Politics

Black farmers accuse the USDA of racism. The USDA appears to agree and vows to address 'historical discrimination.'

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WASHINGTON — The Department of Agriculture launched on Friday a commission aimed at addressing “historical discrimination” in agriculture, a sign the USDA is looking to overcome a decades-long history of systemic racism that Black farmers say has shrunk their numbers and kept families from building generational wealth.

The Equity Commission will help identify USDA programs and policies that have contributed to, exacerbated or perpetuated discrimination, the department said.

“The truth is, the deck has been stacked against Black farmers who for generations have been denied access to land and capital,” Agriculture Secretary Tom Vilsack said in a statement to USA TODAY.

He vowed a "top to bottom" evaluation of decades-old farm programs to ensure they "more equitably serve" American farmers.

Black farmers today account for only 1.4% of all U.S. farmers, farm only 0.5% of the country’s farmland and generate only 0.4% of total U.S. agricultural sales every year. In contrast, about 14% of all U.S. farmers in 1920 were Black, according to that year’s agriculture census.
Black farmers say the USDA is at least partly responsible for those shrinking numbers. Decades of discrimination by the USDA, they say, have pushed thousands of their colleagues out of agriculture and have deeply impacted their earnings, their land and their chances to prosper.

The USDA appears to agree.

“To bring USDA from 1862 to 2021, we need the comprehensive structural review and recommendations to Congress that the newly-established Equity Commission will provide,” Vilsack said in his statement.

**Building equity through the Equity Commission - perhaps**

But Vilsack’s and the Biden administration’s efforts to reform the USDA will not be easy or straightforward. The new equity commission comes after previous USDA efforts have often stalled or proven insufficient, even as the harms of decades of racism endure.

Marc Morial, the president and chief executive officer of the National Urban League, said the new equity commission could make progress -- under the right circumstances.

The commission could provide new momentum if it’s led by the highest levels at the USDA, populated with the right people and given a serious charge and a limited term to make recommendations, he said.

“If it is a show horse commission, then the answer would be `no,‘” he said. “But I’m going to suggest that the Biden administration and the leadership team at the Department of Agriculture, I think, are sincere in trying to find new ways to address those problems. If this commission also has representation from the farmers themselves and the right contours and the right charge, it could be significant and meaningful.”
In one recent example of a reform attempt that has stalled, Congress passed a $4 billion debt relief program for farmers of color in March to address discrimination in USDA programs.

But a flurry of lawsuits alleging the program discriminated against white farmers quickly stopped disbursement of the money.

“The U.S. Department of Agriculture is a racist organization,” said Lawrence Lucas, president emeritus of the USDA Coalition of Minority Employees and a representative of the Justice for Black Farmers Group. “You have an institutional problem so in order to address it, you have to approach it on a systemic basis.”

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**Discrimination complaints by white farmers stall debt relief**

The $4 billion in debt relief was supposed to be disbursed to “socially disadvantaged farmers” who have certain direct or guaranteed loans from the Farm Service Agency, the USDA arm that distributes farm loans and aid.

"Socially disadvantaged farmers" are those who are part of a “group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.”

Under the legislation, up to 120% of eligible loan debt would be forgiven. But in June, a federal judge ordered a halt to the program. At least three judges have now issued preliminary injunctions.

On August 23 the Justice Department took the unusual step of letting the deadline pass to appeal the first of the preliminary injunctions, according to the Agriculture Department. Still, the USDA “will continue to fight these lawsuits in the district courts in the weeks and months ahead because providing debt relief is an important
component of the USDA’s broader commitment...to root out generations of systemic racism,” said spokesperson Kate Waters.

Sen. Cory Booker, D-N.J., urged federal judges to uphold the law, but said in a statement that, “because of the urgency of the need for assistance by these farmers, I refuse to sit back and wait for the courts to do the right thing.” Booker wants to include the debt relief in a $3.5 trillion budget bill moving through Congress.

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**Systemic racism at the USDA**

Black farmers and advocates said they would welcome the debt relief but stressed that the real solution is to implement major reforms aimed at rooting out systemic racism in the department.

The country's nearly 50,000 Black agricultural producers, which also includes livestock breeders and ranchers, are mostly concentrated in the South and mid-Atlantic, according to the most recent USDA Census of Agriculture in 2017. The average Black-owned farm is 132 acres, while the average white-owned farm is 431 acres, according to the census.

An analysis by the Center for American Progress, a left-leaning think tank, found that in 2017 the average full-time white farmer earned over $17,000 annually in farm income, while the average full-time Black farmer made less than $2,500 per year.

Tracy McCurty, a lawyer and the executive director of the Black Belt Justice Center, a Washington-based nonprofit, said the current inequities affecting Black farmers are part of the legacy of a 1999 class action lawsuit in which the USDA agreed to pay Black farmers over $1 billion.
The lawsuit “did nothing to uproot institutional discrimination within the U.S. Department of Agriculture,” said McCurty, who is also the co-organizer of the Black Farmers’ Appeal: Cancel Pigford Debt Campaign, which supports demands by farmers in the suit to cancel their outstanding debts.

In Pigford v. Glickman, a federal judge ruled in favor of tens of thousands of Black farmers who alleged decades of race-based discrimination by the USDA, acknowledging that Black farmers faced unfair treatment in applying for FSA loans. The Pigford case remains the largest civil rights settlement ever won against the federal government.

Those kinds of loans are crucial for farmers, whether to secure funds for new equipment, to insure crops or simply to smooth out volatile income streams often dependent on hard-to-predict factors like global weather patterns. Without access to credit, farming, for many, is simply not a viable business.

Black farmers received over $1 billion during the first round of settlement payments, known as Pigford I. A second round of settlement payments a few years later, known as Pigford II, awarded another $1.25 billion.

Farmers could file claims through two processes. Track A provided an expedited settlement of $50,000, plus loan forgiveness and tax liability offsets, while Track B offered claimants willing to go through a more rigorous review process the opportunity to sue for a larger settlement.

In the end, over 15,000 adjudications were approved via Track A, and just over 100 through Track B.

Black farmers and advocates say the payouts were woefully inadequate. “If you’re a farmer, you know that $50,000 won’t buy the tires for the combine and would be an insult if that’s the only compensation you’re going to receive. And that’s basically what most of them received,” said Lloyd Wright, a longtime USDA employee who served as head of the USDA Office of the Assistant Secretary for Civil Rights from 1997 to 1998.
County committees and uneven elections

Advocates point to the system of county committees, elected officials who liaise between farming communities and the USDA and help allocate FSA loans and other funds, as one body upholding inequities at the USDA. They also argue that bureaucratic dysfunction in the civil rights office has hampered efforts to address systemic racism in the agency.

In the most recent national county committee elections in 2019, about 90% of candidates were white and over 90% of ballots cast were by white farmers. Agricultural producers of legal voting age who participate or cooperate in any FSA program can vote, but the small number of Black producers overall means they have little voice in these election outcomes.

Vilsack himself highlighted the role the committees have historically played.

"Structures like the county committee system have been used to keep Black farmers from getting the assistance they are due," Vilsack said in his statement to USA TODAY.

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Deputy Secretary Jewel Bronaugh echoed Vilsack’s comments.

“The County Committee System, created by Congress nearly a century ago, is an example of a deeply-rooted system that it is past time to review and reconsider," she said in a statement.

Bronaugh is the first Black woman - the first woman of color at all - to hold her position. Nor is she alone. According to internal USDA statistics shared with USA TODAY, most of USDA’s appointees are women and people of color. Additionally, 5 out of 10 USDA nominees for Senate-confirmed positions are people of color under President Joe Biden, the department said.
Researchers at the University of Georgia, the Atlanta Regional Commission and the USDA published a report last year that found non-white farmers were often given “lower loan amounts at higher interest rates and with shorter maturities” than white farmers. The report largely attributed that to poor credit scores among farmers of color.

That’s because of inequities built into the credit scoring system, said Cesar Escalante, one of the paper’s co-authors and a professor of agricultural and applied economics at the University of Georgia.

Non-white producers, and especially Black farmers, typically have significantly smaller farm operations than white producers, with lower levels of profitability, he noted. Many farmers of color also have smaller asset sizes, lower gross revenues and lower net incomes. He called the poor results that many non-white farmers receive in credit scoring models an “institutional or infrastructural type of problem” that exists even before farmers make borrowing decisions.

But the county committee system is just one piece of systemic racism at the USDA, advocates say. McCurty argued that many programs, including the Commodity Credit Corporation, need to be reformed. The CCC disburses disaster aid to farmers, among other functions.

The Land Loss and Reparations Project, a research team, and Farm Bill Law Enterprise, an academic initiative of several leading law schools, found last year that almost 97% of payments meant to offset the impact of the COVID-19 pandemic and 99% of payments meant to offset the impact of the U.S.-China trade war went to white farmers, according to summaries compiled by the Environmental Working Group, a research nonprofit. Both those programs were established under the CCC’s statutory authority.

Meanwhile Wright has called on the USDA to overhaul its civil rights office, which has had a backlog of discrimination complaints by Black farmers since the Reagan administration curtailed the office’s operations in 1983.
A 2008 Government Accountability Report found that the “USDA has not processed certain cases in a timely manner even though it has been aware that a 2-year time limit may apply. In such cases, when USDA’s processing extends beyond 2 years, USDA may be prevented from compensating a farmer who has been subject to discrimination.”

In a 2017 memo as he was ending his first stint as agriculture secretary under President Barack Obama, Vilsack said that in January 2009, at the start of the Obama administration, the number had grown to “14,000 administrative civil rights cases pending at USDA,” with “no formal processes established to provide pathways to justice” for complainants.

In a statement, USDA spokesperson Kate Waters said that the office had an inventory of 231 open complaints as of late last month. She added that the department “will continue to reduce complaint processing timelines.”

Lucas, McCurty, and other Black farmer advocates last met with Vilsack in May to lay out their complaints against the USDA and affirm their desire to work with Vilsack to address systemic inequities in the agency. They have since followed up with letters requesting an additional meeting, but say that the USDA has not responded.

“USDA did not change,” Wright said. “It’s the last plantation.”

**Keeping farms in the family**

Another stumbling block to supporting Black farmers: keeping farms in the family.

At issue is a legal term called heirs' property. The term refers to land inherited by the descendants of a property owner without any form of legal documentation of ownership. The heirs “hold title as tenants in common, but that interest is only conceptual,” explained Faith Rivers James, the assistant provost for leadership at The Citadel military college and an expert on heirs’ property.
Because the land has not been divided, no single person can claim a specific part of it.

The problem's roots go back well over a century, Rivers James said.

“The unique challenge in the Southern states [where most Black farmers live] is that much of the property was acquired during Reconstruction, at which time there were not sufficient lawyers to assist landowners in drafting wills,” Rivers James said. “So subsequently, without access to lawyers for estate planning, a great deal of land in the South was transferred [without wills] and is now heirs’ property.”

Over time, that's pushed many heirs out of agriculture. Black farmers lost upwards of 90% of their land between 1910 and 1997, according to agriculture censuses.

Rivers James called heirs’ property issues “a vestige of segregation and discrimination in its worst form.”

In July, the USDA announced it would be providing $67 million in loans to help address longstanding heirs’ land ownership issues and allow Black farmers to keep their land in their families.

"Many Black farmers and other groups who have experienced historic discrimination have inherited heirs’ property," Vilsack said in a statement at the time. "USDA is committed to revising policies to be more equitable and examining barriers faced by heirs’ property owners is part of that effort."

The $67 million in loans is intended to help heirs receive recognition as landowners. The loan program is a “very much needed” step to solve a “systemic issue,” said Cornelius Blanding, the executive director of the Federation of Southern Cooperatives, a Georgia-based nonprofit.

The program will “play a huge role in starting to clear up this heirs’ property issue in communities around the United States in general, and in the Black community specifically,” he added.
Helping heirs acquire clear title to their land is “the only way to open doors for growth and to be able to hand that property on to their family members,” Rivers James said.

"After all, a great portion of these challenges arose because of government policies and state land laws that impaired this form of African American land ownership."

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