



Agricultural Mediation Program

The Agricultural Credit Act of 1987 authorized the Secretary of Agriculture to help States develop the Department of Agriculture's (USDA) Certified State Mediation Programs and participate in those programs. The Farm Service Agency (FSA) administers the program.

Agricultural mediation is a way of settling disputes within a producer's own means. The program provides a neutral mediator who can resolve problematic issues. Instead of the years it can take for a case to filter through the courts, mediation generally takes only a few meetings to complete. Mediation helps resolve many different areas of agricultural disputes, including farm loans, wetland determinations, conservation compliance, and pesticides. In addition to formal mediation services, most of the certified States provide mediation training and consultation services to producers, lenders, and USDA agencies.

A critical feature of mediation is confidentiality in working out differences concerning farmers' and ranchers' business operations. Mediation documents are not to be used for any other legal action. This is one of the key requirements for State mediation certification.

Background

The Agricultural Credit Act of 1987 authorized an appropriation of

\$7,500,000 for each of the fiscal years (FY) 1988 through 1991, matching grants limited to the lesser of 50 percent or \$500,000 each year of the cost of any State program. Actual appropriations have been less than the authorization.

In 1992 the matching grant level was raised to 70 percent or \$500,000 each year of the cost of any State program. The program was expanded to include wetland determinations, conservation compliance, agricultural credit, rural water loan programs, grazing on national forest system lands, pesticides, and other issues the Secretary deems appropriate. The program also required that the appeal participant would be offered mediation if a USDA Certified State Mediation Program was available as part of the informal hearing process.

The Grain Standards and Warehouse Improvement Act of 2000 extended the popular program through fiscal year 2005. This Act also clarifies that grant funds must be used for farm credit cases (including USDA direct and guaranteed loans and loans from commercial entities) and may be used for other USDA program disputes. The Act also clarifies that mediation services can include counseling services to prepare parties to a dispute for mediation.

What is Mediation?

Mediation is a process in which a trained, impartial person--a mediator--helps people look at their mutual problems, identify and consider options, and determine if they can agree on a solution. A mediator has no decisionmaking authority. Unlike a judge or an arbitrator, a mediator cannot decide what is right or "make" anyone do anything. Successful mediation is almost always based on the voluntary cooperation and participation of all the parties.

USDA enters mediation to explore all available options to help agricultural producers, their creditors, and other persons directly affected by the actions of USDA to resolve disputes and reduce costs associated with administrative appeals, litigation, and bankruptcy.

How Does Mediation Work?

Mediation can be requested by any affected party at any time, but it usually takes place after USDA advises a customer that mediation is available before formal adverse action. The customer may request mediation or decline. If mediation is requested, State mediation officials contact the requesting party to get a list of potential participants and suggest steps the participants should take to prepare for mediation. The mediation

service then assigns one or more mediators to the case.

Participants may select or eliminate the mediators offered by the mediation service. Once a mediator is selected, all potential participants are advised that a mediation process is underway. Once an agreement is reached, the mediator makes it available to all participants.

If an agreement is not reached, the case is closed, all parties are advised of the outcome, and all remain free to pursue other legal actions. The main goal is to provide a low-cost alternative to expensive, lengthy litigation or bankruptcy.

Certification of State Mediation Programs

FSA helps States develop mediation services by determining whether a State program meets the following requirements:

1. By August 1 of each year, the Governor or designated State agency head notifies FSA of its interest in being certified and eligible to receive matching Federal support funds for its mediation program.
2. Mediation services must be provided to agricultural producers, creditors, and other persons directly affected by USDA actions to help them reach mutually agreeable settlement of their disputes.
3. The program must be authorized or administered by an

agency of the State government or by the Governor.

4. Training must be provided for mediators.
5. Confidentiality of the mediation process must be assured.
6. All lenders and borrowers of agricultural loans and, in cases of other issues covered by the mediation program, persons directly affected by USDA actions must be ensured of adequate notification of the mediation services available.

Matching State Grants

If all conditions are met, FSA certifies a State's mediation program and provides matching funds for up to \$500,000 or 70 percent (whichever is less) of the operating costs of the program, such as staff salaries and office expenses.

State Supplemental Mediation Agreement

Once a State's mediation program is certified, the FSA State Executive Director (SED) jointly develops an agreement describing procedural guidelines with the Governor's mediation officials and other USDA agencies. The SED confers with the State Attorney General's office, farm organizations, and affected departments of State governments, to ensure that all interested parties have an opportunity to participate.

National Performance

The USDA Agricultural Mediation Program has received significant recognition, including a National Association for Rural Mental Health

article citing the program's mental health benefits. The Center for Theology and Land lists the program in its Rapid Response Brochure, a resource for farmers. The National Association of State Departments of Agriculture (NASDA) passed a resolution supporting the expansion of agricultural mediation. NASDA further urged the expansion of mediation to include other Federal agencies that play a role in land and resource management.

The mediation program is often lauded by government officials, community leaders, and newspapers throughout the county for helping producers avoid expensive litigation and bankruptcy.

States participating in the program in FY 2001 are Alabama, Arizona, Arkansas, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.

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Fact Sheet

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