

Pigford Case Continues To Haunt Black Farmers And USDA Staff

A Closer Look At The Number Of Black Farmers Means The Controversy Will Likely Continue.



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I started my professional journalism career in 1980, just in time to witness hundreds of heart-wrenching stories unfold as families were unable to borrow money and keep their farming operations afloat. With the prime interest rate reaching 20 percent in January 1981, it was often difficult for even the best of farmers to hang on, while lender after lender pulled back.

If you were unable to get credit anywhere else, there was the "lender of last resort," known then as the Farmers Home Administration (FmHA). But there were still no guarantees that you would be able to survive in farming during those extremely volatile times.

In 1994, the USDA was reorganized and the functions of FmHA were transferred to the Farm Service Agency (FSA). It was during the early part of that decade that an equally heart-wrenching story started to play out, primarily in FSA offices across the South. African-America farmers claimed that they were unable to obtain financing or get the same type of equal treatment as white farmers because of the color of their skin. Eventually, they joined forces and filed a class action lawsuit against USDA.

The original lawsuit, named after North Carolina farmer Timothy Pigford, was settled in 1999. The first Pigford case awarded more than \$1 billion in payments and debt relief to black farmers, but tens of thousands of farmers claimed that they were not aware of the settlement and missed the filing deadline. Over a decade later, this story continues to unfold with black farmers pushing Congress to provide at least another billion dollars to pay for those late filers.

It's an emotional and racially-charged issue, especially for John Boyd Jr., the head of the National Black Farmers Association, who has fought tirelessly on behalf of his fellow farmers. Boyd says many of the farmers seeking help are elderly and may not live to see these cases resolved.

"We needed \$2.5 billion, but I didn't want to tie us up in federal court anymore," Boyd told Agri-Pulse during an interview earlier this year. "I looked at the faces in the South and these people are old. That made me say, hey, let's settle this case and let's get the money to the farmers and help as many as we can." He estimated that only about half of the 80,000 farmers seeking restitution will eventually get it.

White House priority

Settling this case is clearly a priority for the White House and USDA. Secretary Vilsack described a \$1.25 billion funding agreement reached between the Administration and advocates for black farmers early this year as "an important milestone in putting these discriminatory claims behind us for good and in achieving finality for this group of farmers with longstanding grievances." All the Obama Administration needed was for Congress to appropriate the money, which lawmakers seem prepared to do next week as part of a tax and finance package.

However, confronted with the skyrocketing federal deficit, more officials are taking a critical look at the billion dollars spent thus far and wondering when these discrimination cases will ever end. Already, the number of people who have been paid and are still seeking payment will likely exceed the 26,785 black farmers who were considered to even be operating back in 1997, according to USDA. At that time, sources predicted that, at most, 3,000 might qualify.

At least one source who is extremely familiar with the issue and who asked to remain anonymous because of potential retribution, says there are a number of legitimate cases who have long been denied their payments and will benefit from the additional funding. But many more appear to have been solicited in an attempt to "game" the Pigford system. For example, our source said a large number of late filers had similar zip codes in large Ohio cities, suggesting a door to door effort might have taken place to find likely candidates.

In an attempt to verify these allegations, I filed a Freedom of Information Act (FOIA) request, asking USDA to provide the names and locations of those individuals who had received payments under all of the Pigford cases. However, unlike the farm program payment data released by USDA, the agency denied access to the Pigford information, citing an "unwarranted invasion of personal privacy."

The agency did provide the total number of

claims by state for cases that have already been decided as of June 30, 2009 (see table). This data does not include information on the late filers who could presumably be covered by the additional \$1.25 billion.

As the table indicates, Alabama and Mississippi had the largest number of payment recipients under "Track A" which provided a flat \$50,000 fee – plus relief in the form of loan forgiveness and offsets of tax liability (\$12,500). These numbers seem to correspond with the

Pigford Track A Claimants by State who received payments as of 7-1-09

AL	3445
AK	1532
AZ	3
CA	140
CO	8
CT	8
DC	14
DE	2
FL	273
GA	1957
HI	1
ID	1
IL	163
IN	15
KS	26
KY	64
LA	591
MA	3
MD	36
MI	81
MN	3
MO	01
MS	3193
NC	1349
NE	2
NJ	35
NY	40
OH	22
OK	507
PA	15
SC	392
TN	474
TX	302
UI	1
VA	178
VI	28
WA	3
WI	15
Total	15,601

outreach conducted and the large number of black farmers in those states. However, in Illinois, 163 people received checks under the Pigford I settlement as of last year, even though Ag Census data from 2002 indicates there were only 78 black or African American operators in the state.

USDA sources say the location of the check recipient may not be indicative of where the Pigford class member farmed or attempted to farm. The claimant may have been denied access to USDA programs, given up farming and moved to another state. Or the claimant may have died, and the check was sent to his or her heirs.

This could explain why 14 individuals in Washington, D.C. received payments as a result of the Pigford case. Another possible reason for the variance in numbers between the Ag Census and the Pigford cases is that multiple individuals could be farming together, even though only one operator was identified by the Census.

USDA tried to address the potential for undercounting in the 2002 Ag Census. In addition to the principal operator, information was gathered on up to two additional operators for the first time that year. When three operators per farm could be reported, a total of 30,605 farms in the U.S. had Black or African-American operators in 2002. The total jumped slightly, to 32,938 farms operated by African-Americans in the 2007 Census.

If the Ag Census data is correct, it still seems difficult to understand how the number of people filing Pigford claims could be more than double the number of black farmers in the U.S. Unfortunately, few people at USDA are willing to even discuss this topic, for fear of appearing racist.

In the interest of transparency, it would seem helpful to have USDA provide the names and more information about who has or will be receiving payments under the Pigford cases. Adding more "sunlight" to this issue might help close another heart-wrenching chapter in farm loan history. Δ

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