

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)
In re BLACK FARMERS DISCRIMINATION)
LITIGATION)

Misc. No. 08-mc-0511 (PLF)

_____)
This document relates to:)

_____)
ALL CASES)
_____)

**MOTION TO DESIGNATE CY PRES BENEFICIARIES AND APPROVE PARTIAL
DISTRIBUTION OF CY PRES FUNDS PURSUANT TO SETTLEMENT AGREEMENT**

Pursuant to Section V.E.13 of the Settlement Agreement in this matter,¹ Lead Class Counsel respectfully move the Court to approve the distribution of \$4,208,425 of the total \$12,030,716 cy pres funds, which are the settlement funds remaining after all of the successful claimants have cashed their settlement checks or failed to cash their settlement checks within the time frame allowed by the Court. The specific organizations and amounts that Lead Class Counsel are recommending for a distribution of cy pres funds at this time are listed below.

¹ The Settlement Agreement (Docket No. 170, Ex. 2) was approved by the Court's Order and Judgment entered on October 27, 2011 (hereinafter "Settlement Order"). Docket No. 231. The Court subsequently approved revisions to Section V.E.13 of the Settlement Agreement on August 27, 2013 (Docket No. 381) and April 7, 2014 (Docket No. 405), and March 31, 2016 (Docket No. 457).

THE CY PRES PROVISION OF THE SETTLEMENT AGREEMENT

Section V.E.13 of the Settlement Agreement, as modified, states:

In the event there is a balance remaining in the Designated Account after the last check has been cashed, the last check has been invalidated due to passage of time, and after the passage of time set forth in Section V.E.12, Class Counsel may then move the Court to designate “Cy Pres Beneficiaries” and propose an allocation of the available cy pres funds among such proposed Cy Pres Beneficiaries. A Cy Pres Beneficiary must be either (a) a law school that has a low-income taxpayer clinic or program that provides tax advice or assistance to Class Members who have received an award under the Settlement Agreement and that has been approved by the Court or (b) a tax-exempt non-profit organization, other than a law firm, legal services entity, or educational institution, that is providing agricultural, business assistance, or advocacy services, including assistance under *Pigford* and the Consolidated Case, to African American farmers. If a Subparagraph (a) Cy Pres Beneficiary is approved by the Court, then the Court shall determine the reasonable payment to be made to such Beneficiary from any balance in the Designated Account. Following any payment to a Subparagraph (a) Beneficiary, the Court shall designate the Subparagraph (b) Cy Pres Beneficiaries and determine how much of the available cy pres funds each such beneficiary shall receive. The Claims Administrator shall send to each Cy Pres Beneficiary, via first class mail, postage prepaid, a check in the amount of the Beneficiary’s share.

On April 8, 2016, the Court held that it would enforce the cy pres provision of the Settlement Agreement, as modified, and directed class counsel to “begin the process of identifying potential cy pres beneficiaries as contemplated by Section V.E.13.” (Docket No. 458).

THE CY PRES REVIEW PROCESS

Section V.E.13 imposes on Class Counsel the responsibility both for identifying organizations that qualify for receiving a grant of cy pres funds and for recommending to the Court “an allocation of the available cy pres funds among such proposed Cy Pres Beneficiaries.”

Because of the importance of ensuring that the cy pres funds are utilized in a manner that will have a significant and positive impact on African-American farmers, Lead Class Counsel concluded that their ability to fulfill their obligations with respect to the Settlement Agreement's cy pres funds would be substantially enhanced if they could draw on the experience and expertise of an experienced grantmaking organization with knowledge of farming programs. Lead Class Counsel identified Farm Aid, Inc. as the grantmaking organization with the experience and expertise in the farming community best positioned to act as a technical consultant to assist Lead Class Counsel in performing their cy pres implementation obligations under the Settlement Agreement. The Court approved Lead Class Counsel's engagement of Farm Aid in this role, and approved limited compensation for Farm Aid from unexpended settlement implementation funds, on March 28, 2017. Docket No. 486.

In order to solicit applications from a wide range of potentially eligible organizations, Lead Class Counsel worked with Farm Aid to develop an application for organizations interested in receiving a grant of cy pres funds as well as explanatory materials in the form of a Request for Proposals and FAQ's (Frequently Asked Questions). These materials were posted on a BFDL Cy Pres Website – www.blackfarmercase.com/CyPres.aspx – to ensure that they were available to all potentially eligible organizations.² A two-month time period – from July 31 to September

² For the reasons set forth below, Lead Class Counsel decided to recommend a two-phase distribution of cy pres funds, and potential applicants were advised that Lead Class Counsel expected to recommend that the Court approve an initial – “Phase I” – distribution of approximately \$4 million with the remaining cy pres funds to be distributed in a subsequent “Phase II.”

29, 2017 – was established for interested organizations to submit their applications for Phase I cy pres funds.³

To ensure that a full range of potentially eligible organizations received notice of the availability of cy pres funds and information about the application process, Farm Aid, on behalf of Class Counsel, sought to compile the broadest possible list of such organizations. It consulted with Class Counsel regarding those organizations that had assisted with the *Pigford* action and/or the instant action. Farm Aid also consulted its own records of organizations known to have served African-American farmers or ranchers and conducted research on these organizations,³ and it also searched records of organizations that had received grants or were known to be members of networks that have provided eligible services to African-American farmers and ranchers. Then, in addition to posting the relevant information on the Cy Pres Website, Farm Aid circulated an announcement of the Request for Proposals (“RFP”) to such organizations to inform them of the cy pres process. Although educational institutions are not eligible for cy pres grants under the terms of the Settlement Agreement, Farm Aid also reached out to 1890 Land-Grant Institutions and agricultural funding networks to request that they pass on information about the cy pres process to potentially eligible organizations with which they were familiar. Farm Aid also conducted a technical assistance webinar to provide information to and respond to questions from potentially eligible organizations about the cy pres process and then made this webinar available online. Further, to facilitate the submission of applications by

³ Copies of the Request for Proposals, the Grant Application form, and the FAQs posted on the Cy Pres Website are attached hereto as Exhibit A.

the deadline, Farm Aid both sent emails to potentially eligible organizations at the three, two, and one week marks before the application deadline and also, for those potentially eligible organizations with known telephone numbers, Farm Aid placed telephone calls the week before the application deadline.

In response to the Request for Proposals, 39 organizations submitted grant applications for an award of cy pres funds pursuant to Section V.E.13(b) of the Settlement Agreement.⁴ The total amount sought by these organizations totaled more than \$16 million.

Upon receiving these applications, Farm Aid conducted a preliminary review of the applications and identified those applicants that appeared to not satisfy the requirements of the Settlement Agreement for a cy pres award. Class Counsel reviewed Farm Aid's assessment of the eligibility of these organizations and concluded that 4 applicants did not meet the criteria for an award of cy pres funds pursuant to Section V.E.13(b).⁵

Lead Class Counsel, with the assistance of Farm Aid, then conducted a careful review of the applications submitted by each of the potentially eligible organizations. In considering

⁴ Section V.E.13(b) provides for cy pres grants to be made to a "tax-exempt non-profit organization, other than a law firm, legal services entity, or educational institution, that is providing agricultural, business assistance, or advocacy services, including assistance under Pigford and the Consolidated Case, to African American farmers." Section V.E.13(a) of the Settlement Agreement provides for a cy pres grant to "a law school that has a low-income taxpayer clinic or program that provides tax advice or assistance to Class Members who have received an award under the Settlement Agreement and that has been approved by the Court." One law school, the University of the District of Columbia School of Law seeks an award pursuant to this provision of the Settlement Agreement. Thus, a total of 39 organizations were considered for grants by Lead Class Counsel.

⁵ These organizations were found to be ineligible for a distribution of cy pres funds because (1) they failed to satisfy the requirements of the Settlement Agreement, (2) they failed to demonstrate that they had provided meaningful eligible services to African-American farmers or ranchers operating in rural/non-urban areas of the United States within the established timeframe, and/or (3) they failed to provide certain essential documents or information.

which organizations to recommend for grants and the amount of Phase I funds to allocate to the various applicants, Lead Class Counsel considered a range of factors, including: (1) the extent to which the organization historically has provided meaningful agricultural and/or business assistance or advocacy services, including in connection with the *Pigford* and the Consolidated BFDL cases, to African-American farmers and/or ranchers operating in rural/non-urban areas of the United States; (2) the extent to which the organization is presently providing meaningful agricultural and/or business assistance or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the United States; (3) the impact of the organization's past and present work on behalf of African-American farmers; (4) the likely impact of the grant in strengthening, stabilizing, and/or increasing the capacity of the applicant organization; (5) the immediate needs of the organization; and (6) the extent to which the organization is providing services that are unique in nature or directed toward a critical geographic area.

ARGUMENT

A. The Total Amount of Recommended "Phase I" Grants

The amount of available *cy pres* funds – \$12,030,716 – is substantially higher than the parties anticipated at the time the Settlement Agreement was approved by the Court. In considering whether to recommend that all of the available *cy pres* funds be distributed at one time, Lead Class Counsel concluded that several factors weighed in favor of a two-phase distribution process, with Phase I funds being granted within a few months (by late 2017 or early 2018) and Phase II funds being awarded beginning approximately two years later. First, a

number of potentially eligible organizations may be facing immediate financial challenges, such that it could be important to them to receive a grant sooner rather than later to help stabilize and sustain them. Second, a longer second phase of the cy pres process may afford the organizations time to develop innovative, impactful, and collaborative programs that would be more difficult to develop and present in a shorter timeframe. Third, a second phase of the cy pres process will afford Class Counsel the opportunity to seek input and engagement from African-American farmers and ranchers, advocates, and allies in terms of the most strategic and impactful ways the cy pres funds can be used to promote and support African-American farmers. Fourth, a two-phase cy pres process will enable review of the program performance of grantees and their compliance with grant terms as part of the Phase II process, which is consistent with best practices of grantmaking organizations.

These considerations led Class Counsel to advise potential applicants that Class Counsel expected to recommend that the Court approve approximately \$4,000,000 in Phase I grants to be distributed promptly, with the remaining funds (approximately \$8,000,000) to be distributed as part of a Phase II process. The total amount sought by the organizations that submitted Phase I cy pres applications was a bit more than \$16 million. Having reviewed and assessed these applications, Lead Class Counsel continue to believe that a two-phase grantmaking process is appropriate, and that distribution of approximately one-third of the available cy pres funds in the initial phase is reasonable. Specifically, Lead Class Counsel recommend that a total of \$4,208,425 of the cy pres funds be distributed now, and that the

remaining cy pres funds be distributed in a second phase, which would begin in approximately two years.

B. The Recommended Section V.E.13(a) Grantee

Section V.E.13 states that before cy pres funds are distributed to eligible organizations pursuant to subsection (b) of Section V.E.13, the Court should determine the reasonable amount to be paid to any law schools that qualify under subsection (a) as “a law school that has a low-income taxpayer clinic or program that provides tax advice or assistance to Class Members who have received an award under the Settlement Agreement and that has been approved by the Court.” Section V.E.13(a). Only one such Court-approved law school provided such tax advice and assistance: the University of the District of Columbia School of Law (“UDC School of Law”).

In 2014, at the request of Class Counsel, the UDC School of Law Low-Income Taxpayer Clinic (“UDC LITC”) established a program to provide tax information and general guidance to claimants who had received or would be receiving an award under the Settlement Agreement. The UDCL LITC created and operated a toll-free hotline for class members to call with tax questions related to their receipt of payments under the Settlement Agreement, with the hotline receiving more than 5,000 calls. The UDC LITC also prepared informational materials and sent a mailing containing these materials to each of the more than 15,000 class members who had been approved for a payment of settlement funds in order to advise them that the settlement funds were taxable income and to encourage them to call the hotline that had

been established. In addition, the UDC LITC developed a website to provide class members with answers to frequently-asked tax questions (FAQs) related to the settlement payments they received and also produced a video to communicate important tax information.

In performing these tasks to assist class members, UDC LITC staff devoted more than 600 hours, for which the law school paid compensation of \$21,408. In addition, the UDC LITC incurred \$7,016.65 in direct expenses for the hotline, website, and other elements required to provide the above-described tax information and assistance. The costs of this tax assistance program incurred by the UDC School of Law therefore totaled \$28,424.65. This expenditure was manifestly reasonable in light of the thousands of claimants to whom the UDC LITC provided assistance, and Lead Class Counsel therefore move the Court to approve a payment of \$28,425.65 in cy pres funds to the UDC School of Law pursuant to Section V.E.13(a) of the Settlement Agreement.

C. The Recommended Section V.E.13(b) Grantees

In accordance with Section V.E.13(b), the second type of organization potentially eligible for a grant of cy pres funds under the Settlement Agreement is “a tax-exempt non-profit organization, other than a law firm, legal services entity, or educational institution, that is providing agricultural, business assistance, or advocacy services, including assistance under Pigford and the Consolidated Case, to African American farmers.” Thirty-eight organizations applied for cy pres funds under this provision of the Settlement Agreement.

Lead Class Counsel recommend to the Court that the organizations listed in the table below (in addition to the V.E.13(a) grantee discussed above) receive a portion of the Phase I cy pres funds in the amounts indicated below.⁶ All of these organizations have provided and are currently providing important agricultural, business assistance, and/or advocacy services for African American farmers. Many of these organizations played important roles in connection with the *Pigford* litigation and/or the current Consolidated Case. These organizations are based in different states and are diverse in their geographic reach; thus, some have a national or regional reach and others focus on assisting farmers in a specific state or county within a state.⁷

Proposed Cy Pres Phase I Grants

	Organization ⁸	Recommendation	Location
1.	Arkansas Land and Farm Development Corporation [Fiscal sponsor – Arkansas Land and Community Development Corp.]	\$250,000	AR
2.	Black Farmers and Agriculturalists Association	\$125,000	NC
3.	Black Oaks Center for Sustainable and Renewable Living	\$45,000	IL

⁶ The 13 potentially eligible applicant organizations not recommended for Phase I funding fell short in various ways. Some failed to satisfy the criteria for grants set forth in the Settlement Agreement. Lead Class Counsel concluded that others did not provide substantial agricultural, business, or advocacy services to African American farmers. None of these organizations provided substantial assistance to African American farmers in connection with the *Pigford* case or the Consolidated Case, and some had either no substantial historical record and/or no current record of service to African American farmers. Finally, the purposes for which some of these organizations sought cy pres funds were not in keeping with the purpose of the Phase I grants. Despite these various issues, some of the Phase I applicants may qualify for cy pres grants as part of the Phase II process.

⁷ Additional information about these organizations is contained in the table attached as Exhibit B.

⁸ Two of the organizations recommended for Phase I grants – the Arkansas Land and Farm Development Corporation and the Southeastern African-American Organic Network – operate under the fiscal sponsorship of Section 501(c)(3) entities. Accordingly, grants to these two recommended organizations would be paid to their fiscal sponsors for the benefit of the recommended grantees for the purpose of conducting the work proposed in their applications.

4.	East Arkansas Enterprise Community	\$75,000	AR
5.	Farm Research Cooperative	\$45,000	MI
6.	Farm to Grow, Inc.	\$45,000	CA
7.	Federation of Southern Cooperatives	\$1,500,000	GA
8.	Kansas Black Farmers Association	\$45,000	KS
9.	Mississippi Family Farmers	\$150,000	MS
10.	Mississippi Minority Farmers Alliance	\$75,000	MS
11.	Morehouse Black Farmers and Landowners	\$20,000	LA
12.	National Black Farmers Association	\$300,000	VA
13.	National Family Farmers Coalition	\$45,000	DC
14.	North Carolina Minority Farmers	\$20,000	NC
15.	North-South Institute	\$75,000	FL
16.	Oklahoma Black Historical Research Project	\$250,000	OK
17.	Operation Spring Plant	\$45,000	NC
18.	Rural Advancement Foundation International	\$75,000	NC
19.	Rural Advancement Fund	\$200,000	SC
20.	Rural Coalition	\$200,000	DC
21.	Southeastern African-American Organic Network [Fiscal sponsor – Inquiring Systems, Inc.]	\$100,000	GA
22.	Southwest Georgia Project	\$250,000	GA
23.	United Farmers, USA	\$100,000	SC
24.	Whitaker Small Farm Group	\$45,000	NC
25.	Winston County Self Help Cooperative	\$100,000	MS
	Total	\$4,180,000	

To provide accountability in the use of the cy pres funds, Lead Class Counsel propose that half of each recommended grant to the 25 proposed V.E.13(b) grantees be distributed immediately and that the second half be distributed on or about February 1, 2019, provided that the recipient organization has provided a report to Lead Class Counsel demonstrating the manner in which the first half of the Phase I cy pres funds have been expended and the impact of such expenditure on the community served by the organizations, the progress made toward

reaching proposed outcomes for the organization and/or community served by the organization, and an indication of internal and external circumstances that may have changed its ability to meet outcomes.

D. Overview of the Proposed Phase II Process and Recommended Grant of Supplemental Phase I Cy Pres Award to Support Conference of Black Farm Organizations and Farmers to Identify Strategic Funding Priorities for Phase II.

Lead Class Counsel hope that the more than \$8 million of cy pres funds available for distribution to eligible organizations in Phase II can be used to support and build a robust, sustained, and empowered African-American farming community in America. To achieve this end, it is important that the groundwork for Phase II begin immediately.

Lead Class Counsel seek to convene a meeting in early 2018 of Phase I cy pres grant recipient organizations, African-American farmers and ranchers, and other stakeholders for the purpose of developing a shared vision and identifying strategic priorities for a thriving African-American farming community.⁹ The goals for this “Phase II Conference” include:

- (1) Creating an opportunity for African-American farmers and ranchers and the organizations that serve them to make further connections and develop new and stronger networks to enhance their collective efforts.
- (2) Identifying the forces inhibiting African-American farmers and ranchers and exploring how the Phase II cy pres funds could be used to address these issues and to expand support and resources for African-American farmers and ranchers; and

⁹ In the announcement of the Cy Pres Process posted on the Settlement website, Lead Class Counsel stated: “In preparation for Cy Pres Phase II Grants, Lead Class Counsel seek to engage African-American farmers and ranchers, advocates, and allies to identify strategic funding priorities for the Cy Pres Phase II Grant recommendation process, likely beginning with a convening of leaders in early 2018 in the South.”

(3) Beginning the process of developing a common vision of how African-American farmers and ranchers and the organizations that serve them can harness the valuable strengths they possess, along with Phase II cy pres funds, to support and sustain a thriving and vibrant African-American agricultural community.

Lead Class Counsel envision attendance at the proposed Phase II Conference of approximately 75 to 100 attendees representing the full range of organizations that have and/or are currently providing assistance to African-American farmers (including, but not limited to, the organizations recommended for Phase I cy pres grants), African-American farmers and ranchers, and other stakeholders. For this conference to achieve its important intended goals, it will be essential both to engage appropriate personnel to help plan and facilitate the meeting and to underwrite the costs of the meeting. Lead Class Counsel also believes it is important to defray at least a portion of the travel costs of attendees who would need to travel from out of town to attend the meeting. It is estimated that the costs of the Phase II Conference would be approximately \$100,000.

Under the terms of the Settlement Agreement, the only organizations eligible to receive cy pres funds are a “tax-exempt non-profit organization, other than a law firm, legal services entity, or educational institution that is providing agricultural, business assistance, or advocacy services, including assistance under Pigford and the Consolidated Case, to African American farmers.” Lead Class Counsel therefore propose that up to \$100,000 of cy pres funds be granted to the Federation of Southern Cooperatives, an historically significant organization and the largest of the proposed Phase I cy pres recipients, for the dedicated purpose of organizing

and funding the costs of the proposed Phase II Conference under the direction of Lead Class Counsel.¹⁰

Respectfully submitted,

/s/ Henry Sanders

Henry Sanders
CHESTNUT, SANDERS, SANDERS,
PETTAWAY & CAMPBELL, LLC
One Union Street
Selma, AL 36701
Tel: (334) 875-9264
Fax: (334) 875-9853

/s/ Andrew H. Marks

Andrew H. Marks
D.C. Bar No. 932269
COFFEY BURLINGTON P.L.
2601 South Bayshore Drive
Miami, FL 33133
Tel: (305) 858-2900
Fax: (305) 858-5261

/s/ Gregorio A. Francis

Gregorio A. Francis
MORGAN & MORGAN, PA
20 North Orange Avenue, #1600
Orlando, FL 32801
Tel: (407) 420-1414

Dated: December 8, 2017

¹⁰ Lead Class Counsel are also attempting to identify private foundations that would be willing to assist in underwriting the costs of the Phase II Conference. While it is not expected that such private funding would be sufficient to underwrite the entire cost of the conference, the hope is that such funding would reduce the amount of the cy pres funds required for a productive conference.

CERTIFICATE OF SERVICE

I certify that on December 8, 2017, I served the attached Motion via ECF on all counsel of record.

/s/ Andrew H. Marks

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

In re BLACK FARMERS DISCRIMINATION LITIGATION)	
This document relates to:)	Misc. No. 08-mc-0511 (PLF)
ALL CASES)	

[PROPOSED] ORDER

Upon consideration of the Unopposed Motion to Designate Cy Pres Beneficiaries and Approve Partial Distribution of Cy Pres Funds, and the entire record herein, it is hereby

ORDERED that the Claims Administrator shall within twenty (20) days of the date of this Order distribute from the remaining settlement funds the amounts set forth below to the following organizations:

Arkansas Land and Community Development Corporation <i>as fiscal sponsor for the benefit of</i> Arkansas Land and Farm Development Corporation	\$125,000
Black Farmers and Agriculturalists Association	\$62,500
Black Oaks Center for Sustainable and Renewable Living	\$22,500
East Arkansas Enterprise Community	\$37,500
Farm Research Cooperative	\$22,500
Farm to Grow, Inc.	\$22,500
Federation of Southern Cooperatives	\$750,000
Kansas Black Farmers Association	\$22,500
Mississippi Family Farmers	\$75,000
Mississippi Minority Farmers Alliance	\$37,500
Morehouse Black Farmers and Landowners	\$10,000

National Black Farmers Association	\$150,000
National Family Farmers Coalition	\$22,500
North Carolina Minority Farmers	\$10,000
North-South Institute	\$37,500
Oklahoma Black Historical Research Project	\$125,000
Operation Spring Plant	\$22,500
Rural Advancement Foundation International	\$37,500
Rural Advancement Fund	\$100,000
Rural Coalition	\$100,000
Inquiring Systems, Inc. <i>as fiscal sponsor for the benefit of</i> Southeastern African-American Organic Network	\$50,000
Southwest Georgia Project	\$125,000
UDC School of Law	\$28,425
United Farmers, USA	\$50,000
Whitaker Small Farm Group	\$22,500
Winston County Self Help Cooperative	\$50,000

and it is further

ORDERED that the Claims Administrator in 2019 shall, within twenty (20) days after receiving a request from Lead Class Counsel, distribute to the following organizations the amounts set forth below from the remaining settlement funds:

Arkansas Land and Community Development Corporation <i>as fiscal sponsor for the benefit of</i> Arkansas Land and Farm Development Corporation	\$125,000
Black Farmers and Agriculturalists Association	\$62,500
Black Oaks Center for Sustainable and Renewable Living	\$22,500
East Arkansas Enterprise Community	\$37,500
Farm Research Cooperative	\$22,500
Farm to Grow, Inc.	\$22,500
Federation of Southern Cooperatives	\$750,000
Kansas Black Farmers Association	\$22,500
Mississippi Family Farmers	\$75,000
Mississippi Minority Farmers Alliance	\$37,500

Morehouse Black Farmers and Landowners	\$10,000
National Black Farmers Association	\$150,000
National Family Farmers Coalition	\$22,500
North Carolina Minority Farmers	\$10,000
North-South Institute	\$37,500
Oklahoma Black Historical Research Project	\$125,000
Operation Spring Plant	\$22,500
Rural Advancement Foundation International	\$37,500
Rural Advancement Fund	\$100,000
Rural Coalition	\$100,000
Inquiring Systems, Inc. <i>as fiscal sponsor for the benefit of</i> Southeastern African-American Organic Network	\$50,000
Southwest Georgia Project	\$125,000
United Farmers, USA	\$50,000
Whitaker Small Farm Group	\$22,500
Winston County Self Help Cooperative	\$50,000

and it is further

ORDERED that that the Claims Administrator shall, promptly upon request of Lead Class Counsel, distribute to the Federation of Southern Cooperatives up to \$100,000 from the remaining settlement funds for the purpose of working with Lead Class Counsel to organize and fund the costs of a Phase II Conference.

SO ORDERED.

PAUL L. FRIEDMAN
United States District Judge

DATE: _____

EXHIBIT A

Black Farmers Discrimination Litigation Cy Pres Funds Phase I Grants REQUEST FOR PROPOSALS

SUMMARY

Lead Class Counsel in the *In re Black Farmers Discrimination Litigation* (Consolidated Case) are pleased to announce details about the Black Farmers Discrimination Litigation (BFDL) Cy Pres Funds, which are approximately \$12 million in settlement funds remaining following the final deadline for successful claimants to cash their settlement checks. Awards from the BFDL Cy Pres Funds will be made to eligible tax-exempt nonprofit organizations serving African-American farmers and/or ranchers according to the intent of the Consolidated Case Settlement Agreement.

It is expected that BFDL Cy Pres Funds will be distributed in two distinct phases: Cy Pres Phase I Grants and Cy Pres Phase II Grants. **This Request for Proposals (RFP) is for Cy Pres Phase I Grants, opening Monday, July 31, 2017 and closing Friday, September 29, 2017.** Lead Class Counsel expect to recommend that up to one-third (approximately \$4 million) of the total BFDL Cy Pres Funds be eligible for disbursement through the Cy Pres Phase I Grants process. The purpose of Cy Pres Phase I Grants is to stabilize and/or grow the capacity of nonprofit organizations with both a historic (prior to December 31, 2012) *and* a current record of providing meaningful agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the United States.

Lead Class Counsel hope to recommend to the U.S. District Court that Cy Pres Phase I Grants be awarded by the end of 2017. Funding recommendations will be made based on impact of current and past work, demonstration of organizational need, and availability of funds.

Following the Court's final decision on distribution of Cy Pres Phase I Grants, Lead Class Counsel expect to recommend that the remaining approximately \$8 million of the BFDL Cy Pres Funds be disbursed through Cy Pres Phase II Grants. In preparation for Cy Pres Phase II Grants, Lead Class Counsel will seek to engage African-American farmers and ranchers, advocates, and allies to identify strategic funding priorities for the Cy Pres Phase II Grant recommendation process. Lead Class Counsel currently anticipate that they will recommend that the Court approve the disbursement of Cy Pres Phase II Grants by no later than the end of 2019.

Lead Class Counsel have engaged Farm Aid as the technical consultant for the Cy Pres Phase I Grant process and as an advisor. Farm Aid has not, and will not receive any of the BFDL Cy Pres Funds. Farm Aid brings more than 30 years of experience in grant making and partnering with farm service organizations across the country, including numerous African-American agricultural nonprofits. Farm Aid is responsible for assisting Lead Class Counsel in the design and implementation of this RFP, processing Cy Pres Phase I Grant proposals, managing

communications with applicants, reviewing of proposals, monitoring of awards, and recordkeeping. Lead Class Counsel will make Cy Pres Phase I Grant recommendations to the Court. The U.S. District Court will make final decisions on any disbursement of BFDL Cy Pres Funds.

For any questions regarding the Cy Pres Phase I Grants RFP, please reference the Frequently Asked Questions (FAQ) document on www.blackfarmercase.com/CyPres

Enclosed are the following components of the BFDL Cy Pres Phase I Grants RFP:

- APPLICANT ELIGIBILITY AND ALLOWABLE USE OF FUNDS
- PROPOSAL TIMELINE AND REQUIREMENTS
- CONTACT INFORMATION
- ELIGIBILITY QUESTIONNAIRE
- PROPOSAL CHECKLIST

APPLICANT ELIGIBILITY AND ALLOWABLE USE OF FUNDS

- Applicant must be a 501(c)(3) nonprofit organization (or have a 501(c)(3) fiscal sponsor), other than a law firm, legal services entity, or educational institution, that is currently providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the United States.
- Applicant must demonstrate a historic track record (prior to December 31, 2012) of providing meaningful agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S., including (but not limited to) assistance under the *Pigford* case and/or the Consolidated Case.
- Applicants may request ONE of the following grant request options:
 - **General Operating Support.** Applicants seeking general operating support must demonstrate that the bulk of their organization's work provides meaningful agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S.
 - These unrestricted funds may be used where most needed, whether that be salaries and overhead, expanding or starting a program, investing in technology, improving fundraising efforts, debt repayment, capital expenditures, or otherwise.
 - Funds may NOT be used for re-granting or endowments.
 - It is recommended that the maximum funding request for general operating support not exceed one-third of an organization's annual operating budget per year for two years.¹
 - **Project Support.** Applicants seeking project support must demonstrate that the project or program for which they are seeking funding provides meaningful agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S., AND that the project or program has measurable positive impact.
 - These funds are restricted to a specific project or program that is providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S.
 - It is recommended that the maximum funding request for project support not exceed one-third of the annual project budget or projected annual project budget (for a new project) per year for two years.²
- The grant period for Cy Pres Phase I Grants is a maximum of 24 months, starting as early as January 2018 and ending in December 2019. Thus, the maximum recommended funding request should be based on a two-year budget. There will be reporting requirements for each year of the grant period.
- Applicants may receive a due diligence phone call to address outstanding questions regarding eligibility and organizational impact. **Please ensure a contact person is available**

between the dates of October 23, 2017 and November 3, 2017, as a grant recommendation may be contingent on information gathered through this call.

- It is recognized that organizations will have a range in capacity to write grant proposals, which will be considered in review.
- Financial information will be used to understand the needs of the organization. It is understood that some organizations will look to this RFP opportunity as means to stabilize their financial position.

¹ If an organization has an annual operating budget of \$600,000, for example, the maximum recommended funding request for each year would be \$200,000, for a total of \$400,000 over a two-year grant term.

² If a project budget is \$60,000 annually, for example, the maximum recommended funding request for each year would be \$20,000, for a total of \$40,000 over a two-year grant term.

PROPOSAL TIMELINE AND REQUIREMENTS

- The RFP for Cy Pres Phase I Grants was released at 12:00 p.m. Eastern Time on Monday, July 31, 2017.
- A completed Proposal, which includes the Cover Sheet, Application, and all required attachments, must be received by 11:59 p.m. Eastern Time on Friday, September 29, 2017. We cannot accept a Proposal as complete until we receive all required materials.
- Please submit your Proposal in PDF format to Submissions@BlackFarmerCyPres.com with the Applicant Organization's name in the subject line of the email submission. The Cover Sheet MUST accompany the Application. Please DO NOT mail a hard copy of your Cover Sheet and Application.
- To that email, please attach electronic PDF copies of required attachments with the Applicant Organization name and attachment name in the title of the document file (e.g. Organization Name IRS Letter of Determination.PDF, Organization Name Current Fiscal Year Budget.PDF, etc.)
- If you are unable to create electronic copies of required attachments, please enclose a cover memo (so that we can connect the document to your electronic Cover Letter and Application) and mail paper copies to:

Attn: BFDL Cy Pres Administrator
501 Cambridge St, 3rd Floor
Cambridge, MA 02141

- Representatives from the BFDL Cy Pres Team may contact applicants between Monday, October 23, 2017 and Friday, November 3, 2017 with clarifying questions regarding proposals. Please ensure a contact person is available during this timeframe, as a grant recommendation may be contingent on information gathered during this call.
- Lead Class Counsel hope to recommend that Cy Pres Phase I Grants be awarded by the end of 2017.

CONTACT INFORMATION

Proposal submissions: Submissions@BlackFarmerCyPres.com

Email Inquiries: Administrator@BlackFarmerCyPres.com

Phone Inquiries: 617-229-6483

Mailing address:
(for paper attachments only) Attn: BFDL Cy Pres Administrator
501 Cambridge St, 3rd Floor
Cambridge, MA 02141

ELIGIBILITY QUESTIONNAIRE

Please answer the following questions to determine if you are eligible to apply for Black Farmers Discrimination Litigation (BFDL) Cy Pres Phase I Grants.

1. Is my organization a 501(c)(3) tax-exempt nonprofit?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>If NO, go to Question 2 If YES, go to Question 3</i>	
2. Does my organization have a 501(c)(3) fiscal sponsor?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>If YES, go to Question 3 If NO, your organization is NOT eligible to apply for Cy Pres Phase I Grants</i>	
3. Is my organization a law firm, legal services entity, or educational institution? <i>Please refer to the Cy Pres Phase I Grants FAQ for definitions</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>If NO, go to Question 4 If YES, your organization is NOT eligible to apply for Cy Pres Phase I Grants</i>	
4. Can my organization demonstrate that it currently provides meaningful agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S.?	<input type="checkbox"/> YES <input type="checkbox"/> NO
5. Can my organization demonstrate that it provided meaningful agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S. prior to December 31, 2012?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<i>If YES to both Questions 4-5, your organization is eligible to apply for BFDL Cy Pres Phase I Grants If NO to either or both of Questions 4-5, your organization is NOT eligible to apply for Cy Pres Phase I Grants</i>	

PROPOSAL CHECKLIST:

Use this checklist to ensure you return a completed Proposal for Cy Pres Phase I Grants.

- A qualified representative of my organization or the 501(c)(3) fiscal sponsor applying on my organization's behalf has authorized the Application and signed the Cover Sheet.

The following sections have been completed in full:

- Cover Sheet
- Grant Request
- Proposal Narrative

The following attachments have been emailed as a PDF attachment or sent:

- An audit report for the most recently completed fiscal year. Or, if your organization is not required to conduct an annual audit, the following organizational statements for the most recently completed fiscal year:
 - Statement of Financial Position (balance sheet)
 - Statement of Activities (revenue and expenses)
 - Functional Expenses (expenses by program and supporting services), *if available*
- Organization's annual operating budget for current and upcoming fiscal year
- A list of funding sources for the current and upcoming fiscal year
- A list of key staff and board of directors
- IRS Letter of determination
- Documentation that evidences three examples of past work with African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S.
- A list of three external references familiar with your organization's work

For project support requests, these additional attachments have been attached or sent.

- Project budget for the current fiscal year
- Estimated project budget for the grant term
- A list of project funders
- (Optional) The BFDL Cy Pres Phase II Visioning Document

Black Farmers Discrimination Litigation Cy Pres Phase I Grants Cover Sheet

COVER SHEET

A. STATUS OF APPLICANT ORGANIZATION

Is your organization registered as a 501(c)(3) tax-exempt nonprofit?

YES: Skip to Section B

NO: To be eligible for a Cy Pres Phase I Grant, the applicant organization must be a tax-exempt nonprofit organization with 501(c)(3) status OR, if the work/project for which you are seeking funds has a fiscal sponsor with 501(c)(3) status, the fiscal sponsor must apply (and complete this Cover Sheet).

FOR FISCAL SPONSOR: If the work proposed in the Cy Pres Phase I Grant Proposal will be conducted by an organization/group under your "fiscal sponsorship," please complete the following contact information **for the Sponsored Organization/Group**:

Full Name of Sponsored Organization/Group: Enter Name

Mission Statement: Enter Mission Statement

Year Founded: Enter Year Year Partnered as Fiscal Sponsor: Enter Year

Website: Enter Website

Name of President/CEO/Exec. Dir.: Enter Name

Title: Enter Title Phone: Enter Phone

Email: Enter Email

Name of Contact Person(s) if different: Enter Name

Title: Enter Title Phone: Enter Phone

Email: Enter Email Fax: Enter Fax

B. APPLICANT ORGANIZATION/FISCAL SPONSOR INFORMATION

This section is to be filled out by the 501(c)(3) tax-exempt nonprofit applicant organization OR by the 501(c)(3) fiscal sponsor of the sponsored organization/group conducting the proposed work in the Cy Pres Phase I Grant Proposal. If awarded a Cy Pres Phase I Grant, the applicant organization/fiscal sponsor listed in this section will be the legal grantee and responsible accordingly, including reporting the grant in its IRS Form 990.

Full Legal Name of Applicant Organization/Fiscal Sponsor: Enter Name

Mission Statement of Applicant Organization/Fiscal Sponsor: Enter Mission Statement

Tax ID / Federal Employer Identification Number (EIN #): Enter EIN

Year founded: Enter Year Year received 501(c)(3) Status: Enter Year

Address: Enter Street Address

City: Enter City State: Enter State Zip: Enter Zip

Website: Enter Website

Name of President/CEO/Exec. Dir.: Enter Name

Title: Enter Title Phone: Enter Phone

Email: Enter Email

Name of Contact Person(s) if different: Enter Name

Title: Enter Title Phone: Enter Phone

Email: Enter Email Fax: Enter Fax

This Cy Pres Phase I Grant Proposal (Cover Sheet, Application, and all required attachments) is submitted by the applicant organization or fiscal sponsor named in Section B, above. I hereby verify that the information provided in the Cy Pres Phase I Grant Proposal is accurate to the best of my knowledge, authorize the Cy Pres Grant Administrator to contact the applicant or sponsored organization/group in reference to the information contained within the Cy Pres Phase I Grant Proposal, and certify that I am authorized to make this submission on behalf of the applicant organization or fiscal sponsor.

Authorizing signature: _____ Name: _____

Title: _____ Date: _____

Black Farmers Discrimination Litigation Cy Pres Phase I Grant Application

CY PRES PHASE I GRANT REQUEST

This Application is to be completed from the perspective of the applicant organization or sponsored organization/group (hereafter referred to as "organization") that will be carrying out the grant-supported work. It is recognized that organizations will have a range in capacity to write grant proposals, which will be considered in review.

Please enter answers in the form fields below, indicated by underlined grey text. Recommendations, not limits, for maximum word count are indicated by (gray text in parentheses).

Organization Name: Enter Organization Name

What type of funds are you requesting? (Select only one of the following two options)

- General Operating Support:** unrestricted; may be used where most needed, including salaries and overhead, expanding or starting a program, investing in technology, improving fundraising efforts, organizational debt repayment, capital expenditures, or otherwise. Funds may not be used for re-granting or endowments. Select this option if the **bulk of your organization's total work is providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S.**

Proposed grant period in number of months (up to 24 months allowed): XX Months

Total amount of request: \$ Enter Amount

It is recommended that the maximum funding request for general operating support not exceed one-third of an organization's annual operating budget per year for two years

Indicate what percentage of your general operating support request you intend to use for:

Enter Percent % programs

Enter Percent % supporting services (e.g. management/general and fundraising)

Enter Percent % organizational development (e.g. capacity building, staff training, organizational planning, etc.)

Enter Percent % organizational debt repayment

Enter Percent % other (please specify): Enter Other Use

- Project Support:** restricted; must only be used for eligible project or program expenses. Select this option if **only a portion (i.e. a project or program, but not the bulk) of your organization's work is providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S.**

Proposed grant period in number of months (up to 24 months allowed): XX Months

Total amount of request: \$ Enter Amount

It is recommended that the maximum funding request for project support not exceed one-third of the annual project budget per year for two years.

Project or Program name: Enter Project or Program Name

CY PRES PHASE I GRANT PROPOSAL NARRATIVE

A. BACKGROUND OF ORGANIZATION

1. If your organization has a vision or purpose statement, please state it below (if none, indicate N/A):

Enter Statement (100 Words)

2. Describe your organization's work, including its history, major accomplishments, and programs and services:

Enter Description (500 Words)

3. Describe the constituency(ies) served by your organization's work:

Enter Description (250 Words)

4. For Project Support request only, please describe the project or program for which you are requesting funding:

Enter Description (500 Words)

5. For Project Support request only, please describe the constituency(ies) served by the project or program described above:

Enter Description (250 Words)

6. Are you a member-based organization? NO YES; If Yes, indicate what percentage of your membership are African-American farmers and/or ranchers? Enter Percent %

7. What is your organizations' geographic scope of service? *Mark all that apply:*

Local

State

Regional/Multi-State - please specify which states: Enter States

National

B. SERVICES PROVIDED FOR AFRICAN-AMERICAN FARMERS AND/OR RANCHERS

1. Please describe the agricultural, business assistance, and/or advocacy services your organization provides for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S.? *Below the text box, please mark all services that apply, and specify as prompted.*

Enter Description (500 Words)

Agricultural Services

- Technical assistance and/or training (*please specify type of assistance and/or training:*

Enter Type)

- Farmer-to-farmer learning/networking
 Organic/sustainable transition/support
 Cooperative training
 Beginning farmer training (for farmers in first 1-3 years)
 Beginning farmer training (for farmers in years 4-10)
 Other: Enter Other Type of Service
 Other: Enter Other Type of Service

Business Assistance Services

- Financial counseling
 Business planning
 Marketing assistance:
 Direct markets
 Wholesale/retail supply chain development
 Cooperative development
 Farm to Institution
 Other: Enter Other Type of Service
 Other: Enter Other Type of Service

Advocacy Services

- Land acquisition and retention
 Access to credit/capital, assistance with loan applications and appeals
 Policy advocacy/policy development
 Emergency assistance/disaster response
 Hotline services
 Coalition/network development
 Mediation/legal services
 Other: Enter Other Type of Service
 Other: Enter Other Type of Service

2. Please also estimate the reach and percentage of total constituency served through the services listed above*. If this data is not readily available, please provide your best, good faith estimates.

- a. Historically (prior to December 31, 2012), our organization served approximately # Enter Number African-American farmers and/or ranchers **through agricultural, business assistance, and/or advocacy services**. This number represents Enter Percent % of our total constituency served during this historic timeframe.
- b. Currently (since January 1, 2013), our organization serves an annual average of # Enter Number African-American farmers and/or ranchers **through agricultural, business assistance, and/or advocacy services**. This number represents an annual average of Enter Percent% of our total constituency served.

**For example, if your organization currently serves 1,000 total constituents through the eligible services in question, and 100 of those are African-American farmers and/or ranchers, this would represent 10% of your total constituency served.*

3. Where do the African-American farmers and/or ranchers reached by your organization through the above-mentioned agricultural, business assistance, and/or advocacy services operate? *Please provide the percentage for each community type below the text box. If this data is not readily available, please provide your best, good faith estimates.*

Enter Description (250 Words)

Enter Percent % in a rural/non-urban community

Enter Percent % in an urban community

Enter Percent % in other community(ies) *Please specify:* Specify Type

4. How much of your organization's **total program budget*** is dedicated to providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S.? *If this data is not readily available, please provide your best, good faith estimates.*

Historically (prior to December 31, 2012), our organization spent an average of:

Enter Percent % of our annual program budget on agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S.

Currently (since January 1, 2013), our organization spends an average of:

Enter Percent % of our annual program budget on agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S.

Total program budget expenses include direct and indirect costs for **all programs; and do not include supporting services expenses for management/general and fundraising activities.*

- C. For Project Support requests only: How much of the **annual project budget*** is dedicated to providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S.? *If this data is not readily available, please provide your best, good faith estimates.*

Currently (since January 1, 2013), our organization spent an average of:

Enter Percent % of the annual project budget (for the project or program work referenced in this application) on agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S.

**Annual project budget expenses include all direct and indirect costs of conducting the project or program referenced in this application.*

D. IMPACT OF YOUR WORK ON AFRICAN-AMERICAN FARMERS AND/OR RANCHERS

1. **Current Impact:** Since January 1, 2013, what has been the impact of your agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas in the U.S.? *Please include examples of measures of impact using quantitative and qualitative data.*

Enter Description (500 Words)

2. **Historic Impact:** Describe the historic impact of the agricultural, business assistance, and/or advocacy services your organization provided to African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S. prior to December 31, 2012. *Please include examples of measures of impact using quantitative and qualitative data.*

Enter Description (500 Words)

3. **Assistance with Litigations:** If applicable, please describe the scope, nature, and impact of the services you provided to African-American farmers and/or ranchers in connection with the *Pigford* case and/or the Consolidated Case. *Please include examples of measures of impact using quantitative and qualitative data.*

Enter Description (500 Words)

E. CY PRES PHASE I GRANT REQUEST DESCRIPTION

Financial information will be used to understand the needs of the organization. It is understood that some organizations will look to this RFP opportunity as means to stabilize their financial position.

1. Briefly describe the opportunities or needs that the requested funding would address for stabilizing and/or growing the capacity of your organization or project:

Enter Description (500 Words)

2. Explain your organization's financial situation, including recent ups and downs, as well as the amount and reason for any deficit in the last five years:

Enter Explanation (250 Words)

3. Describe the work you will engage in with Cy Pres Phase I Grant funding, indicating the following:

- a. Anticipated outcomes (for your organization and the constituency served) for the grant term and up to 24 months after the grant term concludes. For General Operating Support requests, include capacity-building and/or organizational development outcomes, if applicable:

Enter Description (500 Words)

- b. Strategies and activities you will use to achieve these outcomes:

Enter Description (250 Words)

- c. Any changes in strategies and activities from what would be expected without Cy Pres Phase I Grant funding:

Enter Description (250 Words)

- d. A budget narrative indicating how grant funds will be used to support this work:

Enter Description (350 Words)

4. Describe any networks or collaborations that will support and/or further advance the work described in this proposal. *Please list your strategic partners and describe your shared work:*

Enter Description (350 Words)

5. Briefly describe your plan to measure and determine progress toward your anticipated outcomes over the grant term and up to 24-months after the grant term concludes, including:
- What methods will you use to assess your impact and incorporate new learning into your work?
 - What key questions will you be addressing in your evaluation?
 - Who will be involved in evaluating this work—staff, board, constituents, community, consultants?

Enter Description (500 Words)

6. Briefly describe any anticipated internal or external challenges, including financial, facing your organization during the grant period and your proposed plan to manage them:

Enter Description (250 Words)

F. FISCAL INFORMATION

Fiscal Year: Enter Fiscal Year Range

- Organization's annual operating budget:
\$Enter Amount for most recently completed fiscal year
\$Enter Amount for current fiscal year
\$Enter Amount projected/estimated for next fiscal year
- Indicate what percentage of your annual organizational operating budget is spent on programs (versus supporting services: management/general and fundraising):
%Enter Percent for most recently completed fiscal year
%Enter Percent for current fiscal year
%Enter Percent projected/estimated for next fiscal year
- For Project Support requests:
 - Is this a new project or program? NO YES
 - Annual project budget*:
\$Enter Amount for most recently completed fiscal year (if applicable)
\$Enter Amount for current fiscal year (if applicable)
\$Enter Amount projected/estimated for next fiscal year

**Include all expenses in your annual project budget, including staff salaries/wages, overhead/indirect costs, supplies, rent and utilities, travel, etc.*

G. GOVERNANCE AND PERSONNEL

1. Describe your organizational structure, including the roles and responsibilities of board, key staff, and volunteers. Indicate any leadership positions held by African Americans and African-American farmers and/or ranchers:

Enter Description (250 Words)

2. If your organization is a member-based organization, please define criteria for membership and whether there are dues:

Enter Description (250 Words)

3. How does your organization involve African-American farmers and/or ranchers in its planning and decision-making processes?

Enter Description (250 Words)

REQUIRED ATTACHMENTS

1. An audit report for the most recently completed fiscal year*
If your organization is not required to conduct an annual audit, check here and submit the following organizational financial statements for the most recently completed fiscal year:
 - a. Statement of Financial Position (balance sheet)
 - b. Statement of Activities (revenue and expenses)
 - c. Functional Expenses (expenses by program and supporting services), if available
2. Organization's annual operating budget for:
 - a. Current fiscal year
 - b. Estimated for upcoming fiscal year
3. A list of funding sources for current and upcoming fiscal years, clearly indicating secured and pending funds
4. IRS Letter of Determination**
5. Documentation that evidences three examples of past work with African-American farmers and/or ranchers, such as annual reports, publications, press clippings, etc.
6. A list of three external references familiar with your organization's work, including name, title/relationship to your organization, email and telephone contact information
7. For Project Support requests: you are required to submit ALL OF THE ABOVE plus the following***:
 - a. Project budget for current fiscal year
 - b. Estimated project budget for the grant period
 - c. A list of project funders, clearly indicating secured and pending funds

**State and local laws differ regarding the maximum amount of annual charitable contributions an organization is able to receive before it is required to have an independent audit. If your organization does not have an independent audit because it is not required to do so by your state and local government, please indicate as such; you will not be disqualified from consideration.*

***If the organization has a fiscal sponsor, include fiscal sponsor's letter of determination.*

****Include all expenses in your project budget, including staff salaries/wages, overhead/indirect costs, supplies, rent and utilities, travel, etc.*

PROPOSAL SUBMISSION DETAILS

Your completed Proposal includes the following:

1. a signed Cover Sheet;
2. a completed Application;
3. all required attachments.

Please submit your Proposal in PDF format to Submissions@BlackFarmerCyPres.com with the Applicant Organization's name in the subject line of the email submission. The Cover Sheet MUST accompany the Application. Please DO NOT mail a hard copy of your Cover Sheet and Application.

To that email, please attach electronic PDF copies of required attachments with the Applicant Organization name *and* attachment name in the title of the document file (e.g. Organization Name IRS Letter of Determination.PDF, Organization Name Current Fiscal Year Budget.PDF, etc.). If you are unable to create electronic copies of required attachments, please enclose a cover memo (so that we can connect the document to your electronic Cover Letter and Application) and mail paper copies to:

Attn: BFDL Cy Pres Administrator
501 Cambridge St, 3rd Floor
Cambridge, MA 02141

You will receive an email confirmation that your proposal is complete within 10 business days of the receipt of all required materials.

All materials, including any mailed required attachments, must be received by 11:59 p.m. Eastern Time on Friday, September 29, 2017. We cannot accept your proposal as complete until we receive all required materials.

Representatives from the BFDL Cy Pres Team may contact applicants between Monday, October 23, 2017 and Friday, November 3, 2017 with clarifying questions regarding proposals. Please ensure a contact person is available during this timeframe, as a grant recommendation may be contingent on information gathered during this call.

Please continue to the next page for the optional Cy Pres Phase II Visioning Document. This document is not a required component of your completed Proposal; however, if you choose to complete this optional visioning document, you may submit it at the same time as your proposal.

OPTIONAL ATTACHMENT: CY PRES PHASE II VISIONING DOCUMENT

*The following questionnaire IS NOT a required component of the Cy Pres Phase I Grant Proposal. If you choose to complete and submit this Visioning Document, your answers **will not be used to assess your Cy Pres Phase I Grant proposal nor will they be attributed to your organization in any way in any subsequent compilations or reports.***

The intention of Cy Pres Phase I Grants is to stabilize and/or grow the capacity of nonprofit organizations that have both a historic (prior to December 31, 2012) and a current record of providing meaningful agricultural, business assistance, and/or advocacy services, including (but not limited to) assistance under *Pigford* and the Consolidated Case, for African-American farmers and/or ranchers operating in rural/non-urban areas of the United States. Lead Class Counsel expect to recommend that Cy Pres Phase I Grants address the immediate needs of eligible nonprofit organizations, and can be used for general operating or project support.

It is anticipated that Cy Pres Phase II Grants will be available to support longer-term strategies and vision of the African-American agricultural community. A convening of African-American farmers and ranchers, advocates, and their allies is anticipated to take place in early 2018 in the South. The purpose of the meeting will be to generate important, facilitated discussions about the resources needed for a thriving African-American agricultural community. It is expected that insights and information gleaned from Proposals for Cy Pres Phase I Grants and input gathered at this meeting will help to shape Cy Pres Phase II Grants funding priorities.

This Visioning Document is an invitation to help inform strategic funding priorities for Cy Pres Phase II Grants. Your responses to the following questions are invited:

1. What are the most pressing factors *keeping African-American farmers and ranchers* from thriving?

Enter Answer

2. What are the most promising factors or opportunities *that might enable African-American farmers and ranchers* to thrive?

Enter Answer

3. Describe the future you imagine for African-American farmers and ranchers.

Enter Answer

4. What strategies, resources, relationships, etc., do you think could be used to make the above future a reality for African-American farmers and ranchers?

Enter Answer

5. What are the most pressing factors *keeping your organization and nonprofit organizations* that serve African-American farmers and ranchers from thriving?

Enter Answer

6. What are the most promising factors or opportunities that *might enable* your organization and others like it to thrive?

Enter Answer

7. Describe the future you imagine for your organization and others like it.

Enter Answer

8. What strategies, resources, relationships, etc., do you think could be used to make the above future a reality for nonprofit organizations that serve African-American farmers and ranchers?

Enter Answer

If you are interested in having a representative of your organization attend the convening of African-American farmers and ranchers, advocates, and their allies, anticipated to take place in early 2018 in the South, please nominate them below. This nomination is optional.

Nominee: Enter Nominee

Organization: Enter Organization

Title/Affiliation: Enter Title/Affiliation

Contact Information: Enter Contact Information

Why is this nominee a strong candidate for participating in the convening?

Enter Answer

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Questions

1. What are *Pigford* and the Consolidated Case?

Pigford refers to *Pigford v. Glickman*, a class-action case filed in 1997 on behalf of African-American farmers, asserting systemic race discrimination by the United States Department of Agriculture (USDA) in the administration of the Department’s credit and benefit programs. The parties reached a settlement of the case, which was approved by the U.S. District Court in April 1999. The *Pigford* Settlement Agreement established a claims process that required claims to be submitted by October 12, 1999 or September 15, 2000 for extraordinary circumstances.

The Consolidated Case refers to the *In re Black Farmers Discrimination Litigation*, a second litigation, also filed on behalf of African-American farmers who asserted race discrimination by the United States Department of Agriculture (USDA) in the administration of the Department’s credit and benefit programs. This case was filed in 2008, following passage of the 2008 Farm Bill, which provided a cause of action for farmers who had failed to obtain a recovery in the *Pigford* case because they had filed late claims. The Consolidated Case was settled as a class action in 2010, and the U.S. District Court approved the Settlement Agreement in October 2011. The Consolidated Case Settlement Agreement established a claims process that required claims to be filed by May 11, 2012. Subsequently, the deadline

for filing claims for certain categories of claimants was extended to October 12, 2012. Read more about the details of the [Settlement Agreement here](#).

2. What is the Black Farmers Discrimination Litigation (BFDL) Cy Pres Fund?

Under the terms of the Consolidated Case Settlement Agreement approved by the U.S. District Court, to the extent that settlement funds remained undistributed following the final deadline for successful claimants to cash their settlement checks, such remaining funds were to be treated as cy pres funds (disbursed by the Court in a manner set forth in the Settlement Agreement). The time for successful claimants to negotiate their Consolidated Case settlement checks has now passed, and there remains approximately \$12 million dollars of settlement funds available for distribution to eligible Cy Pres Beneficiaries as established by the Settlement Agreement (as amended).

According to the Consolidated Case Settlement Agreement, a Cy Pres Beneficiary must be a tax exempt nonprofit organization, other than a law firm, legal services entity, or educational institution, that is providing agricultural, business assistance, and/or advocacy services, including assistance under *Pigford* and the Consolidated Case, to African-American farmers and/or ranchers.

The Consolidated Case Settlement Agreement provides that Lead Class Counsel may recommend to the U.S. District Court organizations to receive BFDL Cy Pres Funds and the allocation of such funds. The Court is responsible for making final determinations of the reasonable payment to be made to Cy Pres Beneficiaries of the BFDL Cy Pres Funds. Lead Class Counsel expect to recommend to the Court that BFDL Cy Pres Funds be used to strengthen and empower the African-American farming community in the United States by supporting the stability, growth, and resiliency of 501(c)(3) nonprofit organizations that are currently providing meaningful agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers. Lead Class Counsel expect to recommend to the Court that the BFDL Cy Pres Funds be distributed in two distinct phases: BFDL Cy Pres Phase I Grants and BFDL Cy Pres Phase II Grants.

3. What are BFDL Cy Pres Phase I Grants?

Lead Class Counsel expect to recommend to the Court that:

- Up to one-third of total BFDL Cy Pres Funds (approximately \$4 million dollars) be eligible for disbursement through Cy Pres Phase I Grants;
- Such Cy Pres Phase I Grants be distributed for the purpose of stabilizing and/or growing the capacity of nonprofit organizations that have both a historic (prior to December 31, 2012) and a current record of providing meaningful agricultural, business assistance,

and/or advocacy services, including (but not limited to) assistance under *Pigford* and the Consolidated Case, to African-American farmers and/or ranchers operating in the rural/non-urban United States;

- Cy Pres Phase I Grants address the immediate needs of eligible nonprofit organizations, and can be used for general operating and project support; and,
- Cy Pres Phase I Grant recipients be approved by the end of 2017.

4. Who is eligible to apply for Cy Pres Phase I Grants?

Eligible applicants for Cy Pres Phase I Grants must meet all of the following criteria:

- Be a 501(c)(3) nonprofit organization, or an organization with a 501(c)(3) fiscal sponsor relationship;
- Have historically (defined as before December 31, 2012) provided meaningful agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers operating in rural/non-urban areas of the United States; and,
- Currently provide meaningful agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers operating in rural/non-urban areas of the United States.

Law firms, legal service entities, and educational institutions will not be eligible per the Consolidated Case Settlement Agreement.

5. What is the timeline for Cy Pres Phase I Grants?

The Request or Proposals for Cy Pres Phase I Grants opened on Monday July 31, 2017, and proposals will be due before 11:59 pm Eastern Time on Friday September 29, 2017. After the submission period ends, the Cy Pres Grants Team may contact applicants with questions regarding their proposals between October 23, 2017 and November 3, 2017. Please ensure a contact person is available during this timeframe, as a grant recommendation may be contingent on information gathered during this call. Lead Class Counsel hope to recommend that Cy Pres Phase I Grant recipients be approved by the end of 2017.

6. What guidelines will be used to evaluate Cy Pres Phase I Grant proposals?

Funding recommendations will be determined based on impact of current and past work, demonstration of organizational need, and availability of funds.

7. What types of support can be requested for Cy Pres Phase I Grants?

Applicants may request ONE of the following grant request options:

General Operating Support. Applicant organizations (including fiscally-sponsored organizations) seeking general operating support must demonstrate that the bulk of their organization's work is providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the United States. These unrestricted funds may be used where most needed, whether that be salaries and overhead, supporting, expanding or starting a program, investing in technology, improving fundraising efforts, debt repayment, capital expenditures, or otherwise. Funds may NOT be used for re-granting or endowments. It is recommended that the maximum funding request for general operating support not exceed one-third of an applicant/sponsored organization's annual operating budget per year for two years.

Please note: if you are an eligible fiscally-sponsored organization that meets the criteria above for general operating support, you may apply for a general operating support grant based on your organization's work and budgets. If awarded a grant, your fiscal sponsor will be the legal grantee and responsible accordingly, including reporting the grant in its IRS Form 990. From the perspective of the fiscal sponsor, the award will technically be considered a project grant, as your organization is a project of your fiscal sponsor. However, from the perspective of your organization (as the fiscally-sponsored organization doing the work), the grant funds can be used for unrestricted, general operating support as indicated above. If you have any questions specific to this technical distinction, please feel free to contact the Cy Pres Grants Team.

Project Support. Applicant organizations (including fiscally-sponsored organizations) seeking project support must demonstrate that the project or program for which they are seeking funds is providing agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S. and that the project or program is having meaningful and measurable positive impact. These funds are restricted to project or program expenses for the eligible project or program. It is recommended that the maximum funding request for project support not exceed one-third of the annual project budget or projected annual project budget (for a new program) per year for two years.

8. How do I determine if the “bulk” of my organization’s work is serving African-American farmers and/or ranchers operating in the rural/non-urban United States through agricultural, business assistance, and/or advocacy services?

There are no pre-determined thresholds that will qualify or disqualify an organization from considering the bulk of their work serving African-American farmers and/or ranchers in rural/non-urban areas of the U.S. through agricultural, business assistance, and/or advocacy services. However, there are some questions an organization should consider before applying for general operating support:

- Does the organization explicitly address African-American farmers and/or ranchers in its mission statement?
- Was the organization founded to provide agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers?
- Are African-American farmers and/or ranchers the majority of the organization’s constituency?
- Do agricultural, business assistance, and/or advocacy services make up most of the organization’s program budget (not including supporting services)?

9. What types of activities are considered “agricultural, business assistance, and/or advocacy services” for the purpose of Cy Pres Phase I Grants?

Agricultural services include, but are not limited to, technical assistance or training, farmer-to-farmer learning or networking (including projects that serve rural farmers through connections with urban farmers), cooperative training, organic/sustainable transition/support, and beginning farmer training.

Business assistance services include, but are not limited to, financial counseling, cooperative development, business planning, and marketing assistance.

Advocacy services include, but are not limited to, land acquisition, access to credit and capital, assistance with loan applications and appeals, policy advocacy/development, emergency assistance, disaster response, hotline services, coalition development (including projects that serve rural farmers through connections with urban farmers), mediation services and legal service projects.

10. Can an organization submit more than one proposal?

Organizations are only eligible to submit one grant proposal, and must choose between general operating support and project support.

If an applicant organization is the 501(c)(3) fiscal sponsor for an eligible sponsored organization, and also provides eligible services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S. as part of their own programming, apart from that of the sponsored organization, then the fiscal sponsor organization may submit both a proposal on behalf of the sponsored organization as well as a proposal on behalf of their own organization. Fiscal sponsors whose only eligible work is carried out by the sponsored organization are not eligible to submit a second proposal on their own behalf.

11. How do I calculate the maximum recommended funding request?

General Operating Support - It is recommended that the maximum funding request for general operating support not exceed one-third of an applicant/sponsored organization's annual operating budget per year for the grant period (up to 24 months). For example, if an organization has an annual operating budget of \$600,000, the maximum recommended funding request for each year would be \$200,000, for a total of \$400,000 over a two-year grant term.

Project Support - It is recommended that the maximum funding request for project support not exceed one-third of the annual project budget, or projected annual project budget for a new program, per year for the grant period (up to 24 months). For example, if a project budget is \$60,000 annually, the maximum recommended funding request for each year would be \$20,000, for a total of \$40,000 over a two-year grant term.

12. Can we start a new project?

Lead Class Counsel expects to recommend that Cy Pres Phase I Grants be distributed for the purpose of stabilizing and/or growing the capacity of nonprofit 501(c)(3) organizations providing meaningful agricultural, business assistance, and/or advocacy services for African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S. If your organization qualifies for Cy Pres Phase I Grants and had identified that the most effective way to stabilize and/or grow its capacity is through a new project or program, that new project or program may be eligible for funding. Please be advised that applicants seeking funds to begin a new project or program must effectively demonstrate that it is rooted in the meaningful services the organization has offered for African-American farmers and/or ranchers *and* builds upon the success it has demonstrated for African-American farmers and/or ranchers.

13. Are any organizations excluded from funding?

Law firms, legal services entities, or educational institutions cannot receive funding from the BFDL Cy Pres Funds per the Consolidated Case Settlement Agreement. Organizations that provide eligible legal/educational services as part of their work, but are not law firms, legal services entities, or educational institutions (as described below) may be eligible for Cy Pres Phase I Grants.

14. Are any activities excluded from funding?

Re-granting activities and endowments are not eligible uses of funds.

Re-granting activities include any situation in which the applicant organization is not the end user of grant funds (except in the technical case of fiscal sponsorship). For example, a project in which funds are distributed to other organizations, who will use the funds for their own programmatic work, is ineligible for Cy Pres Phase I Grants.

Additionally, any project in which money is being distributed to either an individual farmer and/or rancher or a group of farmers and/or ranchers is ineligible for Cy Pres Phase I Grants. For instance, if an organization has a fund that gives money directly to farmers to help them buy land, make business improvements, settle debts, etc., that project would be ineligible for Cy Pres Phase I Grants. However, if the organization provides services to help farmers and/or ranchers do those things (i.e. financial counseling, training, business planning assistance, etc.) that project or program may be eligible for Cy Pres Phase I Grants.

15. Is my organization eligible even though it was not specifically involved in supporting Pigford claimants?

Any nonprofit organization that provides agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S. and within the eligibility requirements listed in Question #5 may be eligible for funding. An organization does not need to have provided direct assistance to claimants under *Pigford* or the Consolidated Case to be eligible.

16. Can awards go to organizations that serve farmers and/or ranchers of different racial or ethnic groups than African-American?

Organizations that serve African-American farmers and/or ranchers through agricultural, business assistance, and/or advocacy services as the bulk of their work may be eligible for a General Operating Support grant even if they also serve farmers and/or ranchers of different races/ethnicities than African-American.

Organizations that do not serve African-American farmers and/or ranchers through eligible services as the bulk of their work may be eligible for Cy Pres Phase I Grant funding, but they can only apply for a Project Support grant for the program or project that provides agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers. Farmers and/or ranchers of different races/ethnicities may also be served by the project or program.

17. Can awards be used to serve African-American communities that include, but are not limited to, farmers and/or ranchers?

The BFDL Cy Pres Funds must be disbursed in accordance with the terms of the Consolidated Case Settlement Agreement, which provides that awards must only be used to support tax-exempt nonprofit organizations that provide agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers. However, an organization that does broader work, but also currently provides and has historically provided meaningful eligible services to African-American farmers and/or ranchers operating in rural/on-urban areas of the U.S. may be eligible for a Project Support grant.

18. How are farmers and ranchers defined for the purpose of Cy Pres Phase I Grants?

A farm is defined by the USDA as any place from which \$1,000 or more of agricultural products, including both crops and livestock, were produced and sold or normally would have been sold during a year. A farm operator is defined as the person who runs the farm, making day-to-day management decisions. For the purpose of Cy Pres Phase I Grants, a farmer or rancher is a person that fits the USDA definition of a farm operator.

19. What is a rural/non-urban area?

A rural area is, by U.S. Census Bureau definition, any area that is non-urban. The U.S. Census Bureau defines an urbanized area as having a population of 50,000 people, and a density of 1,000 people per square mile. Organizations eligible for Cy Pres Phase I Grants must provide eligible services to African-American farmers and/or ranchers operating in rural/non-urban areas of the U.S. If farmers operating in urban areas are also served through eligible services for farmers operating in rural/non-urban areas of the U.S., the project or program may be eligible for Cy Pres Phase I Grants.

20. I was a *Pigford* Class member. Can I receive an award?

Only tax-exempt nonprofit organizations can receive BFDL Cy Pres Fund awards, per the Consolidated Case Settlement Agreement. Individuals are not eligible to receive grants directly.

21. How much money will be awarded for Cy Pres Phase I Grants?

Lead Class Counsel expect to recommend to the U.S. District Court that up to 1/3 of the total BFDL Cy Pres Funds (approximately \$4 million) be eligible for disbursement through Cy Pres Phase I Grants.

22. If my organization has a fiscal sponsor, what are they required to provide and what should we provide?

An organization with a fiscal sponsor is eligible to apply for Cy Pres Phase I Grants because of the 501(c)(3) tax-exempt status of its sponsor organization. The fiscal sponsor is required to provide its IRS Letter of Determination to verify its 501(c)(3) status. If awarded a Cy Pres Phase I Grant, the fiscal sponsor will be the legal grantee and is responsible accordingly, including reporting the grant in its IRS Form 990. Thus, the fiscal sponsor is required to sign the cover sheet, verifying that all information contained in the Cy Pres Grants Proposal Application is accurate to the best of their knowledge.

The fiscal sponsor also must provide an audit report for the most recently completed year. If it is not required to provide an annual audit, it must instead provide a Statement of Financial Position, Statement of Activities, and, if available, its Functional expenses, all from the most recently completed fiscal year.

The information in the Cy Pres Grants Proposal Application is to be completed from the perspective of the organization doing the work, that is, the sponsored organization. The sponsored organization is also asked to provide a Statement of Financial Position, Statement of Activities, and, if available, Functional Expenses for the most recently completed fiscal year. All additional required attachments, excluding the IRS Letter of Determination, should be provided by the organization doing the work, i.e. the sponsored organization.

23. Are indirect expenses allowed to be covered in the application budget?

Yes, indirect expenses (administrative and overhead costs) are an eligible use of funds.

24. Over what period of time must award funds be spent? May we apply now for an award that will fund future work?

The funding timeline for Cy Pres Phase I Grants is a maximum of 24 months, starting as early as January 2018 and ending in December 2019. Thus, the maximum recommended funding request should be based on a two-year budget.

25. What reports are due at the end of the award period?

Recipients will be required to submit reports at least once a year over the term of the grant. There is a possibility that reports will be requested more frequently. Reporting requirements will be communicated to successful applicants.

26. Who are the parties involved in the process and what are their roles?

The U.S. District Court for the District of Columbia approved the Settlement Agreement in the Consolidated Case and has the ultimate responsibility for the approval of all BFDL Cy Pres Grants. Lead Class Counsel has represented the Plaintiff Class throughout the litigation. They are the law firms of *Chestnut, Sanders, Sanders, Pettaway & Campbell, LLC; Morgan & Morgan, PA; and Coffey Burlington P.L.* Lead Class Counsel are overseeing the BFDL Cy Pres Funds process, assuring its compliance with the Settlement Agreement and the Court's rulings, and have the responsibility under the Settlement Agreement to make recommendations to the Court regarding the awards. The Court is responsible for making all final decisions for how the funds will be disbursed. Lead Class Counsel has engaged Farm Aid as the technical consultant for the process and as an advisor. Farm Aid has not and will not receive any BFDL Cy Pres Funds. Any reimbursement Farm Aid receives will be drawn from the remains of an administrative fund established for the claims settlement process of the Consolidated Case. Farm Aid brings more than 30 years of experience in funding and partnering with farm service organizations across the country, including numerous African-American agricultural nonprofits. Under the direction of Lead Class Counsel, Farm Aid is responsible for helping design the RFP, collecting and processing all proposals, communications with applicants, review of proposals, monitoring of awards, and record keeping.

27. When are Cy Pres Phase I Grant proposals due?

Proposals and all required enclosures are due by 11:59 p.m. Eastern Time on Friday, September 29, 2017.

28. On what schedule will Cy Pres Phase I Grants be distributed?

The U.S. District Court has the responsibility to approve all Cy Pres Phase I Grants and will determine on what schedule awards will be issued to grantees. Lead Class Counsel expects to recommend that funds be distributed to grantees on an annual basis for the maximum grant period of 24 months.

29. When will Cy Pres Phase I Grant recipients be announced?

Lead Class Counsel expects to recommend that awards be announced by the end of 2017.

30. Will all eligible applicants receive Cy Pres Phase I Grant funding?

Lead Class Counsel cannot guarantee that all eligible applicants will receive funding. It is anticipated that requests may exceed available funds.

31. If I have additional questions about Cy Pres Phase I Grant eligibility, the proposal process or the proposal website, how can I get answers?

Applicants who need technical assistance can receive help through three methods. The Cy Pres Grants Team can answer questions pertaining to eligibility, the application, and the proposal process. We will not be able to advise on the application scope, budget, written content, or so forth. If you need help understanding the proposal process, technical assistance is available through the following methods:

- A technical assistance webinar outlining eligibility requirements and the proposal process was held on August 8, 2017. Links to the recording can be found at blackfarmercase.com/CyPres.aspx
- Questions can be answered by email by sending them to Administrator@BlackFarmerCyPres.com
- Questions can be answered by telephone by dialing 617-229-6483. If someone is not available to answer, calls going to voicemail will be handled in the order in which they are received.

32. What will happen to the information and documents submitted during the Cy Pres process?

All information and documents will become part of the *In re Black Farmers Discrimination Litigation* case records. As such, it is likely that they will eventually become public records.

33. Can awards be renewed?

Counsel expects to recommend that approximately \$4 million in Cy Pres Phase I Grants be distributed on a one-time basis for the purpose of stabilizing and/or growing the capacity of nonprofit organizations with a historic (prior to December 31, 2012) and current record of providing meaningful agricultural, business assistance, and/or advocacy services, including (but not limited to) assistance under *Pigford* and the Consolidated Case, to African-American farmers and/or ranchers operating in the rural/non-urban United States.

Lead Class Counsel expect to recommend that the remaining approximately \$8 million dollars of the BFDL Cy Pres Funds be disbursed through Cy Pres Phase II Grants. Eligibility requirements for Cy Pres Phase II Grants may be different than those for Cy Pres Phase I Grants.

34. What Are Cy Pres Phase II Grants?

Following the Court's final decision on distribution of Cy Pres Phase I Grants, Lead Class Counsel expect to recommend to the U.S. District Court that:

- The remaining approximately \$8 million dollars of the Cy Pres Funds be disbursed through Cy Pres Phase II Grants;
- Eligible nonprofit organizations need to demonstrate a current record of providing meaningful agricultural, business assistance, and/or advocacy services to African-American farmers and/or ranchers, and demonstrate a strong plan for future effectiveness.

Note: Eligibility requirements may be different than those for Cy Pres Phase I Grants. The process for Cy Pres Phase II Grants has not yet been determined.

Any organization interested in contributing to the design of the Cy Pres Phase II Grant process is invited to complete and return the Cy Pres Phase II Visioning Document in the Supplemental documents section of www.blackfarmercase.com/CyPres.aspx

EXHIBIT B

Exhibit B

PROPOSED CY PRES PHASE I GRANTEES

	Organization	Location	
1.	Arkansas Land and Farm Development Corporation – Fiscal Sponsor: Arkansas Land and Community Development Corporation	AR	<p>Over its 35-year history, the Arkansas Land and Farm Development Corporation (“ALFDC”) has provided meaningful agricultural, business assistance, and advocacy services for African-American farmers and ranchers in Arkansas facing land loss and other serious financial issues. It has also provided outreach, training, and cooperative development services to farmers. ALFDC participated meaningfully in both <i>Pigford</i> and the Consolidated Case, including hosting training and information workshops and working with Class Counsel to provide intake for potential participants.</p> <p>ALFDC is seeking cy pres funds to enable it to strengthen the organization, including the development of a strategic plan, the hiring and training of additional program staff, and the development of new model programs.</p>
2.	Black Farmers and Agriculturalists Association	NC	<p>Since its founding in 1997, the Black Farmers and Agriculturalists Association (“BFAA”) in Tillery, North Carolina (not affiliated with BFAA, Inc, which operates in Tennessee), has worked to organize, educate, and advocate for African-American farmers. Since 2013, BFAA has worked directly with farmers to prevent land loss and has hosted 10 Land Loss Summits in North Carolina, with over 1,000 attendees. BFAA provided assistance to farmers in the course of both <i>Pigford</i> and the Consolidated Case.</p> <p>BFAA is seeking cy pres funds to enable it to revitalize its membership network, hire staff, and expand its efforts in educating both farmers and the public about the issues that face African-American farmers and ranchers.</p>
3.	Black Oaks Center for Sustainable and Renewable Living	IL	<p>Established in 2006, the Black Oaks Center for Sustainable and Renewable Living (“Center”) provides agricultural training for African-American farmers operating in the Midwest, and acts as a node between African-American farmers operating in rural areas and direct markets in Midwestern cities, such as Detroit and Chicago.</p> <p>The Center is seeking cy pres funds to enable it to provide mentoring and professional development for its project staff in order to grow its capacity to provide agricultural and business assistance to the African-American farming community in Pembroke Township, Illinois.</p>

Exhibit B

	Organization	Location	
4.	East Arkansas Enterprise Community	AR	<p>Since its founding in 1995, the East Arkansas Enterprise Community (“EAEC”) has assisted African-American farmers and ranchers in the Mississippi Delta region of Eastern Arkansas in applying and qualifying for USDA programs. Since 2012, it has expanded its services to include training farmers to transition from row crop production to sustainable fruit and vegetable production, working with partners to ensure that farmers have access to capital and resources, and advocating that federal programs be expanded to better meet the needs of the African-American agricultural community. Over the course of <i>Pigford</i> and the Consolidated Case, EAEC helped identify potential claimants and provided them with technical assistance.</p> <p>EAEC is seeking cy pres funds to enable it to increase its staffing and programming in order to increase the number of farmers they serve, to stem the rate of land loss, and to help farmers acquire necessary business management skills, and to coordinate with other area groups and federal, state, and local agencies to form a more rigorous service structure.</p>
5.	Farm Research Cooperative	MI	<p>Founded in 1977, Farm Research Cooperative (“FRC”) provides an array of agricultural and business assistance services for African-American farmers and ranchers in Southwest Michigan, including intensive training and workshops on how to engage in USDA programs and services, one-on-one assistance, and network development.</p> <p>FRC is seeking cy pres funds to re-establish the historic services it has offered African-American farmers, including through field days, conferences and workshops, to enable African-American farmers in Southwest Michigan to implement better business practices on their farms, maintain important connections with one another, and better engage with USDA programs.</p>
6.	Farms to Grow, Inc.	CA	<p>Founded in 2004, Farms to Grow, Inc. (“FTG”) provides vital resources in the realms of good business practices, marketing, and technical assistance to African-American farmers and ranchers, principally in California, to ensure they have the resources they need to operate successfully.</p> <p>FTG is seeking cy pres funds to support its continued provision of high quality services to African-American farmers in California and to empower it to reach out to new networks of donors for support in order to expand its operations.</p>

Exhibit B

	Organization	Location	
7.	Federation of Southern Cooperatives	GA	<p>The Federation of Southern Cooperatives-Land Assistance Fund (“Federation”) is one of the longest operating non-profits serving African-American farmers and ranchers in the United States. Since its inception in 1967, it has provided a wide range of agricultural, business assistance, and advocacy services for African-American farmers and ranchers and has played a leading role in fighting for economic empowerment and against land loss for African-American farmers and ranchers in the Southeastern States. The Federation was significantly involved in both the <i>Pigford</i> litigation and the Consolidated Case.</p> <p>The Federation is seeking cy pres funds to enable it to fully staff its basic programming and administrative functions, initiate new plans for organizational development, stabilize its regional cooperative development efforts, settle budget deficits, and add fiscal strength following challenges resulting from their historic work in ensuring that African-American farmers and ranchers have the resources they need. This added strength, stability and capacity will allow more African-American farmers and ranchers to access the Federation’s strong and growing network, and enable this long-standing organization to continue to advocate for a thriving African-American agricultural community.</p>
8.	Kansas Black Farmers Association	KS	<p>The Kansas Black Farmers Association (“KBFA”) has served African-American farmers in and around the historic community of Nicodemus in Northern Kansas since 1998 by conducting bi-annual meetings and workshops to enable farmers to connect with one another, learn how to participate in USDA programs, and better run their businesses. KBFA has also acted as a critical hub for both USDA and other resources available for African-American farmers and ranchers, and worked to ensure that African-American farmers and ranchers have access to resources at Kansas State University, the state’s land grant university. It assisted its members to file claims in <i>Pigford</i> and the Consolidated Case by hosting an organizing meeting and connecting farmers with the Federation of Southern Cooperatives and the Rural Coalition.</p> <p>KBFA is seeking cy pres funds to enable it to restructure its organization, provide critical professional development to staff, and revive its membership.</p>

Exhibit B

	Organization	Location	
9.	Mississippi Family Farmers	MS	<p>Established in 1985, Mississippi Family Farmers (“MFF”) provides business assistance and agricultural services for African-American farmers in the Mississippi Delta and advocates for effective policy for African-American farmers across the state. It helps farmers integrate conservation practices and qualify for USDA conservation programs and works to develop markets for farmers, prevent land loss, and assist farmers in the reestablishment of good credit. In addition, MFF recently has implemented a program to engage young African Americans in rural Mississippi in agricultural entrepreneurship. During <i>Pigford</i> and the Consolidated Case, MFF provided technical assistance to claimants and assisted them with organizing information to support their claims.</p> <p>MFF is seeking cy pres funds to train its board to ensure the development of sound strategy and leadership moving forward, to implement training programs for cooperative managers and employees, and to hire needed support staff.</p>
10.	Mississippi Minority Farmers Alliance	MS	<p>Mississippi Minority Farmers Alliance (“MMFA”) has served African-American farmers and ranchers in Northeast Mississippi through agricultural and business assistance services since 2008. It focuses its efforts on ensuring that African-American farmers and ranchers operating in five USDA Strike Force Counties can sustain viable and profitable operations. It has assisted farmers in improving their agricultural and business practices and aiding them in entering into USDA farm service programs.</p> <p>MMFA is seeking cy pres funds to enable it to better reach the numerous farmers who seek assistance every year and to provide education and technical support to African-American farmers and ranchers in collaboration with state and federal agencies and land-grant institutions.</p>

Exhibit B

	Organization	Location	
11.	Morehouse Black Farmers and Landowners Association	LA	<p>Morehouse Black Farmers and Landowners Association (“MBFLA”) has for 15 years provided both agricultural and business assistance services for African-American farmers and ranchers in Northern Louisiana through trainings, workshops, field days, and farmer-to-farmer learning networks. It works to foster strong relationships with state educational institutions, extension programs, and agricultural agencies, and collaborates with federal agencies and non-profits to ensure that African-American farmers in Northern Louisiana receive much-needed services.</p> <p>The Association is seeking cy pres funds to strengthen its existing infrastructure to ensure that African-American farmers have access to a quality resource network, and to continue and grow its community field day, which will foster more connections between farmers and ranchers and provide access to important agricultural education and technical resources.</p>
12.	National Black Farmers Association	VA	<p>Since its founding in 1995, the National Black Farmers Association (“NBFA”) has advocated for a fair and thriving environment for African-American farmers and ranchers and has served thousands of farmers through its programmatic workshops, referral services, technical and financial assistance programs, and national collaboration efforts. NBFA made key contributions prior, during, and after the settlements of <i>Pigford</i> and the Consolidated Case. Organizational leaders met with members of Congress, organized rallies, and told the story of what African-American farmers and ranchers were facing in the agricultural system.</p> <p>NBFA is seeking cy pres funds to enable it to grow capacity for its programs that provide business, agricultural, and policy education for African-American farmers and ranchers.</p>
13.	National Family Farmers Coalition	DC	<p>National Family Farm Coalition (“NFFC”) is a network of organizations that serve and advocate for the future of small family farmers. Over its 31-year history, it has engaged in grassroots organizing among African-American farming groups to advocate for more equitable and fair policies.</p> <p>NFFC is seeking cy pres funds to enable it to collaborate with partner and member groups to assist African-American farmers draft operating plans and feasibility studies, work to expose the issue of land loss among African-American farmers and ranchers, and counter the acquisition of foreclosed agricultural land by large corporations</p>

Exhibit B

	Organization	Location	
14.	North Carolina Minority Farmers	NC	<p>Founded in 2009, North Carolina Minority Farmers (“NCMF”) hosts an annual conference for several hundred African-American farmers and ranchers operating in rural North Carolina, which facilitates farmer-to-farmer learning and provides vital business and agricultural educational resources.</p> <p>NCMF is seeking cy pres funds to enable it to expand its annual conference to accommodate and support the attendance of African-American farmers and ranchers and, ultimately, to hold a second convening in the late fall to assist farmers specifically with financials, taxes, and business planning.</p>
15.	North-South Institute	FL	<p>Established in 1999, the North-South Institute (“NSI”) has collaborated with the USDA to provide critical resources to African-American and other socially disadvantaged groups of farmers in coastal Florida, Southern Alabama, and Southern Georgia. NSI has provided on-site demonstrations and technical assistance and assisted African-American farmers with preparing business plans, and with accessing land-bank farms and credit. While NSI did not provide direct assistance during <i>Pigford</i> and the Consolidated Case, it worked with land-grant universities and community-based organizations in the Delta region to identify documents that could support farmers in presenting their claims.</p> <p>NSI is seeking cy pres funds to enable it to grow its capacity in order to reach more farmers with its programs targeted at increasing USDA access and outreach, accessing specialty markets, optimizing management and business operation, and improving access to credit.</p>
16.	Oklahoma Black Historical Research Project	OK	<p>Over its 17-year history, the Oklahoma Black Historical Research Project (“OBHRP”) has provided vital support both to individual farmers and to the greater African-American farming community in Oklahoma through outreach and technical assistance for USDA programming as well as working to renew university agricultural programs and recruit young African-Americans into agricultural professions. OBHRP also engages in national advocacy, working with members of Congress and bringing farmers and ranchers together to discuss challenges and opportunities and to plan a pathway forward. OBHRP was involved in both <i>Pigford</i> and the Consolidated Case, advocating in support of settlement and working to educate farmers and ranchers about the claims process and requirements.</p> <p>OBHRP is seeking cy pres funds both to support its ongoing work providing vital business assistance, agricultural, and advocacy services for African-American farmers and ranchers and to enable it to complete and implement a five-year strategic plan and an organizational transition plan so that it can increase its capacity, serve more farmers, and develop sustainable sources of organizational support.</p>

Exhibit B

	Organization	Location	
17.	Operation Spring Plant	NC	<p>Serving African-American farmers and ranchers since its founding in 1987, Operation Spring Plant (“OSP”) primarily serves rural, African-American farmers in North Carolina by providing USDA outreach and assistance, training in new technology, information about business development, and education on best practices in environmental and sustainable farm management. During <i>Pigford</i> and the Consolidated Case, OSP disseminated information and coordinated transportation to meetings.</p> <p>OSP is seeking cy pres funds to better assist African-American farmers in North Carolina develop strong market connections, add value to agricultural products, and implement new technology to foster more profitable enterprises. OSP would also strengthen its own operations by developing a strategic succession plan to ensure that the organization is strong into the next generation.</p>
18.	Rural Advancement Foundation International -USA	NC	<p>Incorporated in 1990, Rural Advancement Foundation International-USA (“RAFI-USA”) provides intensive, multi-faceted support to farmers of all races and ethnicities. During <i>Pigford</i> and the Consolidated Case, RAFI-USA assisted African-American farmers to submit timely claims.</p> <p>RAFI-USA is seeking cy pres funding to strengthen the services it offers for African-American farmers and ranchers through its Farmer Leadership Network by hiring and training an African-American Farmer Liaison. In addition, it will work to encourage African-American farmers and ranchers to seek leadership positions in Farm Service Agency county committees, so they will be able to have direct say in the policies that affect them.</p>
19.	Rural Advancement Fund	SC	<p>Founded in 1937, the Rural Advancement Fund of the National Sharecroppers (“RAF”) has worked to bring together a diverse group of people to confront the barriers that face African-American and other socially disadvantaged farmers and ranchers primarily in South Carolina, and also nationally. In addition to providing a range of services, including outreach, technical assistance, business planning, and value-added training, RAF is working to engage and secure the next generation of African-American farmers and ranchers. Prior to the <i>Pigford</i> settlement, RAF led delegations of farmers from South and North Carolina to Washington D.C. to tell their story, and after the settlement it provided information and technical assistance to claimants. It also supported farmers in the course of the Consolidated Case.</p> <p>RAF is seeking cy pres funds to enable it to recruit and train the next generation of staff members and organizational leadership and to sustain its current programs and services for organizations that serve African-American farmers and ranchers in South Carolina.</p>

Exhibit B

	Organization	Location	
20.	Rural Coalition	DC	<p>The Rural Coalition (“RC”) is an alliance of 50 member organizations that serve a diverse group of farmers, ranchers, farmworkers, and rural communities. For nearly 40 years the RC has organized African-American farmers and ranchers to advocate for an equitable agricultural system, pushing for policy changes in federal programs. It has also acted as a vital resource for African-American member organizations, including developing informational tools and assisting with grant applications. In the course of the <i>Pigford</i> litigation and the Consolidated Case, the RC organized meetings, collected data on demographics of FSA credit practices, and worked with members of Congress to promote the interests of African-American farmers and ranchers.</p> <p>The RC is seeking cy pres funds to enable it to hire staff and scale-up activities in the face of the upcoming Farm Bill, and to provide additional assistance in writing grants and seeking funding for their African-American membership.</p>
21.	Southeastern African-American Organic Network – Fiscal Sponsor: Inquiring Systems, Inc.	GA	<p>Founded in 2006, the Southeastern African-American Farmers’ Organic Network (“SAAFON”) focuses on ensuring that African-American farmers and ranchers throughout the Southeast can run successful organic and sustainable farms and have access to a fair and ethical food system grounded in African-American history and culture. Its work includes educating and training farmers in sustainable and organic agricultural practices and connecting them to markets. SAAFON was a vocal advocate over the course of the Consolidated Case for appropriations to fund the settlement.</p> <p>SAAFON is seeking cy pres funds to hire a full-time project coordinator and develop a funding strategy for its initiative to target programs designed to ensure that African-American farmers can stay on their land and pass it on within the African-American agricultural community.</p>

Exhibit B

	Organization	Location	
22.	Southwest Georgia Project	GA	<p>Founded in 1966, the Southwest Georgia Project (“SGP”) provides outreach, technical assistance, and education primarily for Africa-American farmers and ranchers operating in rural South Georgia, but also serves African-American farmers and ranchers in rural regions of Alabama and Mississippi. It has provided training in best agricultural and business practices, information about estate and succession, aid with USDA application processes, and, more recently, the development of a regional food hub, so farmers and ranchers can easily access markets. During <i>Pigford</i> and the Consolidated Case, SGP provided technical assistance to farmers and ranchers in filing claims and assisted farmers with the appeals process if their claims were denied.</p> <p>The SGP is seeking cy pres funds to enable it to bolster its organizational strength by increasing its staff’s professional development, recruiting new staff, developing its board, and fine-tuning a strategic fundraising and communications plan. It would also use funds to grow its programs, directing some funding towards its food hub project and its technical assistance programs.</p>
23.	United Farmers, USA	SC	<p>Founded 15 years ago to address the needs of small African-American farmers and ranchers in South Carolina and surrounding states, United Farmers, USA (“UFUSA”), helps African-American farmers and ranchers develop farm business management skills in agriculture and business and assists African-American farmers and ranchers to apply for USDA programs. UFUSA assisted farmers with the filing of claims during the initial <i>Pigford</i> claims period and was an advocate for the settlement of the Consolidated Case.</p> <p>UFUSA is seeking cy pres funds to grow its staff capacity to provide training programs and to enable it to reach additional farmers through a conference, workshops, and farm demonstrations.</p>
24.	Whitaker Small Farm Group	NC	<p>Whitaker Small Farm Group (“WSFG”) was founded in 2006 to connect underserved farmers and ranchers to resources. Primarily serving African-American farmers and ranchers in North Carolina, WSFG partners with state and federal agencies to educate farmers about USDA programs and services, trains farmers about best practices in agriculture and business management, connects beginning farmers with internships, and works with the Black Family Land Trust to help African-American farmers and ranchers plan for succession.</p> <p>WSFG is seeking cy pres funds in order increase the services it provides in outreach and assistance for African-American farmers and ranchers and to reach farmers and ranchers in North Carolina who are not currently participating in programs.</p>

Exhibit B

	Organization	Location	
25.	Winston County Self Help Cooperative	MS	<p>The Winston County Self Help Cooperative (“WCSHC”) designs programs that assist farming families living in USDA Strike Force Counties in East and South Central Mississippi to implement practices that will enhance their agricultural enterprises. The Cooperative has collaborated with federal programs as well as the state’s land-grant institution to ensure that farmers and ranchers have access to the best resources available. The Cooperative conducted workshops over the course of <i>Pigford</i> and the Consolidated Case to provide technical assistance on claims submission.</p> <p>WCSHC is seeking cy pres funding to continue its mission of providing vital information and training to help farmers participate in USDA programs and run successful agricultural businesses.</p>