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SOCIALLY DISADVANTAGED FARMERS
AND RANCHERS POLICY RESEARCH CENTER

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Policy for Settlement of Cases for Inflation Reduction Act of 2022 (IRA) Section 1006(e), Financial Assistance for Farmers, Ranchers, or Forest Landowners subject to Discrimination

Introduction

The Secretary of Agriculture will make available \$2,200,000,000. The funds will be used to provide financial assistance to farmers, ranchers or forest landowners that are present or former farm loan borrowers or former applicants for a farm loan, who have been subject to discrimination by USDA prior to January 1, 2021. Section 1006(e) shall be administered through 1 or more qualified nongovernmental entities selected by the Secretary of Agriculture subject to standards set and enforced by the Secretary.

Evidence of discrimination may include lack of services, loan denials, delays such as late approvals or funds provided too late, not refinanced, or unfavorable loan terms such as high interest rates or fees, a requirement for a loan to be supervised by a loan manager, loan payment made due prior to farm output, severe reduction in requested loan amounts that resulted in adverse circumstances, previously filed discrimination complaints against USDA.

Payments

Payment amounts will be based on the consequences experienced by the farmer, rancher or forest landowner from the discrimination. The maximum payments will not exceed \$500,000.

Entities to assist with implementation of Section 1006(e)

The Secretary will select one or more qualified nongovernmental entities to administer Section 1006(e). The Secretary might select entities for regions of the USA. The Secretary should consider entities for the **South**, the **North**, the **Plains**, and the **West**. USDA should provide funds to the entities to cover the cost of processing the applications for relief.

The USDA should make payments to applicants based on the findings of the entities within 30 days.

Proposed Process

a. Application for Section 1006(e).

The farmers and ranchers or forest landowners who have suffered discrimination and wish to apply for financial assistance under Section 1006(e) will complete an application. The application will be filed with one of the qualified nongovernmental entities selected by the Secretary to administer Section 1006(e). The application will provide all of the information outlined in the process guidelines in this document.

b. The selected Qualified Nongovernmental Entities (Entities) will Provide Lead in Processing Applications.

The selected Entities will take the lead in processing applications for funds for Section 1006(e).

c. Outreach.

In addition to the outreach provided by USDA agencies, outreach to farmers, ranchers or forest landowners in regard to applications for relief under Section 1006 (e) will be conducted by the Land Grant Universities and Community Based Organizations using funds provided from Section 1006(a).

d. Timetable for Processing Applications.

Application for relief under Section 1006(e), will be filed prior to January 1, 2023. The Entities will process all applications for relief under Section 1006(e), on a rolling basis prior to October 1, 2024.

Processing of Applications by the Selected Entities

The Entities will process the applications in three parts:

- a. Determine if the applicant is or was a farmer, rancher or forest landowner.
- b. Determine if the applicant was subject to discrimination.
- c. Determine the settlement level for applicants who were determined to be a farmer, rancher or a forest landowner and found to have been subject to discrimination.

Applications.

Farmers and ranchers or forest landowners should apply for relief under IRA Section 1006(e) and provide answers to the questions outlined below. In addition to providing answers to the questions, the applicants will provide documents to support the answers. Applicants who approve of USDA providing a copy of their file to the Entities will include in their application a signed letter to FSA to authorize FSA to provide the USDA files.

a. Determine if the applicant is or was a farmer, rancher or forest landowner.

To determine if the applicant is or was a farmer, rancher or forest landowner, the applicant will provide the following: the State and county where the applicant was a farmer, rancher or forest landowner, as well as the FSA Farm Number and Track Number for the operation.

b. Determine if the applicant was subject to discrimination.

1) To determine if the applicant was subject to discrimination the applicant will provide:

- a) the basis for the discrimination such as age, color, disability, gender, gender identity, gender expression, national origin, race, religion, sexual orientation, genetic information, military status, or any other basis protected by law.
- b) the USDA office(s) responsible for the discrimination.
- c) the dates or time period the discrimination took place.
- d) have you filed a discrimination complaint? If so, list the complaints and note when and where the complaints were filed? What was the outcome of the complaints? or
- e) Any other documented case of discrimination.

2) Criteria for loans:

- a) Were the original loans FSA direct or guaranteed loans?
- b) How exactly did the families assume the indebtedness?
- c) Are those original loans still outstanding?
- d) Were they refinanced?
- e) To whom are the loans currently owed?
- f) Is this the estate of a deceased farmer, rancher or forest landowner?

- 3) In addition to the above criteria, the following should be provided to support that the applicant was subject to USDA discrimination actions:
 - a) Loan not approved or approved too late.
 - b) Loan did not meet the needs of the request.
 - c) Adverse action by the supervised loan manager.
 - d) Loan repayment conditions and interest rates not workable.
 - e) Loan document altered.
 - f) Farm located in a county with a history of USDA discrimination and land loss.

- c. **Determine the settlement level for applicants who were determined to be a farmer, rancher or a forest landowner and found to have been subject to discrimination. The Entities will consider the impact of delayed relief in determining the payment to applicants who did not get full debt relief or other agreed to benefits from a finding of discrimination.**
 - 1) Damage to applicant resulting from USDA actions:
 - a) Not able to get loans to plant crops or buy animals.
 - b) Required to pay higher interest rates.
 - c) Repayment on loan due prior to output on the farm.
 - d) Not able to buy or rent land.
 - e) Loss of the farm or forced to sell land.
 - f) Did not receive some of the agreed to benefits from discrimination complaints against USDA.

 - 2) Size of farm operation loss:
 - a) Number of acres loss.
 - b) Number of livestock loss.
 - c) Amount of money loss.
 - d) Level of production loss.

Processing Applications for Settlement under IRA Section 1006(e)

In implementing IRA Section 1006(e), the following process should be used.

- An intake process should be designed to evaluate farmer's application and determine if the guidelines for the IRA funds are met.

- With the signed approval of the applicant, the Entities will request USDA to provide a copy of all of the applicant's files held by USDA agencies.
- The applications should be reviewed and processed by the Entities to determine the facts of the case as outlined in the claims made by the applicant. Additional information from the farmer, USDA, and others will be compiled.
- The Entities will evaluate the case to determine if the applicant is a farmer, rancher or forest landowner, who was subject to discrimination and the extent of damages and level of the settlement.
- A settlement agreement statement will be presented to the applicant for approval.
- In cases where the applicant does not agree with the settlement statement, the applicant will be informed that they can appeal the settlement statement to the FSA Administrator.

Entities and USDA Roles in Implementation.

Entities:

1. Set up an intake process to enable the Entities to process and track the applications.
2. Work with USDA to determine process and settlement standards and draft agreement statement for settlement.
3. Employ the staff needed to process the applications to include the creation of local settlement teams. The small field work teams will be made up of a person with agriculture experience, an economist and an attorney to process claims.
4. Perform an expeditious review of the applicant case files to determine if the complainant is or was a farmer, rancher or forest landowner and should be processed.
5. Have the applicant sign a release agreement that will permit USDA to provide to the Entities the files held by USDA agencies for the applicant.
6. Provide the signed release agreement to FSA and request the USDA files for the applicant.
7. Determine if the applicant was subject to discrimination.
8. Analyze all components of the case and determine the settlement level.
9. Review the appropriate parameters for settlement.

10. Analyze all components of the settlement agreement prior to presentation to the Complainant or representative to assure conformity with applicable standards and program regulations.
11. Present settlement to the Complainant or representative for approval and signature.
12. Document that the applicant is or was a farmer, the basis of discrimination and the justification for the settlement level to include an economic analysis as appropriate.
13. Upon settlement prepare memoranda transmitting the settlement agreement and other documents to FSA for review and payment. Other documents will include a write-up of how the Entities arrived at a decision to settle, including the write-up outlining the level of discrimination.

Farm Service Agency, USDA:

1. Provide standards to the Entities on processing and settlement of claims.
2. Work with the Entities and develop an agreement statement that will be signed by the applicant and the Entities.
3. Draft a letter to be signed by applicants to approve/release USDA to provide their files to the Entities. With signed approval from the applicant, provide a copy of the files held by USDA agencies.
4. Implement the settlement agreements developed by the Entities. The FSA review of the signed agreement will be made and will be considered as a final agreement if FSA does not object in 15 days. Payment on final agreements will be made within in 30 days.
5. Review cases where the applicant did not agree with the Entities' settlement and work with the applicant in an effort to reach an agreement.