

## **Chief FOIA Officer Report of the Farm Credit Administration**

### **Chief FOIA Officer and Senior Counsel: Jane M. Virga**

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 FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?*

- *Such training or events can include offerings from OIP, your own agency or another agency or organization.*

Both the Chief FOIA Officer and the FOIA Officer attended FOIA training during the reporting period, which was provided by the Department of Justice (DOJ) and the American Society of Access Professionals.

*2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.*

100% of the FOIA professionals and staff with FOIA responsibilities attended substantive FOIA training during this reporting period.

*3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.*

- *Include any successes or challenges your agency has seen in implementing your plan.*

The FCA's plan for attending core, substantive FOIA training has been fully successful. The plan was fully implemented as all FOIA professionals and staff attended training. There were no challenges.

### **Discretionary Releases:**

*4. Does your agency have a distinct process or system 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 of your agency have such a process or system in place?*

Yes. The FCA uses a front loaded approach to discretionary release. That is, our first step is to analyze whether disclosure would likely cause harm to the Agency or would be prohibited by law. If not, then we stop there and make the release whether or not an exemption may have applied. We believe that this approach results in many discretionary releases of material that could have been withheld under one or more exemptions. In cases where we initially determine that release would likely cause harm to the Agency and also that an exemption would apply, we always revisit our initial determination regarding harm to the Agency. If we reverse our initial determination in this regard, determine that the likely harm is not significant enough to justify withholding, or if the likely harm is not the type of harm the exemption is intended to protect against, then we would make the discretionary release. The FOIA Officer seeks guidance, as appropriate, from senior staff during this review process.

*5. During the reporting period, did your agency make any discretionary releases of information?*

Yes. We believe the FCA made many discretionary releases of material otherwise exempt from disclosure, especially with respect to b2 and b5. However and for reasons discussed above, it is difficult to determine our 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. Thus, there is likely to be additional releases that would have qualified for an exemption without determining whether an exemption applied.

6. *What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on implementing the President's and Attorney General's FOIA Memoranda.*

For example, in a case where an exemption almost certainly would have applied, 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.

7. *Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.*

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 that was almost certainly 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.

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

Not applicable.

***Other Initiatives:***

9. *If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.*

- *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**

**Processing Procedures:**

1. *For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.*

- *Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2014.*

The Agency adjudicated requests for expedited processing in an average of 6.29 days.

*2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.*

Not applicable.

### **Requester Services:**

*3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "Notifying Requesters of the Mediation Services Offered by OGIS." (July 9, 2010)*

Only in appeal responses.

*4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013)*

In most instances, the Agency does not charge fees. However, we assessed fees of \$100 in only one instance during the reporting period. In this case, we provided a detailed explanation regarding the amount of fees attributable to search, review, and duplication, as well as provided insights on the search and processing methodology that we used. We plan to continue this practice of outlining how fees are assessed.

*5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See id.*

If estimated fees are high, the Agency explains the reason for the high amount of estimated fees in advance. Additionally, we would work with the requester in an attempt to narrow the request and reduce fees.

### **Other Initiatives:**

*6. If there are 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., please describe them here.*

The FOIA staff continuously assesses our processes to ensure that our FOIA system operates efficiently effectively. For example, at the end of the fiscal year the FOIA Officer did an internal

control review, which looked at internal policies and procedures, receipt of requests, response time, and rate and success of appeals. The review concluded that the FOIA Office complied with the law and that there was an efficient and effective program.

### **Section III: Steps Taken to Increase Proactive Disclosures**

#### **Posting Material:**

1. *Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.*

The FCA has a distinct process to identify records for proactive disclosure. The Office of Congressional and Public Affairs (OCPA) identifies such records. The Assistant Director for OCPA directs the posting of such records to the Agency's website and consults with the FOIA staff as necessary.

2. *Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.*

In addition to collaborating with OCPA in this regard, FCA recently brought on an additional records officer. The FOIA office expects to collaborate with the new records officer to increase proactive disclosures.

3. *Describe your agency's process or system for identifying "frequently requested" records that should be posted online.*

Due to the small number of FOIA requests each year, the FOIA Officer can easily determine if we have any frequently requested records. However, to date, we have not identified any frequently requested records.

4. *Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.*

During the past reporting year, we have proactively disclosed the following examples of material on our website in the area identified as "Recent Updates":

- The Fall Regulatory Projects Plan, [http://www.fca.gov/law/perf\\_plan.html](http://www.fca.gov/law/perf_plan.html);
- Recruiting Schedule for Spring 2015, <http://www.fca.gov/about/careers/recruitingschedule.html>;
- An Information Memorandum on Farm Credit System operating expenses, [http://www3.fca.gov/readingrm/infomemo/Lists/InformationMemorandums/Attachments/199/IM-Operating\\_Expenses\\_072214.pdf](http://www3.fca.gov/readingrm/infomemo/Lists/InformationMemorandums/Attachments/199/IM-Operating_Expenses_072214.pdf); and
- Approved minutes of the April 10, 2014, Board meeting, <http://www.fca.gov/Download/BoardMinutes/April2014BoardMinutes.pdf>.

5. *If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.*

Not applicable.

#### **Section IV: Steps Taken to Greater Utilize Technology**

##### **Online Tracking of FOIA Requests and Appeals:**

##### **Making Material Posted Online More Useful:**

1. *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?*

- *Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.*

We have included a subscription list on our website that allows visitors to provide an email address to subscribe to updates from our website. We also provide an email address for the public to report problems with the subscription list and request assistance. For our Open Government Initiative we ask the public to tell us what we can do better. If the outlined resources fail to meet the information needs of a member of the public, we ask for feedback and ideas to improve participation and collaboration at FCA. We ask the public for input and to write to us at [opengov@fca.gov](mailto:opengov@fca.gov).

2. *If yes, please provide examples of such improvements.*

- *If your agency is already posting material in its most useful format, please describe these efforts.*

One of the things we have done recently is integrate SharePoint into our external website. This has allowed us to effectuate updates faster as well as enhance the user's experience when navigating our webpage.

3. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?*

No.

5. *If so, please briefly explain what those challenges are.*

Not applicable.

##### **Other Initiatives:**

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

- Please see OIP's guidance for posting of quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly appearing on FOIA.gov. (If your reports are posted to your website but not appearing on FOIA.gov, please contact OIP in order to resolve the issue.)

Yes.

6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.

Not applicable.

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

Yes. The FCA uses e-mail to communicate with requesters whenever feasible.

8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See *id.*

Not applicable.

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

### ***Simple Track:***

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

No.

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Not applicable.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

Not applicable.

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

Yes.

### **Backlogs:**

### **BACKLOGGED REQUESTS**

5. *If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?*

- *If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*
  - *An increase in the number of incoming requests*
  - *A loss of staff*
  - *An increase in the complexity of the requests received*

Not applicable. The FCA did not have a backlog of requests at the close of Fiscal Year 2014.

6. *If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."*

- *To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of requests received in Fiscal Year 2014, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.*

Not applicable.

### **BACKLOGGED APPEALS**

7. *If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?*

- *If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. When doing so, please also indicate if any of the following were contributing factors:*
  - *An increase in the number of incoming appeal*
  - *A loss of staff*
  - *An increase in the complexity of the appeals received*

Not applicable. The FCA did not have a backlog of appeals at the close of Fiscal Year 2014.

8. *If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."*

- *To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of appeals received in Fiscal Year 2014, which can be found in Section VI.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.*

Not applicable.

### **Status of Ten Oldest Requests, Appeals, and Consultations:**

#### **TEN OLDEST REQUESTS**

9. *In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

Yes, we had one pending request at the end of Fiscal Year 2013, which we closed at the beginning of Fiscal Year 2014 within the 20 day response period.

10. *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 2013 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 six of them, you should note that you closed six out of seven "oldest" requests.*

Not applicable.

10. *Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?*

None.

#### **TEN OLDEST APPEALS**

11. *In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

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

*13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.*

- *For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.*

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

### **TEN OLDEST CONSULTATIONS**

*14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

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

*15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.*

- *For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.*

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

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

*16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.*

Not applicable.

*17. If your agency was unable to close any of its ten oldest requests 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.*

Not applicable.

*18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2015.*

Not applicable.

**Use of the FOIA's Law Enforcement Exclusions**

*Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?*

*If so, please provide the total number of times exclusions were invoked.*

No.