

of mediations; the provision of background and selected information regarding the mediation process; financial advisory and counseling services (as reasonable and necessary to prepare parties for mediation) performed by a person other than a State mediation program mediator; and mediation sessions in which a mediator assists disputing parties in voluntarily reaching mutually agreeable settlement of issues within the laws, regulations, and the agency's generally applicable program policies and procedures, but has no authoritative decision making power.

Mediator means a neutral individual who functions specifically to aid the parties in a dispute during a mediation process.

Qualified mediator means a mediator who meets the training requirements established by State law in the State in which mediation services will be provided or, where a State has no law prescribing mediator qualifications, an individual who has attended a minimum of 40 hours of core mediator knowledge and skills training and, to remain in a qualified mediator status, completes a minimum of 20 hours of additional training or education during each 2-year period. Such training or education must be approved by the USDA, by an accredited college or university, or by one of the following organizations: State Bar of a qualifying State, a State mediation association, a State approved mediation program, or a society of professionals in dispute resolution.

Qualifying State means a State with a State mediation program currently certified by FSA.

§ 785.3 Annual certification of State mediation programs.

To obtain FSA certification of the State's mediation program, the State must meet the requirements of this section.

(a) *New request for certification.* A new request for certification of a State mediation program must include descriptive and supporting information regarding the mediation program and a certification that the mediation program meets certain requirements as prescribed in this subsection. If a State

is also qualifying its mediation program to request a grant of Federal funds under the certified State mediation program, the State must submit with its request for certification additional information in accordance with § 785.4.

(1) *Description of mediation program.* The State must submit a narrative describing the following with supporting documentation:

- (i) A summary of the program;
- (ii) An identification of issues available for mediation under the program;
- (iii) Management of the program;
- (iv) Mediation services offered by the program;
- (v) Program staffing and staffing levels;
- (vi) Uses of contract mediation services in the program describing both services provided by contractors and costs of such services;
- (vii) State statutes and regulations in effect that are applicable to the State's mediation program; and
- (viii) A description of the State program's education and training requirements for mediators including:
 - (A) Training in mediation skills and in USDA programs;
 - (B) Identification and compliance with any State law requirements; and
 - (C) Other steps by the State's program to recruit and deploy qualified mediators.
- (ix) Any other information requested by FSA;

(2) *Certification.* The Governor, or head of a State agency designated by the Governor, must certify in writing to the Administrator that the State's mediation program meets the following program requirements:

- (i) That the State's mediation program provides mediation services to covered persons with the aim of reaching mutually agreeable decisions between the parties under the program;
- (ii) That the State's mediation program is authorized or administered by an agency of the State government or by the Governor of the State;
- (iii) That the State's mediation program provides for training of mediators in mediation skills and in all issues covered by the State's mediation program;

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(iv) That the State's mediation program shall provide confidential mediation as defined in § 785.2;

(v) That the State's mediation program ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program;

(vi) That the State's mediation program ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the USDA receive adequate notification of the mediation program; and

(vii) That the State's mediation program prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status.

(b) *Request for re-certification by qualifying State.* If a State is a qualifying State at the time its request is made, the written request need only describe the changes made in the program since the previous year's request, together with such documents and information as are necessary concerning such changes, and a written certification that the remaining elements of the program will continue as described in the previous request.

§ 785.4 Grants to certified State mediation programs.

(a) *Eligibility.* To be eligible to receive a grant, a State mediation program must:

(1) Be certified as described in § 785.3; and

(2) Submit an application for a grant with its certification or re-certification request as set forth in this section.

(b) *Application for grant.* A State requesting a grant will submit the following to the Administrator:

(1) Application for Federal Assistance, Standard Form 424 (available in any FSA office and on the Internet, <http://www.whitehouse.gov/omb/grants/>);

(2) A budget with supporting details providing estimates of the cost of operation and administration of the program. Proposed direct expenditures will be grouped in the categories of allowable direct costs under the program

as set forth in paragraph (c)(1) of this section;

(3) Other information pertinent to the funding criteria specified in § 785.7(b); and

(4) Any additional supporting information requested by FSA in connection with its review of the grant request.

(c) *Grant purposes.* Grants made under this part will be used only to pay the allowable costs of operation and administration of the components of a qualifying State's mediation program that have been certified as set forth in § 785.3(b)(2). Costs of services other than mediation services to covered persons within the State are not considered part of the cost of operation and administration of the mediation program for the purpose of determining the amount of a grant award.

(1) *Allowable costs.* Subject to applicable cost principles as set forth or referenced in § 3016.22 of this title, allowable costs for operations and administration are limited to those that are reasonable and necessary to carry out the State's certified mediation program in providing mediation services for covered persons within the State. Specific categories of costs allowable under the certified State mediation program include, and are limited to:

(i) Staff salaries and fringe benefits;

(ii) Reasonable fees and costs of mediators;

(iii) Office rent and expenses, such as utilities and equipment rental;

(iv) Office supplies;

(v) Administrative costs, such as workers' compensation, liability insurance, employer's share of Social Security, and travel that is necessary to provide mediation services;

(vi) Education and training of participants and mediators involved in mediation;

(vii) Security systems necessary to assure confidentiality of mediation sessions and records of mediation sessions;

(viii) Costs associated with publicity and promotion of the program; and

(ix) Financial advisory and counseling services for parties requesting mediation (as reasonable and necessary to prepare parties for mediation) that are performed by a person other than a