

## Subpart B—Availability of Records of the Farm Credit Administration

### § 602.3 Definitions.

*Appeal* means a request under the FOIA asking for the reversal of a decision.

*Business information* means trade secrets or other commercial or financial information that is privileged or confidential.

*Business submitter* means any person or entity that gives business information to the Government.

*FOIA request* means a written request for FCA records, made by any person or entity that either directly or indirectly invokes the FOIA or this part.

*Record* means all documentary materials, such as books, papers, maps, photographs, and machine-readable materials, regardless of physical form or characteristics (for example, electronic format) in our possession and control when we receive your FOIA request.

### § 602.4 How to make a request.

(a) *How to make and address a request.* Your request for records must be in writing and addressed to the FOIA Officer, Farm Credit Administration. You may send it:

- (1) By mail to 1501 Farm Credit Drive, McLean, Virginia 22102-5090;
- (2) By facsimile to (703) 790-0052; or
- (3) By E-mail to [foiaofficer@fca.gov](mailto:foiaofficer@fca.gov).

(b) *Description of requested records.* You must describe the requested records in enough detail to let us find them with a reasonable effort. If the description is inadequate, we will ask you to provide more information and the 20-day response period under § 602.5(a) will not begin until we receive your reply.

(c) *Faster response.* You may ask for a faster response to your FOIA request by giving us a statement, certified to be true, that you have a “compelling need.” The FOIA Officer will tell you within 10 calendar days after receiving the request whether we will respond to it faster. If so, we will respond to your request as soon as we can. A *compelling need* means:

- (1) Someone’s life or physical safety may be in danger if we do not respond to the request faster; or

- (2) You urgently need to tell the public about Federal government activity as a representative of the news media.

(d) *Request for personal information.* If you or your representative requests your personal information, we may require you to give us a notarized request, identify yourself under penalty of perjury, or provide other proof of your identity.

(e) *Fees.* When making a request, you must tell us the most you are willing to pay. Our charges are in the fee tables in §§ 602.11 and 602.12. You may also want to tell us the purpose of your request so we can classify your request for fee purposes.

(f) *Other requests.* To ensure the public has timely information about our activities, the Office of Congressional and Public Affairs will make available copies of public documents, such as the FCA annual report and media advisories.

### § 602.5 FCA response to requests for records.

(a) *Response time.* Within 20 business days of receiving your request, the FOIA Officer will tell you whether we have granted or denied it. If you send your request to the wrong address, the 20-day response time will not begin until the FOIA Officer receives your request.

(b) *Extension of response time.* In “unusual circumstances,” the FOIA Officer may extend the 20-day response time for up to 10 more business days by telling you in writing why we need more time and the date we will mail you our response. As used in this subpart, “unusual circumstances” means our need to:

- (1) Search for and get the requested records from field offices or other locations;

- (2) Search for, get, and review many records identified in a single request;

- (3) Consult with another Federal agency having a substantial interest in the request; or

- (4) Consult with two or more FCA offices having a substantial interest in the request.

(c) *Referrals.* If you ask for records we have that another Federal agency originated, we will refer the request to the originating agency and tell you

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about the referral. If you should have sent your request to another Federal agency, we will refer the request to that agency and so advise you.

### § 602.6 FOIA exemptions.

The FOIA allows agencies to withhold documents in certain categories. For instance, we do not have to give you documents that relate to our examination of institutions or that would violate the personal privacy of an individual. If we do not give you a document because the FOIA does not require us to, we will tell you which FOIA exemption applies to our decision.

### § 602.7 Confidential business information.

(a) *FCA disclosure.* FCA may disclose business information from a business submitter only under this section. This section will not apply if:

(1) We decide the business submitter has no valid basis to object to disclosure;

(2) The information has been published lawfully or made available to the public; or

(3) Law (other than the FOIA) requires disclosure of the information.

(b) *Notice by FCA.* When we receive a request for confidential business information, the FOIA Officer will promptly tell the requester and the business submitter in writing that the responsive records may be free from disclosure under the FOIA. We will give the business submitter a reasonable time to object to the proposed disclosure of the responsive records and tell the requester whenever:

(1) The business submitter has in good faith labeled the information a trade secret or commercial or financial information that is privileged or confidential. We will provide such notice for 10 years after receiving the information unless the business submitter justifies the need for a longer period; or

(2) We believe that disclosing the information may result in commercial or financial injury to the business submitter.

(c) *Objection to release.* A business submitter who objects to our releasing the requested information should tell us in writing why the information is a

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trade secret or commercial or financial information that is privileged or confidential.

(d) *FCA response.* (1) We will consider carefully a business submitter's objections. If we decide to disclose business information over the submitter's objection, the FOIA Officer will explain to the submitter in writing why we disagreed with the submitter's objection and describe the business information to be disclosed.

(2) We will tell the requester and the submitter the proposed disclosure date at the same time.

(3) If a submitter sues to prevent release, we will promptly tell the requester and will not disclose the business information until after the court's decision.

(4) If a requester sues to compel disclosure, we will promptly tell the business submitter.

### § 602.8 Appeals.

(a) *How to appeal.* You may appeal a total or partial denial of your FOIA request within 30 calendar days of the date of the denial letter. Your appeal must be in writing and addressed to the Director, Office of Resources Management (ORM), Farm Credit Administration. You may send it:

(1) By mail to 1501 Farm Credit Drive, McLean, Virginia 22102-5090;

(2) By facsimile to (703) 893-2608; or

(3) By E-mail to [foiaappeal@fca.gov](mailto:foiaappeal@fca.gov).

(b) *FCA action on appeal.* Within 20 business days of receiving your appeal, the ORM Director will tell you, in writing, whether we have granted or denied it. If you send your appeal to the wrong address, the 20-day response time will not begin until the ORM Director receives your appeal.

(c) *Unusual circumstances.* In unusual circumstances, the ORM Director may extend the 20-day response time by telling you in writing why we need more time and the date we will mail you our response. All extensions, including any extension of the response time for the first request, may not total more than 10 business days.

EFFECTIVE DATE NOTE: At 70 FR 69645, Nov. 17, 2005, § 602.8 was amended by removing the words "Office of Resources Management (ORM)" and adding in their place, the words "Office of Management Services (OMS)" in