loan or loan servicing for discriminatory reasons for certain time periods between 1981 and 2000.
- As announced in February 2011, the voluntary claims process will make available at least \$1.33 billion for cash awards and tax relief payments, plus up to \$160 million in farm debt relief, to eligible Hispanic and women farmers and ranchers.
- There are no filing fees or other costs to claimants to participate in the program. Participation is voluntary, and the program does not preclude individuals who opt not to participate from pursuing their cases in court.

About the Claims Resolution Adjudicator:

In August 2011, USDA awarded a contract to an independent Administrator/Adjudicator for claims administration services for the HWFR claims process. After this award, a bid protest was filed at the Government Accountability Office (GAO).

- On September 15, 2011 GAO notified USDA it was taking corrective action, including termination of the contract, requesting revised proposals for evaluation, and making a new award.
- On September 19, 2011 GAO dismissed the protest. OPPM requested revised proposals and the solicitation closed on October 31, 2011. A review is being completed to ensure that all offerors have complied with the solicitation requirements after which the review team will evaluate the offers for technical compliance. Once the review team presents its recommendations, the Deputy Director for the Office of Procurement and Policy will review the technical team's recommendation and determine an award. Currently the SSEB is being reconvened and a COTR identified.
- In June of 2012, OPPM selected a claims administrator to manage the claims process.