



## Hispanic, female farmers plead for bias claims action

By Kevin Bogardus - 12/01/10 07:28 PM ET

Despite seeing Congress pass funding to resolve black farmers' claims this week, the Agriculture Department (USDA) is still under pressure to settle discrimination claims from minority groups.

Advocates for Hispanic and female farmers claiming discrimination by USDA say they have not been treated the same as their black and Native American counterparts by the Obama administration.

"[Blacks and Native Americans] are going to get more money and a better process. It is a slap in the face," said Stephen Hill, a partner at Howrey who represents Hispanic farmers.



At stake in the cases is hundreds of millions of dollars in government money that lawyers are trying to secure for their clients to resolve longstanding discrimination lawsuits.

The new black farmers' settlement, known as Pigford II, is capped at about \$1.25 billion. That total includes the \$1.15 billion the House passed Tuesday, along with \$100 million already authorized to pay off discrimination claims in the 2008 farm bill.

Separately, USDA has reached a \$760 million settlement with Native American farmers, a case known as Keepseagle.

USDA has been trying to negotiate similar agreements with Hispanic and female farmers. The department has offered about \$1.33 billion to be split between claimants in the Hispanic farmers' case, known as Garcia, and the female farmers' case, known as Love. That is not as much as black or Native American farmers stand to receive from their respective settlements.

Lawyers for both groups say that the department should recognize their claims are just as valid as black farmers'.

"We support the government moving forward with women and Hispanics, just on a fairer basis than

what is currently proposed,” said Marc Fleischaker, chairman emeritus of Arent Fox and lead attorney for the female farmers.

Another complaint is the proposed claim process is more limited for Hispanic and female farmers. Hill says that Hispanic farmers are being offered only a one-track claim-resolution process, with awards capped at \$50,000 for each farmer, while black farmers have a two-track process in place, with awards capped at either \$50,000 or \$250,000.

“We think our clients are analogous to black farmers,” Hill said.

On a conference call with reporters Wednesday, Agriculture Secretary Tom Vilsack said it is “a little premature for anyone ... to suggest that numbers are the same or are not the same” for the different settlements because it is not known how many claims will eventually be awarded.

“We don’t know that there is going to be a significant difference in the amount of money that is being paid to any of these claimants because we don’t know how many total number of claims that there might be that will ultimately be found appropriate,” Vilsack said. “So it may very well be that there is absolute equity here. That’s certainly the goal, that’s certainly what we are going to work toward, and that’s certainly what we are going to achieve the best that we can.”

Vilsack also said the claims process is more limited for Hispanic and female farmers because they were denied class-action status by the courts. Thus, each individual farmer’s case has to be decided separately and cannot be settled in one court proceeding, according to the Cabinet secretary.

Vilsack said there has been “a concerted effort” by President Obama and USDA “to try and resolve as many as these cases in a fair and equitable way as possible.”

One advantage for Hispanic and female farmers, though, is they do not need legislation to fund their future settlements. If they can reach an agreement with USDA, their discrimination claims will be resolved by the government’s judgment fund, which does not need appropriations from Congress.

Because the 2008 farm bill reopened black farmers’ discrimination claims, the Obama administration had to find new funding from Capitol Hill to pay the settlement. That process took almost a year after being blocked several times by Senate Republicans.

“That’s an obvious plus for us. What we need is swift action by the administration to live up to its rhetoric here and treat these farmers fairly and justly,” Hill said.

Lawyers for Hispanic and female farmers continue to argue their case in federal court. Both cases have hearings scheduled this Friday.

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