

Congress of the United States
House of Representatives
Washington, DC 20515

August 7, 2015

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250

Dear Secretary Vilsack,

The Hispanic and Women Farmers and Ranchers Claims Resolution Process (“Claim Program”) was established by the United States government to compensate individuals who suffered discrimination in the United States Department of Agriculture’s (USDA’s) farm loan program between 1981 and 2000. The treatment that women farmers have received under the claims process is deeply troubling. Three years ago we wrote to you and the U.S. Attorney General requesting improvements to the Claim Program. Unfortunately, as demonstrated by the low success rate for claims and unconscionably low total claims paid – it seems that any improvements made did not lead to just results. Given this concerning result, we request that USDA provide us with additional information regarding claim decisions and brief us on this important matter.

For decades, women farmers have suffered from gender discrimination at the hands of USDA in the denial of farm loans and loan servicing. From the outset, we believe the Department of Justice’s \$1.3 billion combined available amount for both the women and Hispanic farmer cases was too low given that the *Pigford* case was settled for more money and had fewer claimants. The extent of the gender discrimination is staggering with an estimated 43,000 women farmers being discriminatorily denied more than \$4.6 billion in farm loans and loan servicing. However, we were dismayed to learn that claims filed via the Claim Program had only a 6% success rate (3,210 claims). Of the approximately \$1.3 billion allocated for cash awards to women and Hispanic farmers, only \$200 million (approximately 15%) will be distributed, this is juxtaposed to over \$2.1 billion paid to African American farmers, and \$300 million paid to 3,600 Native American farmers (with an additional approximately \$380 million in a cy pres fund).

Claimants have been provided little to no information about why claims were denied. According to USDA’s Status Report dated June 8, 2015, 53,803 claims were submitted to the Claim Program. Nearly 60% (31,640) of those claims were deemed untimely or incomplete. Of those claims filed via the ADR program and deemed timely and complete, nearly half (10,361) were denied due to unexplained “fraud concerns.” In fact, only 15% of women and Hispanic farmers’ timely and complete claims were compensated, compared to Native American farmers’ 80% success rate and African American farmers’ 56% and 69% success rates from two separate

programs. In addition, women farmers were comparably less successful in claims in the higher dollar “Tier” of up to \$250,000.


Thousands of women waived their rights to pursue discrimination claims in Court only to have their claims denied with no recourse. We request that USDA provide us additional information regarding the standards applied in the evaluation of the claims submitted and the standards used to determine fraud in the claims submitted, including:

1. Number of claims filed overall in the Claim Program;
2. Number of claims filed by individuals identifying as (a) women; (b) Hispanic; or (c) neither, broken down by Tier and by state;
3. Number of claims deemed “timely and complete” by Epiq Systems (“Epiq”), the Claims Administrator for the Claim Program, and forwarded to the JAMS, the Claims Adjudicator, for consideration on the merits;
4. Number and amount of awards and debt relief granted to women farmers/ranchers in the Claim Program by Tier and by state;
5. Number and amount of awards and debt relief granted to Hispanic farmers/ranchers in the Claim Program by Tier and by state;
6. Number of claims granted and denied to women farmers, broken out by state of submission, and by race/nationality of applicant;
7. Number of claims granted and denied to Hispanic farmers, broken out by state of submission;
8. Number of claims denied in the Claim Program under each basis or denial category utilized by the Claims Administrator and/or Claims Adjudicator, such as “untimely,” “incomplete,” “fraud,” “insufficient evidence,” “insufficient documentation,” “*Pigford* claimant,” etc., broken out by gender and race/nationality of applicant;
9. What category of claim denial was communicated to claimants whose claims were deemed timely and complete and whose claims were then denied due to fraud concerns;
10. What entity, agency, and/or contractor(s) reviewed claims and/or the Claim Program for possible fraud, and what standards were applied;
11. What referrals to other legal agencies or law enforcement were made by USDA, Epiq, JAMS, or others in connection with claims denied due to fraud concerns, broken out by number and by gender and race/nationality of applicant;
12. What training materials were provided to the Claims Administrator and/or the Claims Adjudicator, and what manuals and/or written guidelines were used by them;
13. What standards were applied by the Claims Administrator and/or Claims Adjudicator when reviewing and adjudicating claims, including with respect to:
 - (a) documentation requirements for constructive applicants;
 - (b) documentation requirements for all other applicants;
 - (c) what standards were applied to witness affidavits for constructive applicant claims;
 - (d) whether oral complaints were deemed sufficient, and if so, for which Tier(s);
 - (e) what level of detail was required to be included in an oral and written complaint, respectively; and

- (f) how the adjudicators applied the evidentiary standards of “substantial evidence” and “preponderance of the evidence.”
14. Any and all reports provided by Epiq and/or JAMS to USDA or any other government agency overseeing or reviewing the Claim Program;
 15. How the standards applied to the review and adjudication of claims by the Claims Administrator and/or Claims Adjudicator in this Claim Program differed from the standards applied by Epiq, JAMS, and/or other contractors in the previous administrative claims programs for black and Native American farmers and ranchers, as a result of the *Pigford*, *In re Black Farmers Discrimination*, and *Keepseagle* cases.

On behalf of the thousands of women farmers across the United States, we request that USDA brief us on this important matter. We look forward to working with you to ensure a just and transparent administrative claims process has been conducted.

Sincerely,


Rosa L. DeLauro
Member of Congress


Anna G. Eshoo
Member of Congress