

**FSA
HANDBOOK**

Information Available to the Public

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For All Offices

SHORT REFERENCE

2-INFO

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
P.O. Box 2415
Washington, DC 20013-2415

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Information Available to the Public 2-INFO	Amendment 7
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Approved by: Acting Administrator



Amendment Transmittal

A Reason for Amendment

Part 3 has been withdrawn because procedure for processing appeals under FOIA is now included in 1-APP.

Page Control Chart		
TC	Text	Exhibits
1, 2	2-9 through 2-12 3-1, 3-2 (remove) 3-3 (remove)	

Table of Contents

Page No.

Part 1 Basic Provisions

1	Handbook Purpose and Related Handbooks	1-1
2	Sources of Authority	1-1
3	Disclosure Policy	1-3
4	Responsibility for Complying With FOIA	1-5
5	Records Holding Office Responsibility	1-5
6	General Procedures for Processing FOIA Requests	1-6
7	Public Information Requested	1-11
8	Administrative Reply Deadline	1-12
9	FSA-534, Freedom of Information Request Log	1-14
10	Annual FOIA Report (MS-271P)	1-15
11-18	(Reserved)	

Part 2 Responding to Requests

19	Records Holding Office and FOIA Policy Change	2-1
20	Legal Basis for Denying Requests	2-1
21	Unavailable Records and Recording Denials	2-9
22	Issuing Denial	2-10
23	Deleting Restricted Data	2-11
24	FOIA and Privacy Act Relationship	2-12
25-35	(Reserved)	

Part 3 (Withdrawn--Amend. 7)

36-40	(Withdrawn--Amend. 7)	
41-50	(Reserved)	

Table of Contents (Continued)

Page No.

Part 4 Fees Under FOIA

51	Records and Services Provided Without Charge	4-1
52	Description of Services and Fee Schedule	4-2.5
53	Categorizing Requesters for Fees	4-3
54	Waiving Fees	4-5
55	Materials and Services	4-6
56	Handling Collected Fees	4-8
57-66	(Reserved)	

Part 5 Available Records

67	Rules, Procedures, and Decisions	5-1
68	FSA Indexes	5-1
69	Requests for Names and Addresses	5-2
70	Adverse Determinations	5-5
71	Aerial Photography	5-5
72	Subpoenaed Records	5-6
73-82	(Reserved)	

Part 6 Information Available to Other Federal Departments or Agencies and Congress

83	Information Available to Other Departments and Agencies	6-1
84	Data Provided to State Statisticians, NASS	6-2
85	Information Available to Congress	6-2

Exhibits

1	Reports, Forms, Abbreviations, and Redelegations of Authority
2	Definitions of Terms Used in This Handbook
3	(Reserved)
4	Available Records
5	Records Withheld for a Limited Time
6	FSA-533, Public Information Requested
7	FSA-534, Freedom of Information Request Log

Part 1 Basic Provisions

1 Handbook Purpose and Related Handbooks

A

Handbook Purpose

This handbook provides procedures for all FSA offices to follow when making records available to:

- the public
 - other Federal Agencies
 - Congress.
-

B

Related Handbooks

See the following handbooks for related information about record *--availability or disposition.--*.

WHEN...	THEN see...
<ul style="list-style-type: none"> • releasing information to the news media • clearing speeches and manuscripts 	1-INFO.
releasing COC minutes	16-AO.
records contain information about the individual who makes the Privacy Act request	*--3-INFO.
disposing of records	2-AS or 25-AS.--*
records contain OIG documents	9-AO.

2 Sources of Authority

A

Authority Reference

Authority for managing information is authorized by:

- FOIA, 5 U.S.C. 552, enacted September 6, 1966, as amended
 - *--• the Electronic Freedom of Information Act Amendments of 1996, Pub. L. 104-231, 110 Stat. 3048 (1996).--*
-

Continued on the next page

2 Sources of Authority (Continued)

A

Authority Reference (Continued)

FOIA:

- provides a statutory right of access to Government information
- generally requires public access to Federal agency records, unless specifically exempted by FOIA
- does not apply to any of the following:
 - Congress
 - Federal courts
 - units within the Executive Office of the President
- applies to FSA documents or other information-bearing materials that meet either of the following conditions:
 - created or obtained by FSA
 - in the possession and control of FSA at the time of the request.

B

FOIA Background

FOIA establishes a presumption that records in the possession of Agencies and Departments of the executive branch of the U.S. Government are accessible to the people. FOIA sets standards for determining which records must be disclosed and which records can be withheld, and provides administrative and judicial remedies for those denied access to records. And, above all, the statute requires Federal agencies to provide the fullest possible disclosure of information to the public.

FOIA is intended to expedite the flow of information from the Government to the public. To accomplish this goal, the courts have liberally construed FOIA in favor of disclosure and narrowly construed its exemptions.

3 Disclosure Policy

**A
Record
Availability**

FSA shall make all nonexempt records available to the public.

A records holding office shall not withhold a record because it:

- suggests administrative error or inefficiency
- might embarrass an FSA official.

According to the full disclosure policy, all records are available to the general public if published or approved by proper authority.

Exceptions: The following records are exceptions from this disclosure policy.

- Records that are exempt from mandatory disclosure. See paragraph 20 and Exhibit 4.
- Records that are withheld from release for limited time periods. See Exhibit 5.

***--B
Maintaining and
Releasing
Records
Electronically**

Effective November 1, 1997, offices shall:

- make copies of records meeting all of the following conditions available to the public, regardless of form or format:
 - have been released under an FOIA request
 - because of the nature of the records' subject matter, have become or are likely to become the subject of future requests for substantially the same records
 - created on or after November 1, 1996
- when requested, provide these records to the public by computer telecommunications or other electronic means, as available.--*

Continued on the next page

3 Disclosure Policy (Continued)

***--B**

**Maintaining and
Releasing
Records
Electronically
(Continued)**

Offices shall decide on a case-by-case basis whether the records being requested meet the conditions in this subparagraph, based on the following factors:

- previous experience with similar records
- the particular circumstances of the records involved, including their nature and the type of information contained in the records
- the identity and number of requesters and whether there is widespread press, historical, or commercial interest in the records.

This subparagraph shall be followed in those situations where public access in a timely manner is important. It is not intended to apply where there may be a limited number of requests over a short period of time from a few requesters.

Offices may remove a record from the electronic medium when the head of the records holding office determines that it is unlikely there will be substantial further requests for that document.--*

4 Responsibility for Complying With FOIA

A

National Office

PAS, Office of the Administrator, FSA, is responsible for the Agency's compliance with FOIA. The Director, PAS, is designated as the Agency's FOIA officer. There are two FOIA specialists designated as FOIA coordinators.

B

KCMO

The KCMO FOIA coordinator shall:

- handle State and County Office requests for special programming to satisfy FOIA requests for automated data that may not be accessible to State and County employees
 - refer to the National Office FOIA officer those requests for automated data that KCMO is unable to fulfill.
-

5 Records Holding Office Responsibility

A

Designated Records Holding Offices

All FSA offices are designated records holding offices, and the heads of the offices shall:

- initially determine whether to provide or withhold records requested under FOIA
- provide space for the requester to inspect and copy available records

Note: The public shall not remove records from the office. See 2-AS or 25-AS.

- maintain an effective balance between regular operations and making records available to the public

Note: Heads of offices shall use reasonable discretion in making records available if it will not unduly interfere with program operations. See subparagraph 6 B and paragraph 8.

- collect fees according to paragraphs 52 and 55
 - maintain a current log of FOIA requests, using FSA-534, according to paragraph 9.
-

6 General Procedures for Processing FOIA Requests

A Submitting Requests

FOIA requests should be in writing; however, offices may honor oral requests.

Note: Requests for Agency directives, such as handbooks and notices, blank forms, and descriptive publications that are readily available need not be put in writing.

If a requester is dissatisfied with a response from an oral request, advise the requester to submit the request in writing. Written requests shall:

- be addressed to the office head with "FOIA REQUEST" typed or written on the envelope
- sufficiently describe the record to permit its identification and location
- be made to the appropriate office where the records are located.

Note: All written requests will be date stamped upon their receipt.

B Fulfilling Requests

Each FOIA request shall be considered separately. Continuing requests or standing requests for records as they become available shall not be accepted.

A request shall not be denied on the sole basis that the record has not been properly identified if the description provided by the requester, together with the knowledge Agency personnel have of the contents of their files, enables the record to be located.

--No provision in FOIA requires that an Agency create a new record to fulfill a request for records. Creation of records may be undertaken voluntarily if-- the Agency determines this action to be in the public interest or in the interest of FSA. See paragraph 21.

Requests shall be reasonably specific. If the request falls within reasonably specific categories, but constitute an undue burden, the Agency official making the determination may contact the requester to discuss the request and attempt to reduce it to manageable proportions. However, the fact that filling a request constitutes an undue burden is not grounds for denying a request.

Continued on the next page

6 General Procedures for Processing FOIA Requests (Continued)

B
Fulfilling
Requests
(Continued)

*--Records holding offices shall:

- make reasonable efforts to maintain their records in forms or formats that are reproducible
- provide the record in any form or format the requester specifies, if the record is readily reproducible in that form or format
- in responding to requests for records, make reasonable efforts to search for records in electronic form or format, except when these efforts would significantly interfere with the operation of the Agency’s automated information system.

Note: These determinations shall be made on a case-by-case basis.

PAS shall maintain reference material and a guide for requesting records or information from the Agency. This information shall be made available on the FSA Web site's home page, electronically upon request, and through written requests for the document.--*

C
Published
Information

Copies of a requested record need not be provided if the record is known to have been published in FR or is available for purchase from the Superintendent of Documents, U.S. GPO. The requester may be advised to order from GPO at the following address: Superintendent of Documents, U.S. GPO, Washington, DC 20402.

These records may be provided if an Agency office has a copy.

Continued on the next page

6 General Procedures for Processing FOIA Requests (Continued)

D

Maintaining Records

Under no circumstances shall records be destroyed while they are the subject of a pending request, appeal, or lawsuit under FOIA or the Privacy Act.

In addition, the records must be separately segregated and maintained until the request, appeal, or lawsuit has terminated or the time for initiating an appeal or lawsuit has lapsed.

When final action has been taken on these requests, the materials may be *--destroyed according to the appropriate disposition schedule in 2-AS or 25-AS.

E

Multi-Track Processing

When an office has a significant number of requests, the nature of which prevents a determination within 20 workdays, the requests may be processed in a multi-track processing system, based on:

- the date of receipt
- the amount of work and time involved in processing the request
- whether the request qualifies for expedited processing.

Offices may establish as many processing tracks as appropriate. However, at a minimum, establish 3 processing tracks. The tracks shall be:

- based on a first-in, first-out concept
- rank-ordered by the date of receipt of the request.

Example: One track may be for simple requests, 1 track for complex requests, and 1 track for expedited processing.

Each Office shall make a determination of whether a request is simple or complex on a case-by-case basis.--*

Continued on the next page

6 General Procedures for Processing FOIA Requests (Continued)

*--E

Multi-Track Processing (Continued)

Offices may provide a requester whose request does not qualify for the fastest track, an opportunity to limit the scope of the request to qualify for the fastest track. This multi-track processing system does not lessen FSA's responsibility to exercise due diligence in processing requests in the most expeditious manner possible.

Offices shall process requests in each track on a "first-in, first-out" basis, unless unusual circumstances or expedited circumstances apply.

F

Expedited Processing

Offices shall establish a separate track for requests meeting the test for expedited processing. Expedited processing shall be granted to a requester after the requester:

- makes a request for expedited processing
- has demonstrated a compelling need for the information.

Notice of the determination as to whether to grant expedited processing in response to a requester's compelling need shall be provided to the requester within 10 calendar days after receipt of the request in the records holding office. When the determination has been made to grant expedited processing, offices shall process the request as soon as practicable.

The following are subject to judicial review:

- determinations by FSA offices to initially deny or affirm denial of a request for expedited processing
 - failure by FSA to respond in a timely manner to a request for expedited processing.--*
-

Continued on the next page

6 General Procedures for Processing FOIA Requests (Continued)

*--G

Expedited Processing Criteria

To be entitled to expedited processing, a requester must demonstrate either of the following "compelling need" criteria:

- if the failure to obtain records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual
- if the request is made by an individual primarily engaged in disseminating information, and there is urgency to inform the public concerning actual or alleged Federal activity.

Examples: Representatives of the news media would normally qualify as individuals primarily engaged in disseminating information.

Other requesters must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public as a whole, and not just a particular segment or group.

Urgency contemplates that the information has a particular value that will be lost if not disseminated quickly.

- Ordinarily, this means a breaking news story of general public interest.
- The following do not qualify as being urgent:
 - information of historical interest only
 - information sought for litigation or commercial activities
 - news media publication or broadcast deadline unrelated to the news breaking nature of the information.--*

Continued on the next page

6 General Procedures for Processing FOIA Requests (Continued)

*--G

Expedited Processing Criteria (Continued)

The requester must provide a written:

- statement that demonstrates a compelling need for the request
- certification that the compelling need is true and correct to the best of the requester's knowledge.

Note: Offices shall not consider the request, unless it is accompanied by the certification.

The same procedures apply to requests for expedited processing of administrative appeals.--*

7 Public Information Requested

A

Using FSA-533

Offices shall use FSA-533 if the records holding office determines that the requested record is unavailable to the public.

Offices may use FSA-533 if:

- records will be provided
- records are not sufficiently identified and additional identification is needed
- payment of fees did not accompany the request
- records are at another location
- request is denied in whole or in part.

B

Preparing FSA-533

Offices shall prepare FSA-533 according to Exhibit 6.

8 Administrative Reply Deadline

A

Basic Rule

--Heads of offices shall inform requester within 20 workdays after receiving-- the FOIA request of the Agency's intention to:

- release and provide records with the reply or at a later date

Note: If the Agency determines that release will occur at a later date:

- provide the date records will be available
- indicate the time and place records will be made available for inspection
- state reason for delay. See subparagraph B for reasons for extending a deadline.
- deny request for records
- require additional time to determine whether to grant or deny the request

Note: Provide an approximate date when determination will be made.

- request additional information from the requester to enable the Agency employee to locate the records.

B

Extending Deadlines

*--When additional time is needed to respond to the initial request or to an appeal because of unusual circumstances, records holding offices shall:

- acknowledge the request or the appeal in writing within the 20 workday time period
- describe the unusual circumstances requiring the delay

Examples: See examples of unusual circumstances in subparagraph C.--*

Continued on the next page

8 Administrative Reply Deadline (Continued)

B Extending Deadlines (Continued)

- *--• indicate the anticipated date for a substantive response that shall not exceed 10 additional workdays.

Exception: When the office has extended the response date by 10 additional workdays and finds that it cannot make a response determination within the additional 10 workdays, the office shall:

- notify the requester
- provide the requester an opportunity to do either of the following:
 - limit the scope of the request to allow the office to process the request within the extended time limit
 - arrange an alternative timeframe for processing the request or a modified request.

Notes: If the requester refuses to reasonably modify the request, or alter the timeframe for processing the request, offices shall consider the refusal as a factor in determining whether there are exceptional circumstances that warrant granting additional time for the office to complete its review of the records.

The term "exceptional circumstances" does not include a delay that results from a predictable backlog of FOIA requests, unless the Agency demonstrates reasonable progress in reducing its backlog of pending requests.--*

Continued on the next page

8 Administrative Reply Deadline (Continued)

*--C

Examples of Unusual Circumstances

Following are examples of unusual circumstances that may justify a delay in responding to a request or an appeal:

- the need to search for and collect the requested records from field offices or other offices that are separate from the office processing the request
- the need to search for and collect voluminous records demanded in a single request
- the need for consultation, which shall be conducted in a timely manner, with other Departments or agencies having a substantial interest in the determination of the request or among 2 or more components of the Agency having substantial subject-matter interest in the request.

Note: Consultation regarding policy or legal issues between FSA and any of the following does not justify a delay:

- OGC
- OC
- the Department of Justice.--*

9 FSA-534, Freedom of Information Request Log

A

Using FSA-534

All offices shall complete FSA-534:

- to record all FOIA requests and resulting actions taken, according to Exhibit 7
- *--to prepare the Annual FOIA Report (MS-271P), according to paragraph 10.

B

Tracking FSA-534

All offices shall start a new FSA-534 on October 1 of each year.--*

10 Annual FOIA Report (MS-271P)

**A
Report Due
Dates**

Effective October 1, 1997, all offices shall:

- *--log FOIA requests on FSA-534
- complete MS-271P for all FOIA activities for the previous FY
- prepare MS-271P on FSA-537.--*

Note: The first FY report is due October 1998.

Submit MS-271P's as follows:

- County Offices shall send MS-271P's to the State Office by October 15
- each National Division or Office, APFO, KCCO, and KCMO shall send MS-271P to the Director, PAS, by October 30.

**B
State Office
Reporting**

State Offices shall:

- consolidate the County MS-271P's with the State MS-271P
- submit the State MS-271P to the Director, PAS, by October 30.

Continued on the next page

10 Annual FOIA Report (MS-271P) (Continued)

C

*--All offices responsible for FOIA processing, shall:

Reporting

Requirements

- obtain applicable information from FSA-534
- enter the information on FSA-537, according to the following table.

Item No.	Instructions
1	Enter the office name; such as, State Office or KCCO.
2	Enter the office's city and State.
3	Enter FY being reported.
4	Enter total number of FOIA requests received.
5	Enter total number of FOIA requests completed.
6	Enter median number of days to complete FOIA requests.
7	Enter total number of determinations made not to comply with FOIA requests.
8	Enter total amount of fees collected for processing FOIA requests. Note: Do not include sales of photocopies that are normally made from photographs obtained from APFO. Sales of aerial photographs obtained from APFO are not FOIA requests. Record fees from these sales on FSA-603.
9	Enter total number of full-time employees responsible for processing FOIA requests.
10	Enter total amount expended for processing FOIA requests. Note: This amount covers all administrative costs associated with completing each FOIA request, even though FSA does not recover these costs from the requester. Examples: Examples of these expenditures include postage, supplies, reproduction, and salaries of employees who processed FOIA requests.

--*

Continued on the next page

10 Annual FOIA Report (MS-271P) (Continued)

C
***--Reporting**
Requirements
(Continued)

Item No.	Instructions
11	Enter the total number of FOIA requests pending at the end of FY.
12	Enter the median number of days that requests were pending at the end of FY.
13	<p>Enter the number of times that each exemption was invoked to deny initial requests. Include total number of "no records" determinations.</p> <p>Examples: Exemption 3: 2 instances Exemption 4: 10 instances Exemption 5: 9 instances Exemption 6: 15 instances No Records: 3 instances</p> <p>Note: When reporting Exemption 3 denials, state the applicable statute according to subparagraph 20 C.</p>

--*

Continued on the next page

10 Annual FOIA Report (MS-271P) (Continued)

*--D
Example of
FSA-537

+

Following is an example of a completed MS-271P on FSA-537.

number and date on all reproductions.

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency
Annual Freedom of Information Act Report

2. OFFICE LOCATION Carroll County, NE			
5. NUMBER OF REQUESTS COMPLETED 3	6. MEDIAN NUMBER OF DAYS TO COMPLETE REQUESTS 4	7. NUMBER OF DENIED REQUESTS WITH REQUESTS	
9. NUMBER OF FULL-TIME EMPLOYEES PROCESSING REQUESTS 0		10. AMOUNT EXPENDED AT END OF FISCAL YEAR 0	
11. NUMBER OF TIMES EACH EXEMPTION INVOKED TO DENY INITIAL REQUESTS (INCLUDING TOTAL NUMBER)		12. MEDIAN NUMBER OF DAYS REQUESTS WERE DENIED	
Exemption 3	Exemption 4 1	Exemption 5	Exemption 6 2

DATE
10-10-9X

on a nondiscriminatory basis without regard to race, color, religion, national origin, sex, marital status, or disability.
the remarks area.

--*

Continued on the next page

10 Annual FOIA Report (MS-271P) (Continued)

*--E

FSA-Wide
Report to USDA

PAS shall:

- based on all MS-271P's received, prepare a consolidated FSA-wide report
- send the Agency-wide report, and the following information about FOIA appeals, to the USDA FOIA Officer by November 30:
 - number of appeals received
 - number of appeals granted in full
 - number of appeals denied in full
 - number of appeals denied in part
 - number of appeals pending
 - number of times each exemption was invoked to make denials
 - statutes under which Exemption (b)(3) denials were invoked
 - number of times statutes were invoked under Exemption (b)(3).--*

11-18 (Reserved)

Part 2 Responding to Requests

19 Records Holding Office and FOIA Policy Change

A

Records Holding Office

The records holding office shall:

- handle partially satisfied requests as denials
- if denying the request, complete FSA-533 (see Exhibit 6).

The Agency cannot refuse to provide records to a requester because of the:

- identity of the requester
- requester's purpose in seeking the records.

The Agency can refuse to make the requested records available only when the records sought fall within at least 1 of the 9 statutory exemptions (in paragraph 20) from FOIA's disclosure provisions.

B

FOIA Policy Change

The President and Attorney General issued new policy implementing FOIA on October 4, 1993. The Department of Justice will no longer defend an Agency's withholding of information merely because there is a "substantial legal basis" for withholding, even though the information might technically fall within an exemption.

20 Legal Basis for Denying Requests

A

Exemption 1

Exemption 1, 5 U.S.C. 552(b)(1): classified material that is properly classified by Executive Order as confidential, secret, or top secret, such as a foreign trade document prepared for the Secretary that is formally classified as confidential because of its foreign policy impact.

Continued on the next page

20 Legal Basis for Denying Requests (Continued)

B**Exemption 2**

Exemption 2, 5 U.S.C. 552(b)(2): records related solely to the internal personnel rules and practices of the Agency. This exemption covers:

- internal matters of a relatively trivial nature in which there is no genuine public interest

Note: Documents of this nature may no longer be withheld under the 1993 policy change initiated by the President and Attorney General (see subparagraph 19 B).

- more substantial internal matters, the disclosure of which would allow circumvention of a statute or regulation.

Note: As a result of the 1993 FOIA policy change, the records holding office should justify in writing how release of the documents would harm the Agency, and place written justification in the file.

C**Exemption 3**

Exemption 3, 5 U.S.C. 552(b)(3): matters which are specifically exempted from disclosure by statute (other than Section 552b of Title 5), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of material to be withheld.

Example: The Agricultural Adjustment Act of 1938, as amended, specifically 7 U.S.C. 1373 (c), prohibits the release of data supplied by or for the farmers, warehouses, producers, and common carriers of crops that have marketing quotas for peanuts and tobacco. Data include proof of acreage, yield, storage, or marketing of the commodity and related data.

Continued on the next page

20 Legal Basis for Denying Requests (Continued)

D

Exemption 4

Exemption 4, 5 U.S.C. 552(b)(4): trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.

This exemption does not itself preclude discretionary disclosure of business information; however, the Trade Secrets Act (18 U.S.C. 1905) prevents this discretionary disclosure.

This exemption covers:

- material submitted voluntarily that customarily would not be made public by the person from whom it was obtained
- records submitted under compulsion if their disclosure is likely to either impair the Government's ability to obtain necessary information in the future, or cause substantial harm to the competitive business position of the person or the business on which the information was supplied. A pledge of confidentiality from the Agency, or the fact that the information at issue is not customarily available to the public, will not qualify requested materials as "confidential" under this exemption.

The Agency is responsible for making the final determination regarding the disclosure or nondisclosure of information submitted by a business. If it cannot be readily determined whether the information obtained from a person is privileged or confidential business information, it is the policy of the Agency to obtain and consider the views of the submitter of the information, and to provide the submitter an opportunity to object to any decision to disclose the information.

Whenever a request is received for information that has been submitted by a business, the Agency shall take the following action.

Step	Action
1	Provide the business submitter with prompt notification of a request for information they submitted to the Agency.
2	Notify the requester that the Agency will inform the submitter of a request for submitted business information.
3	Provide business submitters time in which to object to the release of any specified portion of the information.
<p>Note: The submitter must fully explain all grounds upon which disclosure is opposed.</p>	

Continued on the next page

20 Legal Basis for Denying Requests (Continued)

D
Exemption 4
(Continued)

Step	Action
4	<p>Provide business submitters with notice of any determination to disclose the records before the disclosure date, so the matter may be considered for possible judicial intervention.</p> <p>Note: This notice affords the submitter of the requested materials the opportunity to seek judicial intervention to prevent the Agency from releasing business submitted information to the requester.</p>

E
Exemption 5

Exemption 5, 5 U.S.C. 552(b)(5): inter-Agency or intra-Agency memorandums or letters that would not be available by law to a party other than an Agency in litigation with the Agency.

This exemption protects internal memorandums and letters of a predecisional and deliberative nature, the release of which would inhibit the free exchange of ideas within the Agency before a final decision. It cannot be used to withhold material merely because it is embarrassing or to withhold purely factual material or final decisions.

Examples: Documents frequently withheld under Exemption 5 include internal Agency documents/memorandums of a deliberative nature (before a final decision), OGC opinions, agendas pending action by the board of directors, minutes of board of directors' meetings, budget estimates with supporting data, or reports containing recommendations, opinions, or advice the Agency uses in its decision-making process.

Continued on the next page

20 Legal Basis for Denying Requests (Continued)

E

Exemption 5 (Continued)

Factual statements or information contained in an otherwise exempt document are not restricted and must be released after deleting restricted portions.

Exemption 5 includes the following 3 privileges.

Privilege	What Privilege Protects
Deliberative Process Privilege	Protects advice, recommendations, and opinions that are part of the deliberative, consultative, decision-making processes of Government.
Attorney Work-Product Privilege	Protects documents prepared by an attorney in anticipation of particular proceedings, where disclosure would reveal the attorney's litigation strategy or theory of the case.
Attorney-Client Privilege	Protects confidential communications between an attorney and his or her client.

Note: When using Exemption 5 to withhold information or documents, the records holding office should justify in writing how the release of the documents would harm the Agency (place written justification in the file).

F

Exemption 6

Exemption 6, 5 U.S.C. 552(b)(6): personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Note: In 1982, the Supreme Court defined "similar files" broadly, holding that any information that "applies to a particular individual" may qualify for consideration under Exemption 6.

The exemption may be applied only to protect individuals. Corporations and associations possess no protectable "personal privacy" interests. However, where the business is owned and operated by an individual and the records of the business are in essence the records of the individual, the exemption may apply.

The Agency interprets "person" to include only individuals and "files" to include personnel, farm loan applicant/borrower, producer, and producer association files. This exemption does not include Agency employees' grade, title, salary, and work location.

Continued on the next page

20 Legal Basis for Denying Requests (Continued)

F

Exemption 6
(Continued)

Personal information may include the following.

General Category	Specific Personal Information
Personal Information	<ul style="list-style-type: none"> • Whether the individual is a U.S. citizen or a permanent visa holder. • An individual's home address, home telephone number, Social Security number, race code, level of education, and personal financial information.
Farming Information	<ul style="list-style-type: none"> • Real estate appraisals prepared for farm loan applicants or borrowers. • Information about individuals or their farming operations that could be considered derogatory to them. <p>Examples: A delinquent loan installment, a marketing quota penalty assessed for overplanting, or a farm-stored loan denied because of previous difficulty settling stored loans with a producer.</p>
Employment Information	<p>Employee performance appraisals.</p> <p>Note: Performance elements and standards also may be withheld when they are so intertwined with performance appraisals that their disclosure would reveal an individual's performance appraisal.</p>
Financial Information	<ul style="list-style-type: none"> • Intimate or personal details about individuals regarding garnishment of wages on alimony orders and child support, except when requested by State and local government officials authorized to issue compulsory requests for information. • The Agency shall hold each SF-450 in confidence. Only designated employees authorized to review and retain the SF-450's are responsible for maintaining the SF-450's in confidence and shall not allow access to SF-450 or information to be disclosed from SF-450. • Segregated, selective, or discriminate list of individual borrowers such as delinquent loans, borrowers receiving servicing letters, borrowers' names submitted to collection agencies, and borrowers facing foreclosure, bankruptcy, or similar proceedings. A request for information regarding individuals' debt servicing relationship with the Agency must be denied on the basis that individual borrowers have legitimate expectations of privacy regarding their servicing relationship with the Agency, an expectation which the Agency is authorized to maintain under this exemption.

Continued on the next page

20 Legal Basis for Denying Requests (Continued)

G

Exemption 7 Exemption 7, 5 U.S.C. 552(b)(7): law enforcement investigatory records collected because of an alleged illegal activity.

Investigatory records include:

- receipt of complaints or other communications indicating possible law or program regulation violations
- information gathered about an employee or a prospective employee during a background, security, or personnel investigation.

Exemption 7 protects from disclosure records or information compiled for law enforcement purposes, but only when the production of the law enforcement records or information...	Reference 5 U.S.C. 552 (b)(7)...
could reasonably be expected to interfere with enforcement proceedings.	(A).
would deprive a person of a right to a fair trial or an impartial adjudication.	(B).
could reasonably be expected to constitute an unwarranted invasion of personal privacy.	(C).
could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign Agency or authority, or any private institution, which provided information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an Agency conducting a lawful national security intelligence investigation, information provided by a confidential source.	(D).
<p>would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law.</p> <p>Note: According to the 1993 FOIA policy change, the records holding office should justify in writing how the release of the documents would harm the Agency. Keep the written justification in the file.</p>	(E).
<p>could reasonably be expected to endanger the life or physical safety of any individual.</p> <p>Example: Records that divulge OIG audits and investigation reports, which are to be released only by OIG, may be exempt.</p> <p>Note: Requests for OIG records shall be referred to OIG for appropriate *--handling. See 9-AO for specific instructions.--*</p>	(F).

Continued on the next page

20 Legal Basis for Denying Requests (Continued)

H

Exemption 8

Exemption 8, 5 U.S.C. 552(b)(8): information collected by an Agency responsible for regulating financial institutions.

Note: This exemption does not apply to FSA.

I

Exemption 9

Exemption 9, 5 U.S.C. 552(b)(9): geological or geophysical data about oil and gas wells.

- The location of a domestic water or irrigation well is nonrestricted information.
 - This exemption rarely, if ever, applies to FSA.
-

21 **Unavailable Records and Recording Denials**

A Unavailable Records

Record may be unavailable because the record:

- does not exist

Note: Inform requester that the requested records do not exist or have been destroyed according to the Agency’s record retention schedule.

- is not held by the receiving office

Note: See subparagraph 22 B.

- must be compiled from multiple existing records, including computerized records.

Note: FOIA does not require the Agency create records that do not exist, or create records by combining or compiling information contained in existing records. The requester has the right to appeal a “no records” response to the Administrator. * * *

According to the following exceptions, the Agency may:

- voluntarily create a record if the FOIA officer or coordinator determines that releasing the information is in the public interest and creation of the record does not interfere with the normal functioning of the office
- provide unrestricted raw data for the requester to compile the information
- request a computer search and printout of payments made to producers. This information must be provided upon receipt of a proper FOIA request and willingness to pay fees. See paragraph 52 for the fee schedule.

B Recording Denials

In preparing FSA-534, column 10, record the exemption invoked using the exemption number. Indicate “no records” in column 10 when records could not be located or do not exist. See Exhibit 7.

22 Issuing Denial

***--A Submitting FSA-533**

If a request is partially or totally denied:

- State and County Offices shall prepare FSA-533 within 20 workdays after receiving--* the request, showing:
 - reason for denial or exemption invoked, according to paragraph 20
 - name and title of the records holding office that initially denied the request
- County Offices shall send a copy of FSA-533 through the State Office to the Director, PAS
- *--KCCO and KCMO shall submit a copy of FSA-533 to the Director, PAS.--*

B Information Not Held by Receiving Office

If the office denies the request because it does not hold the records, that office shall notify the requester and immediately refer the request to either of the following offices:

- the appropriate records holding office, if known
- PAS, if:
 - request is for national directives, procedural material, or statistical publications
 - records holding office is unknown.

23 Deleting Restricted Data**A Partial Releases**

When withholding exempt portions of a record:

- delete only the restricted portion and release all nonrestricted material
- treat any deleted material as a partial denial according to exemptions in paragraph 20
- *--make a reasonable effort to estimate the volume of the records denied and provide this estimate to the requester, unless providing this estimate would harm an interest protected by an exemption of FOIA.

Note: Use either of the following methods to indicate the amount of deleted information:

- on the released portion of paper records, use brackets or darkened areas to indicate removal of information
- on electronic documents or deletion in audiovisual or microfiche records, if technically feasible, use brackets, shaded areas, or some other identifiable technique that clearly shows the limits of the deleted information.--*

B Fees

Offices shall not charge fees for time spent deleting restricted material, except for commercial use requesters. See paragraph 53.

24 FOIA and Privacy Act Relationship**A General Provisions**

FOIA applies to all Agency records.

The Privacy Act applies to records about individuals maintained in a Privacy Act system of records. A system of records is a group of records under the control of an Agency from which information is retrieved by the name of the individual or by some other identifying particular assigned to the individual, such as Social Security number, badge number, fingerprint, or voice print.

B Processing Under Both Acts

A person may request records about himself or herself under FOIA, the Privacy Act, or both. The Agency should give the requester as much information as would be available under either Act.

The Privacy Act never prohibits disclosure of material that FOIA requires to be released, such as the grade level and salary of an Agency employee.

The Privacy Act, unlike FOIA, only applies to U.S. citizens or lawfully admitted aliens.

C Unlawful Disclosure

When a third party submits an FOIA request for information that is subject to the Privacy Act, and the information is not required to be released under FOIA, the material may not be disclosed without the prior written approval of the individual on whom the record is maintained.

Any employee who knowingly and willfully discloses information protected by the Privacy Act may be subject to criminal penalties.

25-35 (Reserved)

Part 3 (Withdrawn--Amend. 7)

36-40 (Withdrawn--Amend. 7)

41-50 (Reserved)

Part 4 Fees Under FOIA

51 Records and Services Provided Without Charge

**A
Public
Information
Materials** Provide at no charge to the requester, informational materials issued primarily for public use.

Examples: Press, radio, and television releases, pamphlets, leaflets, background statements, newsletters, speeches, and similar materials.

Note: See 1-INFO and 16-AO about limitations on releasing information and materials.

**B
Reports and
Summaries** Provide printed statistical reports and summaries published for general distribution to the public.

**C
Handbooks and
Notices** *--Use the table in subparagraph 52 E to determine fee charges related to handbooks and notices.--*

**D
Inspecting and
Copying** No fee will be charged for photocopying done for the convenience of the Government or when the requester provides the copying equipment, materials, and services. A requester may elect to inspect nonrestricted records and determine pages or documents for copying. If appropriate, charge search fees according to paragraph 53.

**E
COC and CMC
Lists** The County Office may provide lists of COC and CMC members and County Office employees at no charge. Home addresses of COC and CMC members may be included, but those of employees are restricted.

Continued on the next page

51 Records and Services Provided Without Charge (Continued)

F

**Program
Decisions**

Provide 1 copy of a summary or portions of an investigation report provided an appellant according to paragraph 70. Charge regular fees for additional copies.

G

Farm Data

Provide 1 copy of farm data in Exhibit 4 to the owner, operator, or tenant.

H

**Other Printed
Material**

Provide reasonable quantities of printed material from other Departments or Agencies for official use.

Provide 1 copy of indexes listed in paragraph 68.

I

Legal Matters

Do not charge fees for any material that the law requires be served on a party in any legal proceedings.

52*--Description of Services and Fee Schedule

A

Search Services

Search services are services performed by FSA clerical, supervisory, or professional salary level employees who are attempting to locate records through manual or electronic means to respond to the FOIA request.

Offices shall use the following guidelines to determine whether requesters are to be charged for searching services.

IF time is used to...	THEN offices shall...
examine records for the purpose of finding information which is within the scope of the request	charge for this search service.
transport employees to places of record storage, if these services are reasonably necessary	
transport records to the employee's location, if these services are reasonably necessary	
locate a record, if the record is in its normal location in a file or other facility	not charge for this search service.

B

Review Services

Review services are services performed by FSA clerical, supervisory, or professional salary level employees to examine paper or electronic records:

- for responding to a request that is for a **commercial use**, according to subparagraph 53 A
- to determine whether any portion of any record located is permitted to be withheld.

IF time is used to...	THEN offices shall...
process any records for disclosure; that is, doing all that is necessary to excise exempt portions and otherwise prepare records for release	charge commercial use requesters for this review service.
resolve general legal or policy issues regarding the application of exemptions	not charge for this review service.

--*

Continued on the next page

52*--Description of Services and Fee Schedule (Continued)

C

Rates for Manual Searches and Reviews Offices shall use either of the following methods to charge for manual searches. **Note:** Charges shall be in the order shown, and computed to the nearest quarter hour required for the search.

Method Number	Rate To Be Charged	
1	When feasible, charge at the hourly salary rate of the employee conducting the search, plus 16 percent of the employee's hourly basic pay.	
2	Use the following table to determine which group of employees were used in the search, and charge at the appropriate rate.	
	WHEN a...	THEN...
	similar class of employee is used exclusively	charge at either of the following rates: <ul style="list-style-type: none"> \$10 an hour for clerical time \$20 an hour for supervisory or professional time.
group of employees in different grades, pay levels, or positions are involved in a search	charge at the hourly salary rate of the employee, plus 16 percent of the employee's hourly basic pay.	

The fee for providing review services shall be at the hourly salary rate of the employee conducting the review, plus 16 percent of the employee's hourly basic pay.

D--*

Computer Services

Base fees for computer services, unless subject to reduced rates or waiver of fees as established in paragraph 54, are as follows:

- for mainframe computers, use rates for the appropriate computer information center

Notes: This applies only to KCMO.

--When the rate has not been established, the mainframe computer search rate shall be \$27 a minute. Searches using computers, other than mainframe computers, shall be charged at the manual search rate according to subparagraph C.--

Continued on the next page

52*--Description of Services and Fee Schedule (Continued)

D--*

Computer Services (Continued)

- charges for requests to County Offices for computerized records shall be limited to the employee's time, as established in subparagraph A

Note: See subparagraph 21 A for policy on compiling computerized records.

- for requests to State Offices for computerized records requiring multi-County Office coordination, use only after prior consultation with the Director, PAS.

***--E**

Fees for Related Services

Use the following table to determine fees for duplicating documents, unsuccessful searches, and other costs incurred by FSA.

IF the service...	THEN the fee is...
is making photocopies of an 8½- by 14-inch page or smaller	\$.20 per page. This fee is for each side of the paper containing printed material.
is making photocopies of a page that is larger than 8½ by 14 inches	\$.50 per linear foot of the longest side of the copy.
is for making other forms of duplicated records; such as any of the following: <ul style="list-style-type: none"> • microfilm • audio-visual materials • machine-readable documentation; such as, magnetic tape or disk 	the actual direct cost of producing the records.
resulted in any of the following: <ul style="list-style-type: none"> • unsuccessful searches • searches that fail to locate records • located records, which are exempt from disclosure 	the same rate as searches that result in disclosure of records.
involves other costs incurred by FSA	the actual cost to the Government.

--*

53 Categorizing Requesters for Fees

**A
Commercial Use
Requesters**

A commercial use requester is a person who seeks information for a use or purpose that furthers the commercial trade or profit interests of the person for whom the request is made.

Fees charged should reflect the full direct cost to the Agency. For this purpose, the prescribed hourly rates are to be charged for:

- time expended in searching for the records
- reviewing the records to determine whether any information is exempt from disclosure
- photocopying requested nonexempt records.

The cost of searching for and reviewing records may be recovered even if there is ultimately no disclosure of records.

Continued on the next page

53 Categorizing Requesters for Fees (Continued)

B**Educational Requester**

An educational requester is defined as a noncommercial institution that furthers either educational pursuits or scientific research.

The only fee that can be charged in this category is for photocopying. However, the first 100 pages are to be supplied at no cost.

C**News Media Requester**

A news media requester is defined as a person actively gathering news for an entity organized and operated to broadcast news to the public or to publish newspapers or journals that are available for purchase or subscription by the general public. This includes free lance journalists who can demonstrate a solid expectation of publication. Requests in this category must not be for commercial use.

The only fee that can be charged in this category is for photocopying. However, the first 100 pages of duplication are free of charge.

D**All Other Requesters**

All other requesters are defined as those who do not fit into any of the previous 3 categories. See subparagraphs A through C.

Fees charged shall be for searching and photocopying documents. No charge, however, shall be made for:

- the first 100 pages of photocopies
 - the first 2 hours of search time.
-

E**Questionable Intentions**

Where there is a reasonable doubt about the use to which the records will be put, or where the intended use is unclear from the request itself:

- additional clarification may be sought from the requester
 - the deadline for reply then shall be delayed until the clarification is satisfied.
-

54 Waiving Fees

A

Automatic Waiver

Any fee totaling \$25 or less shall be waived.

B

Public Interest

Fees shall be waived or reduced if disclosure is considered to be in the public interest. A request is in the public interest if it is likely to contribute significantly to the public understanding of the operations or activities of the Government, and is not primarily in the commercial interest of the requester.

C

Considerations

Consider the following factors in making the determinations whether to reduce or waive fees.

Factor	Consideration
Subject of the request	Does it concern the operations and activities of the Agency?
Informative value of the information being disclosed	Will disclosure contribute to an understanding of the Agency's operations or activities?
Contribution that disclosure would make to the public's understanding	Will the public benefit or is the request primarily to satisfy private curiosity?
Significance of the contribution to public understanding	Will there be significant public benefit?
Existence and magnitude of a commercial interest	Will the requester's commercial interest be furthered by disclosure and, if so, what is the magnitude of that interest when measured against the public interest in disclosure?

Continued on the next page

54 Waiving Fees (Continued)

D**Other
Appropriate
Waivers**

The records holding office may also waive or reduce fees if:

- it is an appropriate courtesy to a foreign country or an international organization
- the requester is engaged in a nonprofit activity designed for the public safety, health, or welfare
- it is determined that the payment of the full fee by a State, local government, or nonprofit group would not be in the interest of the program
- the requester has not asked for a fee waiver, but the records holding office determines that doing so would be in the public interest.

55 Materials and Services

A**Collection and
Deposits**

Fees for materials and services are due and payable when the request is satisfied, but no later than 30 calendar days after the billing date.

The records holding office should collect:

- checks, drafts, or money orders made payable to the "Treasurer of the United States"
- cash (\$50 or less)

For estimated fees exceeding \$250:

- request a deposit of 50 percent of the estimated amount before beginning work
- collect balance due before releasing the material.

If the requester has failed to pay a fee on a previous request, the full amount owed plus the full estimated charges associated with the new request shall be paid before any new FOIA endeavor is undertaken.

Continued on the next page

55 Materials and Services (Continued)

B

Certification Certification services are \$5. The head of the records holding office must certify in writing that a document is a true and correct copy.

C

Authentication Authenticating with USDA seal is \$10 for each record. Send the request, the original record, a copy of the original document, and a statement that the copy provided is a true and correct copy, to the Director, PAS, for referral to OGC for processing.

D

Postage Shipping charges are the actual cost of shipping records from 1 location to another. However, normal postage for replying to the requester shall be absorbed by the Agency.

E

Handbooks and Other Printed Material Handbooks and State directories of County Offices and other printed material are charged as follows.

Material	Charges
National handbooks Note: The term "copy" includes all the national amendments up to the date of the request. Provide the amendments separately for the requester to assemble.	\$3 for the first copy and \$1 for additional copies.
Internal operations handbooks and State directories	
Future amendments to national handbooks Note: Inform the requester that the Agency will not provide copies of future amendments automatically.	\$.05 per sheet, not to exceed \$3, for each amendment.
Field supplements to national handbooks	\$.05 per sheet, not to exceed \$3 for each supplement. Note: All fees under \$25 are subject to the waiver provisions of subparagraph 54 A.

56 Handling Collected Fees

A

Reporting Fees

*--The following offices shall account for and report fees collected according to the applicable handbooks.

Offices	Handbooks
<ul style="list-style-type: none">• State, Caribbean Area, and County Offices• KCMO, Debt Management Division	3-FI
FMD	43-FI
APFO	92-FI

--*

57-66 (Reserved)

Part 5 Available Records

67 Rules, Procedures, and Decisions

A
Public Inspection and Copying Each office is required to make the following available for public inspection and copying:

- within the limits of Exemptions 3 and 6, final opinions in cases, such as rejection or approval of conservation practices and program appeals, and their indexes
- FSA handbooks and procedures.

68 FSA Indexes

A
Rules, Procedures, and Decisions FSA rules, procedures, and decisions indexes have been published, filed, and are available for inspection or copying. Copies of the indexes listed in this paragraph are available without charge.

B
Handbooks 1-AS, Exhibit 4 provides an index of current national handbooks that affect FSA operations.

C
Approved CCC Board Dockets Approved CCC Board Dockets indexes list approved dockets by classification (program type) maintained in the FSA National Office.

D
Board of Contract Appeals Board of Contract appeals indexes list by appellant all appeals affecting FSA and CCC operations acted on by Board of Contract Appeals, successors to the CCC Contract Dispute Board.

E
Marketing Quota Review Committee Determinations Marketing Quota Review Committee Determinations indexes list by crop year and commodity each case that is acted on by review committees.

These records and indexes may be inspected and copied at the office of the clerk of the committee for the county in which the farm is located.

Continued on the next page

68 FSA Indexes (Continued)

F

Program Appeals Program appeals indexes list program appeals carried out through NAD.

Final determinations may be inspected and copied at the Office of the Director, NAD.

G**FR Listing**

The indexes described in subparagraphs C through F are listed in FR, showing:

- index location
 - how to obtain copies.
-

69 Requests for Names and Addresses * * *

A**Denying
Requests for
Information**

Offices shall deny requests for names and addresses of FLP borrowers and applicants on the basis that release would constitute a clearly unwarranted invasion of personal privacy, except as outlined in subparagraph B. Use Exemption 6 of FOIA, 5 U.S.C. 552(b)(6) reference to deny the request.

Note:*--Do not release names, addresses, or names and addresses of FLP borrowers and applicants.--*

Requests for acreage, production data, and other documents from individual producer files shall be denied under Exemption 6 of FOIA because releasing this information would constitute a clearly unwarranted invasion of personal privacy. This information may be released when grouped by geographic or other statistical category, with all personal identifiers removed, unless the requester is able to identify an individual producer from the information provided.

Continued on the next page

69 Requests for Names and Addresses * * * (Continued)

B
Limited Release Within the framework of subparagraph A and according to the Agency's published routine uses of disclosure, offices may release names and addresses under the following conditions.

IF request is for...	THEN release to...
eligible voters	any eligible voter in the same local administrative area in that county. Note: Requester must certify that the list shall be used only for soliciting support for a nominee in an election.
only the names of cotton producers shown on CCC Cotton A-1	bona fide cotton buyers.
ELS cotton, upland cotton, and rice producers	approved cooperative marketing associations for determining price support loans.
names, addresses, and cotton acreages	cotton ginners.
cotton producers for promotion check-off purposes	the Cotton Board.
producers shown on a list of loan numbers provided by a promotion board or taxing authority, which are available to those entities having an agreement with CCC to withhold the excise tax or promotion fee from loan proceeds	State or local tax authorities.
only the names of tobacco and peanut allotment holders and their quotas * * *	any requester.
--names, addresses, and production payment amounts of FSA program participants	any requester. Note: This does not apply to FLP applicants and borrowers.--

Continued on the next page

69 Requests for Names and Addresses * * * (Continued)

B
Limited Release
(Continued)

IF request is for...	THEN release to...
farmers who have commodities under loan to CCC	State governments for lienholding purposes.
	State foresters for forestry related programs.
	other USDA agencies.
	Federal, State, and county taxing authorities.
	State or local taxing authorities, or their contracted appraisal companies, the names and addresses of producers for tax appraisal purposes.
FLP borrowers and applicants	<p>business firms in a trade area that buy chattel or crops or sell them for commission so that the Agency may benefit from the purchaser notification provisions of the Food Security Act of 1985, Section 1324.</p> <p>Note: This Act requires that potential purchasers of farm commodities must be advised ahead of time that a lien exists for the creditor to perfect its lien against the purchases.</p>
	a collection or servicing contractor, financial institution, or a local, State, or Federal agency, when FSA determines the disclosure is appropriate for servicing or collecting the borrower's account or as provided for in contracts with servicing or collection agencies.
	lending institutions when FSA determines the individual may be financially capable of qualifying for credit with or without a guarantee.
	lending institutions that have a lien against the same property as FSA for the purpose of the collection of the debt. These loans can be under the direct and guaranteed loan programs.
	private attorneys under contract with either FSA or the Department of Justice for the purpose of foreclosure and possession actions and collection of past due accounts in connection with FSA.
	financial consultants, advisors, or underwriters, when FSA determines the disclosure is appropriate for developing packaging and marketing strategies involving the sale of FSA loan assets.

Continued on the next page

69 Requests for Names and Addresses * * * (Continued)

C
Members of Congress Refer requests from Members of Congress for names and addresses of producers, and FLP applicants and borrowers to the Director, PAS.

70 Adverse Determinations

A
OIG Investigation or Audit The records holding office shall see 9-AO for instructions about releasing information from an OIG investigation or audit.

71 Aerial Photography

A
Requests for Aerial Photographs Do not consider requests for aerial photographs as FOIA requests; however, records holding offices shall help the requester prepare FSA-441. The requester may make tracings without charge.

Note: Aerial photography and photocopies of aerial photography shall be made available "as is" without any notations or identification of producer. Agency employees shall not provide identifying information linking farm serial number to producers.

B
Purpose of Aerial Photographs Aerial photograph photocopies are primarily for the farm operator and owner.

Note: If extra prints are available, the office may provide copies without restricted data to other persons.

See 2-CP, paragraph 499.

72 Subpoenaed Records

**A
Unrestricted
Records**

If the U.S. Government is not a party to a lawsuit for which records are being requested, all records a court requests or demands will be considered as a FOIA request and release of the requested records will be according to FOIA.

**B
Restricted
Records**

All data USDA requires from producers providing proof of acreage, yield, storage, or marketing of tobacco and peanuts under provisions of the Agricultural Adjustment Act of 1938 is required by law (7 U.S.C. 1373(c)) to be kept confidential. See Exhibit 4.

To withhold the records, immediately notify the appropriate Deputy Administrator for referral to the Administrator. The request will go through the following process, as applicable.

Stage	IF...	THEN...	
1	Administrator	approves release	release the record.
		refers to the Secretary Note: Secretary makes the final decision not to comply with the subpoena.	follow procedure in stage 2.
		has not determined whether to release the record	follow procedure in stage 3.
2	Secretary	approves release	release the record.
		refuses to release the record	<ul style="list-style-type: none"> • respectfully decline to produce the record • cite and provide a copy of 7 CFR 1.17 • provide a copy of the Secretary's determination.
		has not determined whether to release the record	follow procedure in stage 3.

Continued on the next page

72 Subpoenaed Records (Continued)

**B
Restricted
Records
(Continued)**

Stage	IF...		THEN...
3	Court	refuses to delay the record request until the office receives the Administrator's instructions	provide the records with a request that they be held in the judge's chambers (in camera) until either of the following occurs: <ul style="list-style-type: none"> • record is officially released • OGC or the regional attorney appeals.
		order or subpoena releases restricted personal records and discloses personal information	notify the subject of the released *--records according to 3-INFO.--*

73-82 (Reserved)

Part 6 Information Available to Other Federal Departments or Agencies and Congress

83 Information Available to Other Departments or Agencies

A**Release to Other
USDA Agencies**

Records holding offices may make FSA records available to other USDA Agencies needing the information to perform their official duties.

Note: Do not record these releases on FSA-534.

B**Release to Other
Federal Agencies**

Make restricted personal records available:

- if listed as a routine use disclosure in the Agency's published systems of records
- with the written consent of the individual to whom the records pertain
- if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity, to the appropriate Federal Agency:
 - responsible for enforcing, investigating, or prosecuting a violation or potential violation of law
 - charged with enforcing or implementing a statute, rule, regulation, or order.

County Offices may provide data and related administrative services, such as addressing official mail for other USDA Agencies, if it does not:

- interfere with FSA business
 - require a substantial amount of work (see 16-AO).
-

84 Data Provided to State Statisticians, NASS

**A
Information
Provided to
NASS** If requested by NASS, State Offices may provide the State statistician, NASS, with all the State and county data that is available or becomes available.

**B
Examples** Crop acreage, yield production, and price support loan data are examples of data that may be provided to State statisticians, NASS.

85 Information Available to Congress

**A
Public
Information** For records available to the public, offices may make the records available to Congress.

**B
Restricted
Personal Records** Offices may disclose restricted personal records to:

- any congressional committee, subcommittee, or joint committee
- GAO.

Note: Offices shall not disclose restricted personal records to members of Congress acting in their individual capacities without the written consent of the individual to whom the record pertains.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

This table lists the required reports in this handbook.

Report Control Number	Title	Reporting Period	Submission Date	Negative Report	Reference
MS-271P (FSA-537)	Annual FOIA Report	Annually	Counties by October 15; State and National Offices, APFO, KCCO, and KCMO by October 30	Yes	9, 10

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
CCC-Cotton A-1	Schedule of Pledged Cotton		69
FSA-441	Order for Aerial Photography		71
FSA-533	Public Information Requested	Ex. 6	7, 19, 22
FSA-534	Freedom of Information Request Log	Ex. 7	5, 9, 10, 21, 83
FSA-537	Annual Freedom of Information Act Report	10	
FSA-603	Collection Register for State and County Offices		10
SF-450	Executive Branch Personnel Confidential Financial Disclosure Report		20

Abbreviations Not Listed in 1-CM Redelegations of Authority

None

None

Definitions of Terms Used in This Handbook

Available Record An available record is any FSA record unless exempted from disclosure by USDA or Agency regulations.

CCC Board Docket A CCC Board Docket is a group of documents constituting a proposal of the CCC Board that a program or policy will be established or changed.

Commercial Use Requester A commercial use requester is a person who seeks information for a use or purpose that furthers the commercial trade or profit interests of the person for whom the request is made.

Existing Record An existing record is any FSA record in the form that it was created in without any further compilation, editing, or processing.

FOIA Request A FOIA request is a request for information, data, or records that is maintained by the records holding office.

- See paragraph 20 for exemptions to determine whether to withhold.
- The following requests are not considered FOIA requests:
 - normal business requests by an individual for accessing records about that individual or that individual's farming operation
 - requests from other Federal agencies
 - requests and questions about program provisions.

Index An index is a list of FSA handbooks, statements of policy that are not published in FR, and the final adjudication of cases that FOIA requires FSA to maintain for public inspection and copying.

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Definitions of Terms Used in This Handbook (Continued)

*--Median Number

The median number is that value for which 50 percent of the numbers, when arranged in order of magnitude, lie on each side. If the number of values is even, the median is the average of the 2 middle values.

Example: For an odd number of values, such as 1, 2, 3, 3, 4, 5, 6, 7, and 9, the median, or middle value, is 4.

For an even number of values, such as 1, 3, 5, 6, 8, and 8, the median is the average of the 2 middle values, 5 and 6, which is 5.5.--*

Producer

A producer is an FSA program participant according to the FSA master name and address file.

Records Holding Office

A records holding office is the FSA office having primary responsibility for custody of the record or source document.

Requester

A requester is any person, including foreign citizens, partnerships, corporations, associations, and foreign, State, or local governments. The only ineligible requester would be a fugitive from justice.

Restricted Record

A restricted record is any FSA record exempted from disclosure or withheld from disclosure for specific time periods by USDA or Agency regulations.

Review Services

Review services are services performed by FSA clerical, supervisory, or professional salary level employees to examine paper or electronic records:

- for responding to a request that is for a **commercial use**, according to subparagraph 53 A
 - to determine whether any portion of any record located is permitted to be withheld.
-

Search Services

Search services are services performed by FSA clerical, supervisory, or professional salary level employees who are attempting to locate records through manual or electronic means to respond to the FOIA request.

Available Records

1 Records Available Without Restriction

A

Administrative
Records/Data

Offices shall make the following types of administrative records/data available without restriction:

- administrative expenses
- amount of administrative and program funds
- invoices for purchases and services
- service agreements
- office leases
- budget and workload data
- election records, except as provided in 15-AO
- handbooks, notices, and FR reprints
- names and home addresses of STC, COC, and CMC members
- employee's name (not address), title, salary, and headquarters location
- State directory of County Offices.

2 Records Available With Restrictions

A

Applicable
Records and
Restrictions

Offices shall make the following records available with restrictions.

- Minutes of regular committee meetings are subject to FOIA with appropriate deletions.
- Refer food and feed facility listing requests from outside USDA to SED according to 1-DP, paragraphs 108 and 109.
- Employee's name, home address, and gross salary paid may be provided to State and local taxing authorities for income tax purposes.
- Owners and operators of a farm, and other persons authorized in writing, are entitled to all data for that farm.

Note: The farm data includes administrative appeals files, farm folders, and files maintained by program. The farm data does **not** include tenant-supplied information that may be covered under FOIA personal privacy exemption.

- *--See 9-AO for restrictions regarding the availability of OIG audits and investigations.--*

Continued on the next page

Available Records (Continued)

2 Records Available With Restrictions (Continued)

A

Applicable
Records and
Restrictions
(Continued)

- Tenants and other producers on the farm:
 - are entitled to information that they provided or that relates to them
 - may authorize release of information that they provided or that relates to them.

- *--Acreage, production data, and other producer-related information, without any personal identifiers attached, may be released when grouped by geographic or other statistical categories, unless the requester is able to identify an individual producer from the information provided.

Note: Delete personal identifiers such as name, address, farm number, Social Security number, and any other identifying information.--*

- Tobacco and peanuts statistical information may be released as long as individual data cannot be identified.
- For commodities under marketing quotas or poundage quotas, place 1 copy of each notice (name and quota only) or list of producers in a binder by community.

Notes: Keep open for inspection for 30 calendar days.

After 30 calendar days, make available on request.
See 1-TB SCOAP, 9-TB SCOAP, and 10-TB SCOAP.

- *--Photocopies of aerial photography containing acreage certification data, etc., shall be restricted to all persons other than the owner and operator.--*

* * *

Continued on the next page

Available Records (Continued)

3 Records That Can Be Withheld

A
Administrative
Records/Data

Offices may withhold the following types of administrative data/records:

- collection registers, bank deposit slips, bank statements, canceled checks, duplicate checks, bank reconciliation statements, debt registers, and disbursement and deposit registers
- indemnity fund claims for losses sustained by producers for the destruction of crops because of an incorrect notice from the County Office
- individual personnel, medical, and similar records, such as administrative debts or home address for which disclosure would constitute a clearly unwarranted invasion of privacy
- personnel hearings
- those segments of the executive committee minutes that are otherwise exempt from disclosure
- internal reports and records

Examples: COR. Withhold these reports and refer request to the Director, PAS for disposition.

Predecisional work papers, preliminary drafts, internal correspondence, corrections, estimates, projections, economic analyses, and budgetary planning documents involved with formulating the following:

- legislative proposals or reports on proposed legislation (see 2-AO)
- budget requests
- CCC Board Dockets
- plans for activities about total stocks and CCC stocks of agricultural commodities.

Note: Once a final decision is reached, release documents according to standard FOIA procedures.

Continued on the next page

Available Records (Continued)

3 Records That Can Be Withheld (Continued)

A

Administrative
Records/Data
(Continued)

- blank copies of accountable or negotiable forms
- records that a statute or Executive Order specifically exempts from disclosure
- information customarily considered privileged or confidential under the rules of evidence in the Federal courts
- any information requested by a person (defendant, respondent, or counsel) on the merits or probable disposition of a case after it has been referred to OGC; all questions and any compromise settlement proposals shall be referred to the Government counsel responsible for the case (see 4-CP, paragraph 74)
- bid documents on advertised solicitations before the bid opening and on negotiated solicitations before the contract award

Note: Abstract of bids is available.

- maximum and minimum price guidelines established for guiding purchasing officers and merchandisers of CCC-owned commodities or commodities under loan to CCC before the awarding of a contract
- case files for persons suspended or debarred from contracting with CCC or FSA
- any information or record requested by a person or counsel who is known to be a party to a litigation being handled by the Department of Justice.

*--**Note:** See 9-AO in responding to appellant requests for information on adverse determinations or requests for specific OIG reports.--*

Continued on the next page

Available Records (Continued)

3 Records That Can Be Withheld (Continued)

B

Program Data

Offices may withhold the following types of program data:

- information provided in confidence to help FSA or CCC formulate and operate programs involving groups

Examples: Warehousemen, dealers, and producer associations.

- trade secrets and commercial or financial information provided by any person or organization about:
 - entering into a contract
 - securing a loan
 - transacting other business with FSA or CCC
 - all tangible documents, including scale tickets, gin tickets, and financial statements submitted by the producer from his or her own files to document performance or compliance; the producer may authorize, in writing, releasing the information
 - all data reported by or acquired from farmers engaged in producing peanuts or tobacco under marketing quotas, including proof of acreage and yield, related data recorded on aerial photographs, and proof of storage and marketing of the commodity data
 - any information or record requested by a party or counsel who is known to be a party to a litigation being handled by the Department of Justice.
-

Records Withheld for a Limited Time

Make the following types of records available as specified.

IF...	THEN make available...
CCC price support dockets	after public announcement of the program.
CCC supply dockets	after the purchase activity ends.
CCC dockets involving programs under Title I and II of Pub. L. 480	after program has ended.
records on grain sales from CCC stocks that would affect the markets	after 1 intervening market trading session.
records or information on commodity programs that would affect the markets	after markets close.
information on the extent of price-support activity, including the total amount of a commodity placed under loan for a particular period	after the monthly national press release is issued.
prices paid by individual buyers for cotton from CCC stocks	after 30 calendar days.
names of buyers for grain from CCC stocks	
notices of sale submitted by exporters	
various reports compiled from daily report of wheat sales registered for export	
environmental statements	after copies have been sent to the legislative officer, FSA. See 2-AO.

FSA-533, Public Information Requested

A

Use

Optional Use: Use of FSA-533 is optional when:

- records will be provided
- records requested are insufficiently identified
- fees did not accompany request
- records are at another location.

Required Use: Use of FSA-533 is required when the requested records will not be provided.

B

Preparation

Complete FSA-533 according to the following instructions.

Item	Instructions
5	Describe information or records requested.
6 A	Complete this item if the requested records will be provided, but fees did not accompany request.
6 B	Complete this item if request is referred to another Agency. Enter the name and address of the Agency.
6 C	Complete this item if requested records are inadequately described.
6 D	Complete this item if records are not to be released. Enter 1 or more of the applicable exemptions listed in paragraph 20.
8	Head of records holding office shall sign (such as, Director, CED, or Acting CED).

Continued on the next page

FSA-533, Public Information Requested (Continued)

C
Example

The following is an example of a completed FSA-533.

REPRODUCE LOCALLY. Include form number and date on reproductions.

FSA-533 (12-03-96)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	
PUBLIC INFORMATION REQUESTED			
1. TO (Name and address of requestor) John Doe 2631 Oleander Street Goldonna, LA 71031		2. FROM (Name of office and address) Winn County FSA Office Box 123 Winnfield, LA 71457	
		3. DATE REQUEST RECEIVED 7-14-9X	
		4. AMOUNT REMITTED (If any) \$	
5. The block checked in item 6 below indicates availability of the following information you recently requested:			
6. The Material You Requested (See applicable box checked)			
A <input type="checkbox"/> Is available in this office and will be furnished upon receipt of a fee. (Send remittance (check or money order) and this form to the office shown in item 2.)		FEE \$	
REMITTANCE PAYABLE TO: TREASURER OF THE UNITED STATES			
B <input type="checkbox"/> Is not available in this office. Your request has been referred to:			
C <input type="checkbox"/> Cannot be identified from the information received. Please enter additional information in item 5 above and return this form to the office shown in item 2. BE AS SPECIFIC AS POSSIBLE.			
D <input checked="" type="checkbox"/> Is exempt from public disclosure due to the following: Restricted by statute (7 U.S.C.1373(c)).			
NOTE: An appeal to this decision may be filed with the Administrator, Farm Service Agency (FSA), USDA, STOP 0501, P.O. Box 2415, Washington, D.C. 20013-2415, within 45 days from the date shown below. Enter "FOIA APPEAL" on the envelope and the letter to assure prompt handling of your request.			
7. REMARKS			
8. SIGNATURE Carol E. Davis		TITLE County Executive Director	
		DATE 7-16-9X	
This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or disability.			
Check applicable copy destination: National Office <input type="checkbox"/> State Office <input type="checkbox"/> County Office <input type="checkbox"/>			

Continued on the next page

FSA-533, Public Information Requested (Continued)

D

Distribution

Distribute FSA-533 as follows:

- Send original to requester.

Note: Send original to the records holding office if request is being forwarded.

- For denials only, send 1 copy to the State Office. After review, State Office forwards to:

Director, PAS
USDA/FSA
Ag Box 0506
P.O. Box 2415
Washington, DC 20013-2415

- Retain 1 copy.
-

FSA-534, Freedom of Information Request Log

A

Preparing
FSA-534

Complete FSA-534 according to the following instructions.

Item	Instructions
1	Enter the date the office received the request.
*--4	Enter a brief description of the request.
5	Enter the date when the request is completed and the requester is notified.
6	Enter the number of workdays from receiving the request in item 1 to the date of final response in item 5.
7	<p>Enter all administrative costs associated with completing the request.</p> <p>Examples: Examples of administrative costs are:</p> <ul style="list-style-type: none"> • postage • supplies, such as paper • reproduction • dollar amount for processing time. <p>Note: These are expenditures incurred by FSA to administer FOIA, even though FSA may not be able to recover the costs from the requester.</p>
8	Enter the total dollar amount collected from the requester.
9	Enter a checkmark if the requester was granted a fee waiver or reduction of fees.
11	Enter a checkmark if unable to comply with the request because records could not be located or do not exist.
12	<p>Enter a checkmark in the appropriate column indicating which exemption or exemptions were used, if any, to deny a request in part or in full.</p> <p>Note: See paragraph 20 for allowable exemptions.</p>
13	<p>When cases are pending at the end of the FY reporting period, enter:</p> <ul style="list-style-type: none"> • a checkmark in the pending column • the number of workdays the case was pending from the date of receipt in item 1 to the end of FY.--*

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