Office of the Ombudsperson Charter
United States Department of Agriculture

Purpose

As part of the Keepseagle v. Vilsack settlement, the U.S. Department of Agriculture (USDA) created the Office of the Ombudsperson (Office) to assist USDA in identifying and addressing issues relating to program access by Native American and other socially disadvantaged farmers and ranchers. The Ombudsperson provides independent, impartial analysis and recommendations to the Secretary and other USDA officials to promote continuous improvement of USDA programs and to provide equal access for all. The Ombudsperson works to identify barriers, if any, that may prevent or reduce the ability of members of socially disadvantaged groups to participate in USDA programs. The Ombudsperson’s recommendations are informed by review and evaluation of data relating to program participation by socially disadvantaged farmers and ranchers, as well as input and feedback provided by both external and internal stakeholders.

The Office provides an informal channel for stakeholders to highlight issues of concern relating to disadvantaged farmers’ and ranchers’ access to USDA programs. Specifically, the Office receives inquiries, input and feedback on issues relating to the accessibility of USDA programs to socially disadvantaged farmers and ranchers, serves as an early warning mechanism on program concerns and barriers to access, and provides confidential assistance to both external and internal stakeholders to highlight systemic issues relating to program access. However, the Office is not a substitute or alternative for the existing informal or formal complaint resolution channels at the USDA, including the Office of the Assistant Secretary for Civil Rights (OASCR). Depending on the nature of the concern or issue, other offices that may be involved include: the Office of Tribal Relations, the Office of the Inspector General, the Office of the General Counsel, the Office of Ethics, and the Office of the Secretary, among others.

The Ombudsperson does not process civil rights complaints, conduct formal investigations, adjudicate complaints, overturn prior decisions, make policy or operational decisions or receive official notice for USDA. Parties who wish to make a complaint for the USDA to investigate, to act on or formally document their concerns about access to USDA programs by socially disadvantaged farmers and ranchers must go through the OASCR or another appropriate office. The Office is a supplement to these formal avenues; it is neither a substitute nor a prerequisite to pursuing any of these channels. No one is required to use the services of the Office.

The Ombudsperson reports through the Secretary’s designees (General Counsel, Acting General Counsel); however, the Office of the Ombudsperson is an independent, separate, and distinct office. The Ombudsperson routinely reports systemic issues and trends to the USDA Secretary.

In the first and second year, there will be a phased roll out focusing on programs offered through the service center offices (e.g., Farm Service Agency, Natural Resources Conservation Service, and Rural Development Programs) and targeting specific states. By having a more targeted approach, this will allow USDA time to establish and launch the office.
Responsibilities

The Office of the Ombudsperson shall:

Refer Issues to USDA Offices and Resources

- Refer individuals to the appropriate USDA resources.
- Promote the use of alternative dispute resolution and similar techniques early to help address program civil rights concerns, including referrals to internal USDA alternative dispute resolution staff and state mediation center resources as appropriate.

Identify Issues Early

- Serve as an early warning mechanism on program concerns and accessibility of programs to socially disadvantaged farmers and ranchers.
- Work directly with the program offices and affected staff to try and resolve the concern or issue at the lowest possible level and as early as possible.

Highlight Systemic Concerns

- Receive information and questions from external and internal stakeholders about concerns relating to access to USDA programs by socially disadvantaged farmers and ranchers, with a particular focus on systemic issues.
- Make recommendations for the resolution of systemic problems and issues relating to program access by disadvantaged farmers and ranchers to those individuals who have the authority to act upon the concern.
- Gather, review, and analyze program-related relevant information and make general inquiries that focus on USDA services to socially disadvantaged farmers and ranchers. Consistent with Federal law and the Secretary’s direction, the Office will receive the full cooperation of the pertinent USDA agencies to access such information.
- Work with agency staff and teams who manage the collection and analysis of the program data; assist USDA in the interpretation and evaluation of existing data.
- Work with OASCR to review and analyze information related to program civil rights concerns by socially disadvantaged farmers and ranchers, including civil rights complaint and resolution data. Recommend methods to expedite processing times.
- Identify trends and opportunities to continuously improve the USDA processes and programs, or to prevent program-related problems and issues from recurring through recommendations to the Secretary, Under Secretaries, and Agency Administrators, the Assistant Secretary for Civil Rights and other Department officials and senior leaders.
- Provide aggregate information, trends and analyses regarding concerns and systemic program-related problems and issues in reports to the USDA Secretary and senior leadership as appropriate.
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The Office of the Ombudsperson shall not:

- Advocate for any one individual or group or entity or for a particular outcome.
- Make, change or set aside a law, policy, operational or administrative decision.
- Make binding decisions or management decisions.
- Compel any entity or any person to implement the Ombudsperson’s recommendations.
- Process civil rights complaints.
- Conduct formal investigations or adjudicate complaints.
- Accept an issue that is currently pending in a legal forum or the subject of a formal investigation or previously resolved through a settlement, consent decree or similar process.
- Act as a substitute for administrative or judicial proceedings.
- Act as a substitute for formal channels or participate in formal proceedings or overturn any final decisions.
- Accept claims or notice of claims on behalf of the USDA.
- Provide legal advice or determine rights.
- Testify or serve as a witness on matters brought to the Ombudsperson on any formal process or matter, unless required by law.
- Address internal human resources matters, union matters, workplace issues or individual Equal Employment Opportunity complaints. These types of concerns will be referred to the appropriate internal USDA resources.

Standards of Practice

The Ombudsperson and any staff to the Office shall strive to follow the International Ombudsman Association Code of Ethics and Standards of Practice (see links below), functioning independently within the organization, to be neutral and confidential and to limit the scope of its services to informal means of resolving concerns. The Ombudsperson shall assess and determine when it is appropriate to begin, continue, and end work on an issue or concern, and when it is appropriate to stop providing assistance on a matter.

http://www.ombudsassociation.org/IOA_Main/media/SiteFiles/Code_Ethics_1-07.pdf


Independence - The Ombudsperson and any associated staff shall be, and shall appear to be, free from interference in the legitimate performance of their duties. The Ombudsperson is not part of USDA management. The USDA affirms the right of individuals to seek assistance from the Office without fear of retaliation.
Neutrality and Impartiality - The Ombudsperson shall perform the duties in an impartial manner, free from bias and conflicts of interest. The Ombudsperson shall not advocate for individuals, groups or entities or take sides in any issue or advocate for a particular outcome. The Ombudsperson shall be an advocate for fair processes and fair administration, and shall be an advocate within the organization for change where the process and supporting data and information demonstrate such a need.

Confidentiality - Subject to the requirements of applicable law or regulations, the Office shall not disclose documents or provide testimony concerning the names of individuals or any information individuals provided to the Office in confidence. The Office may disclose, at its discretion, otherwise confidential information if it received permission from the individual to make the disclosure or if the Ombudsperson determines that disclosure is required to prevent clear and imminent danger to a person or property, or if the Ombudsperson determines that the information is related to a criminal act or potential fraud, waste, or abuse of government resources.

Informality - The Ombudsperson shall not formally investigate, arbitrate, adjudicate or in any other way participate in any internal or external formal process or action. Notes, if any, taken during the course of working on a matter shall be destroyed in accordance with an applicable record schedule or record disposition document. All the requirements of the Federal Records Act and all other applicable statutes and regulations will be met by this Office. The Office will retain non-identifying data and information for the purpose of analyzing and reporting trends regarding concerns and systemic problems.

The Secretary, United States Department of Agriculture, may amend this charter at any time.

Thomas J. Vilsack, Secretary
United States Department of Agriculture

Effective Date: APR 30 2015