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§ 5101. Qualifying States

(a) In general

A State is a qualifying State if the Secretary of Agriculture (hereinafter in this chapter referred to as the “Secretary”) determines that the State has in effect a mediation program that meets the requirements of subsection (c) of this section.

(b) Determination by Secretary

Within 15 days after the Secretary receives from the Governor of a State a description of the mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c) of this section, the Secretary shall determine whether the State is a qualifying State.

(c) Requirements of State mediation programs

(1) Issues covered

(A) In general

To be certified as a qualifying State, the mediation program of the State must provide mediation services to persons described in paragraph (2) that are involved in agricultural loans (regardless of whether the loans are made or guaranteed by the Secretary or made by a third party).

(B) Other issues

The mediation program of a qualifying State may provide mediation services to persons described in paragraph (2) that are involved in one or more of the following issues under the jurisdiction of the Department of Agriculture:

(i) Wetlands determinations.
(ii) Compliance with farm programs, including conservation programs.
(iii) Agricultural credit.
(iv) Rural water loan programs.
(v) Grazing on National Forest System land.
(vi) Pesticides.
(vii) Such other issues as the Secretary considers appropriate.

(2) Persons eligible for mediation

(A) In general

Subject to subparagraph (B), the persons referred to in paragraph (1) include—

(i) agricultural producers;
(ii) creditors of producers (as applicable); and
(iii) persons directly affected by actions of the Department of Agriculture.

(B) Voluntary participation

(i) In general
Subject to clause (ii) and section 5103 of this title, a person may not be compelled to participate in mediation services provided under this Act.

(ii) State laws

Clause (i) shall not affect a State law requiring mediation before foreclosure on agricultural land or property.

(3) Certification conditions

The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

(B) is authorized or administered by an agency of the State government or by the Governor of the State;

(C) provides for the training of mediators;

(D) provides that the mediation sessions shall be confidential;

(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.

(d) Definition of mediation services

In this section, the term “mediation services”, with respect to mediation or a request for mediation, may include all activities related to—

(1) the intake and scheduling of cases;

(2) the provision of background and selected information regarding the mediation process;

(3) financial advisory and counseling services (as appropriate) performed by a person other than a State mediation program mediator; and

(4) the mediation session.


References in Text

This Act, referred to in subsec. (c)(2)(B)(i), is Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1662, as amended, known as the Agricultural Credit Act of 1987. Provisions relating to mediation services are contained in title V of the Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

Amendments

2000—Subsec. (c)(1), (2). Pub. L. 106–472, § 306(a)(1), added pars. (1) and (2) and struck out former pars. (1) and (2), which required State mediation program to provide services for producers, their creditors, and other persons involved in agricultural loans, or involved in agricultural loans and such issues as wetlands determinations, compliance with farm programs, agricultural credit, rural water loan programs, grazing on National Forest System lands, pesticides, or such other issues considered appropriate.


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§ 5102. Matching grants to States

(a) Matching grants

Within 60 days after the Secretary certifies the State as a qualifying State under section 5101 (b) of this title, the Secretary shall provide financial assistance to the State, in accordance with subsection (b) of this section, for the operation and administration of the mediation program.

(b) Amount of grant

(1) In general

Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) of this section not more than 70 percent of the cost of the operation and administration of the mediation program within the State.

(2) Maximum amount

The Secretary shall not pay more than $500,000 per year to a single State under subsection (a) of this section.

(c) Use of grant

(1) In general

Each State that receives an amount paid under subsection (a) of this section shall use that amount only for the operation and administration of the mediation program of the State with respect to which the amount was paid.

(2) Operation and administration expenses

For purposes of paragraph (1), operation and administration expenses for which a grant may be used include—

(A) salaries;

(B) reasonable fees and costs of mediators;

(C) office rent and expenses, such as utilities and equipment rental;

(D) office supplies;
(E) administrative costs, such as workers’ compensation, liability insurance, the employer’s share of Social Security, and necessary travel;
(F) education and training;
(G) security systems necessary to ensure the confidentiality of mediation sessions and records of mediation sessions;
(H) costs associated with publicity and promotion of the mediation program;
(I) preparation of the parties for mediation; and
(J) financial advisory and counseling services for parties requesting mediation.

(d) Penalty

If the Secretary determines that a State has not complied with subsection (c) of this section, such State shall not be eligible for additional financial assistance under this chapter.


Amendments

1994—Subsecs. (a), (b)(1), (c). Pub. L. 103–354 struck out “agricultural loan” before “mediation program”.
Subsec. (c). Pub. L. 102–554, § 22(2), inserted before period at end “with respect to which the amount was paid”.

§ 5103. Participation of Federal agencies

(a) Duties of Secretary of Agriculture

(1) In general

The Secretary, with respect to each program or agency under the jurisdiction of the Secretary—
(A) shall prescribe rules requiring each such program or agency to participate in good faith in any State mediation program certified under section 5101 of this title;
(B) shall participate in mediation programs certified under section 5101 of this title; and
(C) shall—
   (i) cooperate in good faith with requests for information or analysis of information made in the course of mediation under any mediation program certified under section 5101 of this title; and
   (ii) if applicable, present and explore debt restructuring proposals advanced in the course of such mediation.

(2) Nonbinding on Secretary

The Secretary shall not be bound by any determination made in a program described in section 5101 of this title if the Secretary has not agreed to such determination.

(b) Duties of Farm Credit Administration

The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System—

(1) to cooperate in good faith with requests for information or analysis of information made in the course of mediation under any mediation program described in section 5101 of this title; and
(2) to present and explore debt restructuring proposals advanced in the course of such mediation.
§ 5104. Regulations

The Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this chapter. The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.


Amendments

1994—Pub. L. 103–354 in first sentence substituted “The” for “Within 150 days after January 6, 1988, the” and inserted at end “The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.”

§ 5105. Report

Not later than January 1, 1998, the Secretary of Agriculture shall report to Congress on—

(1) the effectiveness of the State mediation programs receiving matching grants under this chapter;
(2) recommendations for improving the delivery of mediation services to producers; and
(3) the savings to the States as a result of having a mediation program.

Amendments


§ 5106. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter $7,500,000 for each of the fiscal years 1988 through 2015.


Amendments


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