

Chief FOIA Officer Report of the Farm Credit Administration

Chief FOIA Officer: Jane M. Virga

Pursuant to Attorney General Holder's FOIA Guidelines

The Farm Credit Administration (FCA or Agency) submits this report in response to the request by the United States Department of Justice (DOJ) Office of Information Policy. This report has been prepared by Jane Virga, Chief FOIA Officer.

The FCA is an independent agency in the executive branch of the U.S. Government. It is responsible for regulating and examining the banks, associations, and related entities of the Farm Credit System (System), including the Federal Agricultural Mortgage Corporation. The System is a nationwide network of borrower-owned financial institutions that provides credit to farmers, ranchers, and agricultural and rural utility cooperatives. Originally created in 1933 by an Executive order, the Agency derives its powers and authorities from the Farm Credit Act of 1971, as amended.

The FCA strives to have an exemplary Freedom of Information Act (FOIA) program, to process all FOIA requests within the statutory time frames, and to comply with all aspects of the FOIA. The FCA is a small Agency, with approximately 250 employees, and receives only a small number of FOIA requests (usually less than 50 requests per year). Although FCA has four small field offices, its headquarters in McLean, Virginia, retains most of the Agency's records. Thus, FCA's FOIA staff is able to conduct records searches quickly, efficiently, and on time. We have no backlog.

The basic FOIA office is housed in the Office of General Counsel. The FOIA Officer processes all FOIA requests. FCA's Director of the Office of Management Services, who is not a member of the Office of General Counsel, serves as the FOIA Appeals Officer.

Section I: Steps Taken to Apply the Presumption of Openness

FOIA Training:

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Yes.

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

Due to FCA's small size, we did not see a need to hold an agency conference on FOIA specifically. However, the FOIA Office provided four different types of training. The FOIA Office provides on-line training to all new employees that they would complete

immediately upon coming on board, or shortly thereafter. This training covered the following topics: the definition of agency records; exemptions; waiver; and processing of FOIA requests. In addition, the FOIA staff provides in-person FOIA training once per year at the Agency's new employee orientation conference which all new employees from the previous year generally attend, which essentially covers the same topics as the on-line training, with an opportunity for questions and answers. Furthermore, the Chief FOIA Officer, a highly-seasoned FOIA veteran, provides ongoing training to the FCA's FOIA Officer and to others as needed. Finally, we have provided agency-wide training (written guidance) on the FOIA at other times. We focused on the identification of agency records, applicable exemptions, and the waiver thereof. Whenever the FOIA Officer or Chief FOIA Office are invited to present at FCA training conferences or other meetings, we always spread the word that FCA operates under a presumption of openness to the maximum extent possible.

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

Yes.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

The FOIA Officer (100% of the FOIA professionals) attended substantive FOIA training, which was provided by the Department of Justice and the American Society of Access Professionals (ASAP). The Chief FOIA Officer continued with professional on-the-job training, including reading recent case law.

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

Our FOIA professionals are approved upon request for using duty hours to attend core, substantive FOIA training, and thus, such training is always available. In addition and at least once per year, the Chief FOIA officer or other senior agency employees or supervisors will identify specific substantive FOIA training that the FOIA staff should attend. In order to comply with the letter and spirit of the OIP guidance, both the FOIA Officer and the Chief FOIA Officer will attend FOIA training at least once next year. Both employees plan to attend one of the ASAP training offerings or other appropriate training.

Outreach:

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

No.

Discretionary Disclosures:

7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

No. A formal process is not necessary due to the small size of the FOIA office.

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

Yes. The FCA made two discretionary releases of material known to be withholdable. Of note is that it is difficult to determine the exact number of discretionary releases because we do not make an official determination as to whether an exemption will apply if a release is not likely to cause harm to the Agency and is not prohibited by law. Instead, if it meets those two criteria, the release is made with no further analysis needed. Thus, there is likely to be additional releases that would have qualified for an exemption that was released without determining whether an exemption applied because such a determination was not necessary.

9. What exemptions would have covered the information that was released as a matter of discretion?

In cases where an exemption was known to apply, Exemption b2 would have covered the information that was released as a matter of discretion. But since we stop the analysis and simply release in cases where release is not likely to harm the Agency and is not prohibited by law, we have likely released material that would have been covered by other exemptions as well.

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

We apply the presumption of openness to all decisions involving the FOIA. The Chief FOIA Officer and FOIA Officer maintain constant contact to ensure that all appropriate discretionary disclosures are made. An example of where FCA released information known to be covered by an exemption as a matter of discretion is as follows: despite the applicability of Exemption b2, we disclosed a number of internal personnel policies that

were very trivial in nature such as how FCA defines basic human resources terms, the flexiplace policy at FCA, FCA's training policy applicable to its employees, and the like.

11. If your agency was not able to make any discretionary releases of information, please explain why.

Not applicable.

Other Initiatives:

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

Yes.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

Not applicable.

**Section II: Steps Taken to Ensure that Your Agency
Has an Effective System in Place for Responding to Requests**

Personnel:

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

No. The FOIA Officer is a senior attorney and spends approximately 20% of his time in this position as a collateral duty.

2. If not, what proportion of personnel has been converted to the new job series?

Not applicable.

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

Not applicable.

Processing Procedures:

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will

take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Yes.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

The FCA has not received any consultations or referrals. As such, we do not believe it necessary to take any steps to make the handling of consultations and referrals more efficient and effective.

Requester Services:

6. Do you use e-mail or other electronic means to communicate with requesters when feasible?

Yes.

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

Only in appeal responses.

8. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.

The Chief FOIA Officer and the FOIA Officer are in constant contact and conduct self-assessments in order to respond to FOIA requests quickly, accurately, and with a minimum or no fee assessment. For instance, the FOIA Officer will contact a requester to narrow or clarify a request in order to respond in less than 20 business days, with documents fully responsive to the requester's needs, and without a fee.

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

Yes.

2. If so, describe the system that is in place.

The Office of Congressional and Public Affairs identifies records for proactive disclosures. The Agency strives to continuously expand and improve in this regard. For instance, the language of staff's recommendation to the FCA Board is posted in its entirety on the Agency website.

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

The archive of all material posted during this past reporting period is at <http://www.fca.gov/newsr.nsf>. Examples of the documents posted include: Informational Memorandum on Maximum Farm Credit System Bank Director Compensation for 2014; FCA Symposium on Consolidation in the Farm Credit System; Frequently Asked Questions on Operating and Strategic Business Planning for Diversity and Inclusion; and, Farm Credit System Major Indicators.

Making Posted Material More Useful:

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?

Yes.

5. If so, provide examples of such improvements.

The FCA has added a Farm Credit System Lender Locator so eligible borrowers can easily find the nearest System institution by address.

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

Yes. The Agency initiated an email subscription alert system. The public can subscribe and receive alerts of new news releases, information memoranda, policy statements, reports, etc.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

No.

8. Describe any other steps taken to increase proactive disclosures at your agency.

Not applicable.

Section IV: Steps Taken to Greater Utilize Technology

Online tracking of FOIA requests:

1. Can a FOIA requester track the status of his/her request electronically?

Not on an electronic tracking system because we have so few FOIA request each year and thus such a system would not be necessary. However, we have so few FOIA requests pending at any time, a requester could call or email regarding their status and get a response in a very short period of time. We also initiate status updates in some cases (e.g., granted expedited processing etc.).

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

Not applicable.

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

Not applicable.

4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

Not applicable.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

No. At this time we do not believe that online tracking would be especially useful. All FOIA requests are answered within the statutory time limit of 20 business days and they can get status updates by contacting the FOIA office at any time.

Use of technology to facilitate processing of requests:

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record

search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Yes.

7. If so, describe the technological improvements being made.

The FCA is taking steps to use technology to improve record search capabilities. The FCA has purchased software and began its implementation to allow consolidation of every employee's email mailbox and unified search capabilities. Additionally, all of the Agency's electronic databases are being transferred to SharePoint, which will improve search efficiencies.

8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

Not at this time.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

Simple Track Requests:

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

- a. Does your agency utilize a separate track for simple requests?

No.

- b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

Not applicable.

- c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Yes.

Backlogs and “Ten Oldest” Requests, Appeals and Consultations:

2. Section XII.A of your agency’s Annual FOIA Report, entitled “Backlogs of FOIA Requests and Administrative Appeals” shows the numbers of any backlogged requests or appeals from the fiscal year. Section VII.E, entitled “Pending Requests – Ten Oldest Pending Requests,” Section VI.C.(5), entitled “Ten Oldest Pending Administrative Appeals,” and Section XII.C., entitled “Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency,” show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

- a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

Not applicable. The FCA did not have a backlog.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

Not applicable.

Ten Oldest Requests

- c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

Yes, we had one pending at the end of Fiscal Year 2012, which we closed at the beginning of Fiscal Year 2013 within the 20 day response period.

- d. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your “ten oldest” in Section VII.E. and you closed two of them, you should note that you closed two out of seven “oldest” requests.

Not applicable.

Ten Oldest Appeals

- e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

Not applicable. The FCA did not have any pending appeals.

- f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

Not applicable.

Ten Oldest Consultations

- g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

Not applicable. The FCA did not have any pending consultations.

- h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

Not applicable.

Reasons for Any Backlogs:

3. If you answered “no” to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?
b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?
c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?
d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?

“Ten oldest” Not Closed

- e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.
f. If your agency was unable to close any of its ten oldest requests or appeals because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2014.

Not applicable.

5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead.

Not applicable.

Interim Responses:

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Not applicable. We answer all FOIA requests within 20 business days. However, if we cannot answer the FOIA request within 10 days, we send an interim response with the tracking number and resolve any issues if applicable (*e.g.*, requests for expedited processing).

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Not applicable.

Use of FOIA’s Law Enforcement “Exclusions”

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

No.

2. If so, what was the total number of times exclusions were invoked?

Not applicable.

Spotlight on Success

We have several areas of which we are especially proud.

- When a requester asked the Agency for expedited processing and to keep open a FOIA request in order to obtain documents that may have been created or obtained after the request, we provided an immediate response and full disclosure of the specific document that he was looking for, and did another response at the 20-day mark on the chance that additional documents were created or obtained in the meantime. The requester was grateful for the additional search and quick disclosure.
- We continuously communicate with requesters in order to clarify search parameters, limit fees, and provide full disclosure. For example, after explaining to a requester that a broad open ended request would most likely result in the many hours of search time without locating many documents, the requester substantially narrowed the request and relied on the FOIA Officer to recast the request, which allowed the requester to obtain the documents he really wanted.
- Additionally, we have expanded the scope of a requester's search parameters in order to provide useful and free documents. For example, when a requester asked for records on the FCA's assessment of a facility under the National Environmental Policy Act (NEPA), we had no records. But, to provide useful information to the requester we provided a Federal Register document containing FCA's policy regarding NEPA.
- A FOIA requester thanked the FOIA Officer in writing for his prompt, courteous, and full response (and without fees).