

Track B Checklist/Decision Tree

You must answer “yes” to all of these questions to be able to present a viable Track B claim:

1. Are you Native American?
 - Do you have any documents that will prove this? Example: a tribal enrollment card (“roll card”).
2. Did you farm or ranch or attempt to farm or ranch between January 1, 1981 and November 22, 1999?
 - Do you have any documents that will prove this? Examples: any records from your operation such as financial and accounting records, Farm Business Record Book, tax returns, bills, receipts, leases, contracts, equipment purchases.
3. Did you own, lease or attempt to own or lease, or have grazing rights on or authorization to use farm or ranch land?
 - Do you have any documents that will prove this? Examples: lease, deed, permits, land appraisal, real estate tax bill, etc.
4. Did you submit an application to USDA for a farm loan (ownership, operating, emergency) or for loan servicing between January 1, 1981 and November 22, 1999?
 - Do you have any documents that will prove this? Examples: application to Farmers Home Administration (FmHA) or Farm Service Agency (FSA), Farm and Home Plan, Farm Business Plan, DALR\$ Report (loan servicing analysis), and/or correspondence with USDA. Note: you have the right to obtain a copy of your loan file from USDA.
 - Attempting to apply, without actually submitting a written application is NOT sufficient for Track B. You must have evidence of actual application.
5. Did USDA’s treatment of you (denial of loan or loan servicing, inadequate loan or loan with unfair terms) cause you financial losses of more than \$50,000?
 - Do you have records that show the type of ranch or farm that you operated or planned to operate at the time of the unfair treatment by USDA? Examples: Farm and Home Plan, Farm Business Plan, Farm Business Record Book, loan application, promissory notes, tax returns, etc.
 - Economic analysis of records will be required to establish financial losses. Generally, you will need to hire the services of an Agricultural Economist to meet the needs of Track B. If you have relevant records, your attorney may be able to assist you in finding an agricultural economist to calculate your losses.
6. Do you believe that there were white farmers or ranchers in your area that received more favorable treatment from USDA than you did?
 - You MUST provide documents or a sworn statement which demonstrate that white farmers received loans or loan services in the same year or time period during which you allege mistreatment by USDA (FmHA or FSA). Note: if you do not know the names of the white farmers or ranchers, the information may be available from loan information that is public at the courthouse. Specifically, whenever someone receives a loan, information about the loan and the collateral pledged are recorded and available to the public. Your attorney can assist in obtaining that information.
 - A sworn statement from someone not related to you who has personal knowledge of a white farmer getting a loan could also be used.

7. Did you directly or through your tribe complain verbally or in writing to USDA about unfair treatment?

- Note: class counsel can assist in determining whether your tribe complained of discrimination on your behalf. If you do not have a copy of a complaint, a sworn statement from someone not related to you who knew of your complaint is sufficient.

If you cannot answer “Yes” to all seven of these questions, you may want to explore submitting a Track A claim instead which has a less difficult standard of proof.

Types of documents that will help you to prove a Track B claim:

1. Deeds, leases or grazing permits for farm or ranch
2. Tax returns for farm or ranch operation (Schedule C or F)
3. Farm Business Record Book (ledger of farm receipts, expenses, equipment, inventory of livestock, inventory of feed, seeds, crops etc.)
4. Equipment title, purchase and sale records
5. Other farm or ranch related financial records, bank statements, receipts, bills
6. Application to FmHA/FSA for farm loan or loan servicing
7. Farm and Home Plan or Farm Business Plan
8. Promissory Notes
9. DALR\$ analysis (for loan servicing)
10. Correspondence with USDA
11. Appraisals of land, buildings or equipment
12. Contracts for purchase of land

A sample Freedom of Information Act Request is attached, which you can complete and take to your local USDA Farm Service Agency Service Center to obtain a copy of your loan files.

USDA Farm Service Agency

Date: _____

FOIA Request for Copy of Borrower File and All Other Loan Records

Dear Sirs:

This is a Freedom of Information Act Request pursuant to 5 U.S.C. § 552 et seq., 7 U.S.C. § 1983(c) and 7 C.F.R. § 15.1 et seq. for a copy of my complete borrower file and all other loan records pertaining to USDA Farm Program Loans for which I am currently or in the past have been obligated.

This request is for personal use and not for commercial or institutional purposes.

Please respond to this request within twenty (20) business days. Thank you.

Sincerely yours,

(Print Name)

Address: _____

City: _____ State: _____ Zip: _____

Social Security Number: _____ Telephone #: _____

Signature: _____ Date: _____