

BLACK FARMERS & AGRICULTURALISTS ASSOCIATION

&

THE LAND LOSS FUND

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Dear BFAA Members and Supporters:

We are pleased that President Barack Obama and his administration have taken an important step toward rectifying the Department of Agriculture's civil rights violations of the nearly 80,000 black farmers previously excluded from the Pigford settlement. Authorizing an appropriation of \$1.25 billion is indeed an important action. Of course, only Congress can appropriate funding; however, much remains to be seen regarding the final outcome. Still, we commend President Obama and his Administration for this effort.

As we move forward in the process of allocating funds and adjudicating cases, it is imperative that we take stock of lessons learned from Pigford I and strive to avoid repeating past mistakes. Two issues are, therefore, extremely important.

Urgency Clause: First, black farmers are aging and cannot wait another ten years to determine the outcome of their claims. Pigford I has taken over ten years to complete. We cannot allow another similarly drawn out process to ensue. Therefore, Congress must insist that the process for Pigford II claims be expedited and completed within two years yet still give all due consideration to each claim.

Debt Forgiveness is Not Income Clause: First, it is absolutely unreasonable and against the spirit of resolution to tax as income the unseen dollars associated with any debt write-off in individual settlements. We call this the *Debt Forgiveness is Not Income Clause*. Typical is the case of one of our members who was a claimant under Pigford I and received a \$50,000 settlement with substantial amount of additional debt forgiveness. She was approximately 80 years old at the time she completed her husband's claim in Pigford I and felt that she may now finally rest regarding this nightmare of involvement with the USDA. A short time after she received her settlement, she received a tax bill from the IRS for the debt forgiveness now reclassified as "income." Now her meager retirement and social security would have to go to pay taxes on "income" that was actually primarily interest and penalties on a USDA loan that was in arrears primarily due to violations of her husband's civil rights. Sadly, she died a few years later from a heart attack, leaving their daughter saddled with this undue burden. The Department of Justice, IRS, and the USDA should be ashamed of such so-called *restitution*. We must not allow this to continue. Therefore, any legislative action appropriating money for the resolution of Pigford II claims must include a *Debt Forgiveness is Not Income Clause* that states: "All debt forgiveness associated with any settlement from Pigford II shall be considered completely and wholeheartedly non-taxable income."

In addition to the two matters above we urge Congress to consider and accept the following recommendations for the resolution of Pigford II.

- *Appropriate at least \$1.25 billion.* Given that there remain nearly 80,000 claims, \$1.25 billion is only enough to resolve approximately 20,000 cases at the levels resolved under Pigford I. We have no reason to believe that the damages suffered by these claimants are demonstrably less than those of Pigford I. Allocation should be based on the number of valid claims, not a pre-defined dollar amount. It is likely that 20,000 valid claims out of 80,000 is a low estimate of the valid claims.
- *The appropriation must only apply to the Pigford Case.* It should be understood that this settlement only pertains to the so-called "late-filers" under Pigford I but does not rule out future tort action on behalf of black farmers who have had their civil rights violated by our public institutions. That is, this appropriation does not resolve forever all civil rights violations on the part of the USDA, only those involving the Pigford Class.

We trust that you will join us in ensuring that these reasonable matters become essential components of the process and final product in the ensuing weeks.

Yours for the survival of the black farmer,

Gary R. Grant

President