



OBTAINING INFORMATION UNDER THE FREEDOM OF INFORMATION ACT

Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090
<http://www.fca.gov>

FOIA Officer: Bob Taylor
(703) 883-4129
fax: (703) 790-0052
e-mail: taylorr@fca.gov
foiaofficer@fca.gov

Counsel to FOIA Officer: Jane Virga
(703) 883-4071
fax: (703) 790-0052
e-mail: virgaj@fca.gov

Farm Credit Administration

The Farm Credit Administration (FCA) is an independent agency in the executive branch of the United States Government. It is responsible for the regulation and examination of Farm Credit Banks, Agricultural Credit Associations, Production Credit Associations, Federal Land Credit Associations, and other related entities that collectively comprise what is known as the Farm Credit System (System). System institutions are cooperatives that furnish credit and closely related services to farmers, ranchers, producers, and harvesters of aquatic products, and to their cooperatives and farm related businesses. Initially created by an Executive Order of the President in 1933, the FCA now derives its powers and authorities from the Farm Credit Act of 1971, as amended (Act), 12 U.S.C. §§ 2001 et seq. The FCA promulgates regulations to implement the Act and examines System institutions for compliance with applicable statutes, regulations, and safe and sound banking practices.

The FCA's authority is generally commensurate with other Federal financial regulators. The FCA's policy is determined by a full-time 3-person board whose members are appointed by the President with the advice and consent of the United States Senate. The President designates 1 of the members as the chairman of the board. The chairman also serves as the FCA's chief executive officer. The FCA is not a System institution and is not authorized to and does not make or guarantee loans or manage the routine business activities of System institutions.

System institutions do not accept deposits. They obtain funds from the sale of bonds and from the sale of stock that borrowers must purchase in order to obtain a loan. System institutions meet the unique credit needs of the agricultural community and promote borrower ownership, management, and control. System institutions, which are federally regulated instrumentalities of the United States, are not Federal agencies and, thus, are not subject to the FOIA.

A list of the categories of FCA records, some of which are available either in part or in whole for release to the public, are published on the back page of this handbook.

The Freedom of Information Act

The Freedom of Information Act, 5 U.S.C. § 552 (FOIA), generally provides that any person has a right enforceable in court, of access to Federal "agency records," except to the extent that such records, or portions thereof, are protected from disclosure by one of the FOIA exemptions. This Handbook is intended to help the public understand the FOIA. It is not intended to effect any persons' rights under the FOIA.

Agency records are documentary materials, such as books, papers, maps, photographs, and machine-readable materials, regardless of physical form or characteristics (e.g., electronic form or format), in the FCA's possession and control at the time the FOIA request is made. The following are **not** included within the definition of "agency record":

- 1** Objects or articles, such as structures, furniture, vehicles, and equipment, whatever their historical value, or value as evidence.
 - 2** Anything that is not a tangible or documentary record, such as an individual's memory or oral communication.
 - 3** Personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an agency employee, and not distributed to other agency employees for their official use.
 - 4** Information stored within a computer for which there is no existing computer program for retrieval of the requested information.
 - 5** Hard copy or electronic records that are available to the public through an established distribution system.
-

The basic purpose of the FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society. Society's interest in open government can conflict with other important interests of the general public — such as the public's interests in the effective and efficient operations of government and in the preservation of the confidentiality of sensitive, personal, commercial, and governmental information. The FOIA seeks to accomplish the goals of ensuring responsible disclosure and appropriately protecting all interests.

The FCA's FOIA regulations, found at 12 C.F.R. Part 602, are at Appendix I.

The FOIA Exemptions

A brief discussion of the FOIA exemptions follow:

Exemption 1. Those records properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under criteria established by an Executive order.

Exemption 2. Records related solely to the internal personnel rules and practices of the FCA, including matters which are for the guidance of agency personnel.

Exemption 3. Records which are specifically exempted from disclosure by statute which permits no discretion on the issue.

Exemption 4. Records containing commercial or financial information obtained from any person or organization and is privileged or confidential.

Exemption 5. Records containing inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency.

Exemption 6. Personnel and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Exemption 7. Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

- (i) Could reasonably be expected to interfere with enforcement proceedings;
- (ii) Would deprive a person of a right to a fair trial or an impartial adjudication;
- (iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;
- (iv) 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 furnished information on a confidential basis, and in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;
- (v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or
- (vi) Could reasonably be expected to endanger the life or physical safety of any individual.

Exemption 8. Records of or related to examination, operation, reports of condition and performance, or reports of or related to Farm Credit institutions or institutions that are regulated and/or examined by the FCA that are prepared by, on behalf of, or for the Agency's use.

Exemption 9. Records containing geological and geophysical information and data (including maps) concerning wells.

The Agency records described above may be protected by one or more of the FOIA exemptions.

The Current Index

The FCA's current index listing the Agency's reading room materials, which is required by 5 U.S.C. 552(a)(2), is at Appendix II.

The FOIA Request

A FOIA request is a written request for FCA records, made by any person, organization, or business, that either explicitly or implicitly invokes the FOIA or the Agency's FOIA regulations at 12 C.F.R. Part 602. The requester must provide a reasonable description of the requested records to enable Government personnel to locate them with a reasonable amount of effort. A description should include, where possible, specific information as to dates, titles, and subject matter. The requester should indicate a willingness to pay fees if more than 2 hours of search effort or 100 pages of records are desired.

Requests for FCA records must be in writing, clearly marked "FOIA Request," and addressed to the Freedom of Information Officer, Farm Credit Administration, McLean, Virginia 22102-5090. Requests may be sent by mail, facsimile ((703) 790-0052), or electronic means (foiaofficer@fca.gov). The Freedom of Information Officer, Bob Taylor, may be reached at (703) 883-4129 or taylorr@fca.gov.

Upon receipt of a request for records made in accordance with the provisions of the FCA's regulations, the FCA will make the records or portions thereof available as promptly as practicable, except for those portions protected from mandatory disclosure by one of the nine FOIA exemptions enumerated above. Reasonably segregable portions of a record will be provided after deleting the exempt portions. Generally, the FCA will promptly process a FOIA request and provide a response determination in 20 business days.

When a request for a record is denied in whole or in part the Freedom of Information Officer will explain the exemptions that are the basis for the denial, provide a brief statement describing what the exemption(s) cover, and provide the procedures for appealing the determination.

The final response to the requester will contain information concerning the fee status of the request.

Appeals

A requester has 30 days from the date of our letter to appeal the withholding of part or all of a record. The appeal must be in writing. It may be sent by mail to the Director, Office of Management Services, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 and clearly marked "FOIA Appeal" or by electronic means to foiaappeal@fca.gov." A FOIA appeal has been received by the FCA when it reaches the office of the Director, Office of Management Services.

The Director, Office of Management Services, will act upon an appeal within 20 business days of the receipt of an appeal, or any extension thereof, and will notify the requester in writing of the determination. If the determination on the appeal upholds in whole or in part the denial of the request for records, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted his or her administrative remedies and has the right of review in a district court of the United States.

When an appellate authority makes a final determination to release all or a portion of the records withheld by the Freedom of Information Officer, a written response and a copy of the records so released will be forwarded promptly to the requester after compliance with any preliminary procedural requirements, such as payment of fees.

Fees

Pursuant to the FOIA and an FCA regulation at 12 C.F.R. § 602.12, the FCA may charge fees for document search, review, and reproduction costs. The amount of fees depends on the type of requester. There are four categories of requesters:

Commercial use requester: A request for information that is from or on behalf of an individual or entity seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or on whose behalf the request is being made. To determine whether a request is properly classified as a commercial use request, the FCA will determine the purpose for which the documents requested will be used.

Educational institution requester: A request for information that is from a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education that operates a program or programs of scholarly research.

Noncommercial scientific institution requester: A request for information that is from an institution that is not operated on a commercial, trade, or profit basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

Representative of the news media requester: A request for information that is from any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances when the periodicals can qualify as disseminators of news) who make their products available for purchase or subscription by the general public.

The FCA will charge fees for records requested by persons or entities making a commercial use request in an amount that equals the full direct costs for searching for, reviewing for release, and reproducing the records sought. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of documents, and may be charged the costs of searching for and reviewing records even if there is ultimately no disclosure of records.

The FCA will charge fees for records requested by or on behalf of educational institutions and noncommercial scientific institutions in an amount that equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a noncommercial scientific institution).

The FCA will charge fees for records requested by representatives of the news media in an amount which equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, the requester must qualify as a representative of the news media and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester will not be considered to be a request that is for a commercial use.

The FCA will charge fees for records requested by persons or entities that are not classified in any of the above categories in an amount that equals the full reasonable direct cost of searching for and reproducing records that are responsive to the request, excluding the first 2 hours of search time and the cost of reproducing the first 100 pages of records. Requesters in this category may be charged the cost of searching for records even if there is ultimately no disclosure of records, excluding the first 2 hours of search time.

Records are reproduced at a rate of \$.15 per page. For copies prepared by computer, such as tapes or printouts, the requester will be charged the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction, the actual direct costs of producing the document(s) will be charged.

Waiver or Reduction of Fees

The FCA may grant a waiver or reduction of fees if the FCA determines that disclosing the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and the disclosure of the information is not primarily in the commercial interest of the requester. The FCA will not charge fees to any requester, including commercial use requesters, when total assessed fees are less than \$15.

Advance Payments

Where it is anticipated that fees will amount to more than \$25 and the requester has indicated a willingness to pay fees, the request will be processed so that the fees do not exceed the agreed upon amount. If the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester will be promptly notified of the amount of the anticipated fees and the requester's concurrence with the fee amount will be obtained prior to further processing of the request.

If the anticipated fees exceed \$250 and if the requester has a history of promptly paying fees charged in connection with information requests, the FCA may obtain satisfactory assurances that the requester will fully pay the fees anticipated and process the FOIA request without any advance payment. If the anticipated fees exceed \$250 and if the requester has no history of paying fees charged in connection with information requests, the FCA may require an advance payment of fees in an amount up to the full amount anticipated. If the requester has previously failed to pay a fee charged in connection with information requests, the FCA may require the requester to pay the fees owed, plus interest, or demonstrate that the full amount owed has been paid, and require the requester to make an advance payment of the full amount of the fees anticipated before processing a new request or a pending request from that requester.

The FCA Reading Room

The FCA's Reading Room is located at 1501 Farm Credit Drive, McLean, VA 22102-5090.

FCA Home Page

The FCA's home page may be found on the World Wide Web at <http://www.fca.gov>. The Government Information Locator Service identifies public information resources of the FCA and may be accessed on the Agency's home page.

Annual FOIA Report

The FCA's annual FOIA report may be obtained on the Agency's home page or by directing a request to the Freedom of Information Officer, Farm Credit Administration, McLean, Virginia 22102-5090, by mail, facsimile (703-790-0052), or electronic means. Annual reports may also be requested by telephone at (703) 883-4022.

Obtaining Other FCA Information

Reports of condition and performance (Call Reports) and other information containing nonexempt information (such as the Uniform Performance Report (UPR) and the Uniform Peer Performance Report (UPPR) that are produced from the FCA's Consolidated Reporting System (CRS) are available for purchase 90 days after the end of a quarter or fiscal year. The FCA Board Policy Statement that provides for the release of the above-mentioned reports and the fee schedule, as published in the *Federal Register*, are at Appendix III.

Subpart A—Information and Records Generally**§ 602.1 Purpose and scope.**

This part contains FCA's rules for disclosing our records or information; processing requests for records under the Freedom of Information Act (5 U.S.C. 552, as amended) (FOIA); FOIA fees; disclosing otherwise exempt information in litigation when FCA is not a party; and getting documents in public rulemaking files. Part 603 of this chapter tells you how to get records about yourself under the Privacy Act of 1974, 5 U.S.C. 552a.

§ 602.2 Disclosing reports of examination.

- (a) Disclosure by FCA. Reports of examination are FCA property. We prepare them for our confidential use and the use of the institution examined. We do not give reports of examination to the public. Except as provided in this section, only the Chairman or the Chairman's designee may consent to disclosing reports of examination of Farm Credit System institutions and other institutions subject to our examination. You may send a written request to our General Counsel that explains why we should give permission.
- (b) Disclosure by Farm Credit System institutions. An institution that we have examined may disclose its report of examination to its officers, directors, and agents, such as its attorney or accountant, if they agree to keep the report confidential. In addition, banks may disclose their reports of examination to their affiliated associations, associations may disclose their reports to their supervisory bank, and service corporations may disclose their reports of examination to the institutions that own them. An institution may not disclose these institutions' reports of examination to any other person without our written permission.
- (c) Disclosure to governmental entities. Without waiving any privilege, we will disclose reports of examination to other Federal government entities:
 - (1) In response to a Federal court order;
 - (2) In response to a request of either House or a Committee or Subcommittee of Congress; or
 - (3) When requested for confidential use in an official investigation by authorized representatives of other Federal agencies.

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.”
- (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 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 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 Management Services (OMS), 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.
-

-
- (b) FCA action on appeal. Within 20 business days of receiving your appeal, the OMS 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 OMS Director receives your appeal.
- (c) Unusual circumstances. In unusual circumstances, the OMS 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.

§ 602.9 Current FOIA index.

FCA will make a current index available for public inspection and copying, as required by the FOIA. We will give you an index for the cost of copying it. Because we rarely receive requests for an index, we have not published one in the *Federal Register*.

Subpart C—FOIA Fees

§ 602.10 Definitions.

Commercial use request means an information request by an individual or entity seeking information for a use or purpose that furthers the commercial, trade, or profit interests of that individual or entity.

Direct costs means the costs FCA incurs in searching for and reproducing documents to respond to a FOIA request. For a commercial use request, it also means the costs we incur in reviewing documents to respond to the request. Direct costs include the pro rated cost of the salary of the employee performing the work (based on the basic rate of pay plus 16 percent to cover benefits) and the cost of operating reproduction equipment. They do not include overhead expenses.

Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education that runs a program of scholarly research.

Noncommercial scientific institution means a nonprofit institution that conducts scientific research that is not intended to promote any particular product or industry.

Pages mean 8-1/2 x 11 inch or 11 x 14 inch paper copies.

Representative of the news media means any person actively gathering news for an entity that publishes or broadcasts news to the public. “News” means information about current events or of current interest to the public.

Reproduce (or reproduction) means copying a record.

Review means looking at documents found in response to a FOIA request to decide whether any portion should be withheld. It does not include the time spent resolving legal or policy issues.

Search means all time spent looking for material responsive to a FOIA request, including page-by-page or line-by-line identification of material within documents.

§ 602.11 Fees by type of requester.

Depending on your identity and the purpose of your request, the FCA may charge you the direct costs of searching for responsive records, reviewing the records, and reproducing them. If necessary, we will seek clarification before classifying the request.

- (a) Educational institutions and noncommercial scientific institutions. We charge fees for reproduction costs only. The first 100 pages are free. You must show that the request is sanctioned by an educational or noncommercial scientific institution and that you seek the records for scholarly or scientific research, not for a commercial use.
- (b) Representatives of the news media. We charge fees for reproduction costs only. The first 100 pages are free. You must be a representative of the news media, and the request must not be made for a commercial use. A request for records supporting news distribution is not a request for a commercial use.
- (c) Commercial use. We charge the direct cost for search, review, and reproduction. Commercial use requesters are not entitled to free search time or free reproduction. We will charge you even if we do not disclose any records.
- (d) All others. The first 2 hours of search time and the first 100 pages of reproduction are free. After that, we will charge you for search and reproduction costs. We will charge you for a search even if we do not disclose any records.
- (e) Fee table. The fee information in paragraphs (a) through (d) of this section is presented in the table to this paragraph. You may apply for a waiver if your request is not mostly in your commercial interest and the disclosure is in the public interest. See § 602.13.

Fee Table

Type of Requester	Charges for		
	Search Time	Review Time	Reproduction
<ul style="list-style-type: none"> • Educational • Noncommercial scientific users • News media 	No Charge	No Charge	First 100 pages free, \$ 0.15 a page after that
Commercial Users ¹	All direct costs	All direct costs	\$ 0.15 a page
All others ¹	First 2 hours free, all direct costs after that	No Charge	First 100 pages free, \$ 0.15 a page after that

¹You are responsible for fees even if we do not disclose any records.

§ 602.12 Fees.

- (a) FCA may charge:
- (1) For manual searches for records and for review, the pro rated cost of the salary of the employee doing the work.
 - (2) For computer searches for records, the direct costs of computer search time and supply or material costs.
 - (3) For each page made by photocopy or similar method, fifteen cents a page, and for other forms of copying, the direct costs.
 - (4) The direct costs of elective services, such as certifying records as true copies or sending records by special methods.

- (b) We will not charge fees when total assessed fees are less than \$15.00.
- (c) You must pay by personal check, bank draft drawn on a United States bank, or postal money order made payable to the Treasury of the United States.
- (d) We treat a request about yourself under Privacy Act fee rules.
- (e) The information in paragraphs (a) and (b) of this section is presented in the table to this paragraph. Direct costs means the costs FCA incurs in searching for, reviewing, and reproducing documents to respond to a request. Direct costs include pro rated salary and reproduction costs. We will not charge fees when they total less than \$ 15.00.

Fee Amounts Table

Type of Fee	Amount of Fee
Manual Search and Review	Pro rated Salary Costs
Computer Search	Direct Costs
Photocopy	\$ 0.15 a page
Other Reproduction Costs	Direct Costs
Elective Services	Direct Costs

§ 602.13 Fee waiver.

We may waive or reduce fees if disclosure is not mostly in your commercial interest but, instead, is in the public interest because it will advance public understanding of the Federal government's operations or activities.

§ 602.14 Advance payments—notice.

- (a) If fees will be more than \$25.00 and you have not told us in advance that you will pay estimated fees, we will tell you the estimated amount and ask that you agree to pay it. Except as noted in this section, we will begin processing the FOIA request when we receive your agreement to pay.
- (b) If estimated fees exceed \$250.00 and you have a history of promptly paying fees charged for information requests, we may respond to your request based on your agreement to pay.
- (c) If estimated fees exceed \$250.00 and you have no history of paying fees, we may require you to pay in advance.
- (d) If you have previously failed to pay fees for information requests or paid them late, you must pay any fees still owed, plus interest calculated under § 602.15, and the estimated fees before we will respond to a new or a pending request.
- (e) If we require advance payment or an advance agreement to pay, we will not consider your request to be received and will not respond to it until you meet the requirement.

§ 602.15 Interest on unpaid fees.

If you fail to pay fees on time, FCA may charge you interest starting on the 31st calendar day following the date we bill you. We will charge you interest at the rate allowed by law (31 U.S.C. 3717) on the billing date.

§ 602.16 Combining requests.

You may not avoid paying fees by filing multiple requests at the same time. When FCA reasonably believes that you, alone or with others, are breaking down a request into a series of requests to avoid fees, we will combine the requests and charge accordingly. We will assume that multiple requests within a 30-day period have been made to avoid fees.

**Subpart D—Testimony and Production of Documents
in Legal Proceedings in Which FCA is Not a Named Party**

§ 602.17 Policy.

- (a) The rules in this subpart preserve the confidentiality of FCA’s documents and information, conserve employees’ time for official duties, uphold fairness in litigation, and help the Chairman decide when to allow testimony and to produce documents. This subpart does not affect access to documents under the FOIA or the Privacy Act. See subpart B of this part and part 603 of this chapter.
- (b) Generally, we will not produce documents voluntarily and employees will not appear as witnesses voluntarily in any legal proceeding. However, in limited circumstances, the Chairman may allow the production of documents or testimony when the Chairman decides it would be in the best interest of FCA or the public. All privileged documents produced under this subpart remain our property. Any employee having information or privileged documents may disclose them only as allowed by the Chairman.

§ 602.18 Definitions.

Court means any entity conducting a legal proceeding.

Demand means any order, subpoena, or other legal process for testimony or documents.

Direct costs means FCA’s costs to search for, review, and reproduce documents to respond to a request. Direct costs include the pro rated cost of the salary of the employee performing the work (based on the basic rate of pay plus 16 percent to cover benefits) and the cost of operating reproduction equipment.

Document means any record or other 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 the request.

Employee means any present or former FCA employee, any present or former FCA Board Member, any former Federal Farm Credit Board member, any present or former FCA-appointed receiver or conservator, and any present or former agent or contractor.

FCA Counsel means the General Counsel, a Department of Justice attorney, or counsel authorized by FCA to act for the FCA or an employee.

General Counsel means the FCA’s General Counsel or designee.

Legal proceeding means any administrative, civil, or criminal proceeding, including a discovery proceeding, before a court when FCA is not a named party and has not instituted the legal proceeding.

§ 602.19 Request for testimony or production of documents.

- (a) How to make and address a request. Your request for an employee's testimony about official matters or the production of documents must be in writing and addressed to the General Counsel, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.
- (b) Your request must contain the following:
 - (1) Title of the case;
 - (2) Forum;
 - (3) Your interest in the case;
 - (4) Summary of the litigation issues;
 - (5) Reasons for the request;
 - (6) Why the confidential information is important; and
 - (7) An explanation of why the testimony or document you want is not reasonably available from another source.If you want testimony, you must also state how you intend to use the testimony, provide a subject matter summary of the requested testimony, and explain why a document could not be used instead.
- (c) The General Counsel may ask you to limit your request to make it less burdensome or to give us information to help us decide if providing documents or testimony is in the public interest.

§ 602.20 Testimony of FCA employees.

- (a) An employee may testify only as the Chairman approves in writing. Generally, an employee may testify only by deposition or written interrogatory. An employee may give only factual testimony and may not give opinion testimony.
- (b) If, in response to your request, the Chairman decides that an employee may testify, you must serve the employee with a subpoena under applicable Federal or State rules of procedure and at the same time send a copy of the subpoena by registered mail to the General Counsel.
- (c) Normally, depositions will be taken at the employee's office, at a time convenient to the employee and the FCA. FCA counsel may represent FCA's interests at the deposition.
- (d) If you request the deposition, you must give the General Counsel a copy of the deposition transcript at no charge.

§ 602.21 Production of FCA documents.

- (a) An FCA employee may produce documents only as the Chairman allows.
- (b) Before we will release any documents, the requesting party must get an acceptable protective order from the court before which the action is pending that will preserve the confidentiality of the documents to be released.
- (c) On request, we may provide certified or authenticated copies of documents.

§ 602.22 Fees.

- (a) For documents released under this subpart, FCA will charge:
 - (1) The direct costs of searching for responsive records, including the use of a computer, reviewing the records, and reproducing them. We also will charge for the direct costs of any other services and materials that we provide at your request.
 - (2) Fifteen cents a copy for each page made by photocopy or similar process.
 - (3) The direct costs for each certification or authentication of documents.
-

- (b) You must pay by personal check, bank draft drawn on a United States bank, or postal money order made payable to FCA. We will waive fees of \$15.00 or less. We will send the documents after we receive your payment.

§ 602.23 Responses to demands served on FCA employees.

- (a) An employee served with a demand or a subpoena in a legal proceeding must immediately tell the General Counsel of such service, the testimony or documents described in the demand, and all relevant facts.
- (b) When the Chairman does not allow testimony or production of documents, FCA Counsel will provide the regulations in this subpart to the party or court issuing the demand and explain that the employee may not testify or produce documents without the Chairman's prior approval.
- (c) If the court rules the employee must comply with the demand regardless of the Chairman's instructions not to do so, the employee must respectfully refuse to comply.
- (d) FCA's decision under this subpart to comply or not to comply with any demand is not a waiver, an assertion of privilege, or an objection based on relevance, technical deficiency, or any other ground. We may oppose any demand on any legal ground.

§ 602.24 Responses to demands served on non-FCA employees or entities.

If you are not an employee and are served with a demand or a subpoena in a legal proceeding directing you to produce or testify about an FCA report of examination, other document created or adopted by FCA, or any related document, you must object and immediately tell the General Counsel of such service, the testimony or documents described in the demand, and all relevant facts. You also must object to the production of any documents on the basis that they are FCA's property and cannot be released without FCA's consent. You should tell the requester the production of documents or testimony must follow the procedures in this part.

Subpart E—Release of Records in Public Rulemaking Files

§ 602.25 General.

FCA has a public rulemaking file for each regulation. You may get copies of documents in the public rulemaking file by sending a written request to the Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090. We will charge fifteen cents a copy for each page. We will waive fees of \$15.00 or less.

CURRENT INDEX

1. FCA Handbook — statutes and regulations (set fee charged)
 2. FCA Examination Manual (set fee charged)
 3. FCA Board Policy Statements
 4. PPMs created after 11/1/96 that affect a member of the public (none at this time)
 5. Final opinions (none at this time)
-

Type: Policy Statement
FCA-PS-65
Release of Consolidated Reporting System Information
Old/Additional ID: [NV-95-13; NV-05-01] (70 FR 71142, 11/25/2005)

Effective Date: 27-JAN-05

Effect on Previous Action: None. See 60 FR 15921, Mar. 28, 1995.

Source of Authority: 12 CFR Part 621, Subpart D; Freedom of Information Act, 5 U.S.C. § 552; 12 CFR Part 602; OMB Circular A-130 (Nov. 28, 2000).

THE FARM CREDIT ADMINISTRATION (FCA) BOARD HEREBY ADOPTS THE FOLLOWING POLICY STATEMENT:

Purpose: The FCA Board has adopted a policy to disclose reports of condition and performance (Call Reports) and any subsequent reports containing nonexempt information that are produced from the FCA's Consolidated Reporting System (CRS) [hereinafter nonexempt CRS reports]. For purposes of this policy, nonexempt CRS reports are defined as reports produced from the CRS containing information that has been routinely disclosed in Farm Credit System (System) institutions' quarterly and annual financial reports and filed with the FCA.

The nonexempt CRS reports include the Uniform Performance Report (UPR), Uniform Peer Performance Report (UPPR), Six-Quarter Trend Report, Six-Year Trend Report, and Institution Comparison Report. Under this policy, the Call Reports and subsequent reports for the institution that submitted the information will be available to that institution on the FCA Web site approximately 35 days after the end of a quarter or a fiscal year.

Objectives: The FCA facilitates the competitive delivery of financial services to agriculture while protecting the public, the taxpayer, and the investor. Consistent with that mission, the FCA endeavors to provide information to System institutions and to the public. Call Reports and other nonexempt CRS reports contain information of value to the Agency, the System, and the public that enables an evaluation of the financial condition of a System institution in comparison to its peers. This information will provide institutions with a succinct assessment of performance, in addition to that provided in the examination process. The FCA believes that implementation of this policy statement will enhance the FCA's information management activities in an efficient, effective, and economical manner consistent with OMB Circular A-130.

Operating Principles: Certain information reported to the Agency in compliance with Call Report instructions and not routinely disclosed by an institution, such as asset and liability repricing schedules or loan specific data, will continue to be exempt from disclosure and the FCA will not make it available under this policy statement.

Availability of Reports: All nonexempt CRS reports will be available within 45 days after the end of a quarter or a fiscal year free of charge on the FCA Web site.

The FCA often receives special requests for new reports containing nonexempt CRS information not produced from the CRS. Consistent with the Freedom of Information Act, the FCA will grant such special requests when the record is readily reproducible with reasonable efforts. We will assess fees to recover the direct costs of complying with the request, including the cost of collecting, processing, and disseminating the information. The FCA may grant a request for a fee waiver to an educational institution, a researcher, a governmental agency, a newspaper, and others, when the benefit derived from releasing the information exceeds the waived fee. Requests should be directed to the Office of Policy and Analysis.

Delegated Authority: The Director, Office of Policy and Analysis, in concurrence with the Director, Office of Examination, and the General Counsel, is responsible for implementing this policy statement, developing operating procedures, and assessing requests for fee waivers. Any of these responsibilities may be redelegated to appropriate staff in their respective offices.

Reporting Requirements: The Director, Office of Policy and Analysis, shall report annually to the Chief Executive Officer on the number of special requests for new reports containing nonexempt CRS information and fees received.

DATED THIS 27th DAY OF JANUARY, 2005

BY ORDER OF THE BOARD

Jeanette C. Brinkley,
Secretary to the Board.

LIST OF THE CATEGORIES OF FCA RECORDS

- Administrative law judge records
 - Adverse action files
 - Assessment files
 - Association correspondence files
 - Association corporate papers
 - Audiovisual records of FCA
 - Audit case files
 - Bank board meeting minutes
 - Bank corporate papers
 - Bank subject files
 - Board administrative files
 - Board books (meeting folders)
 - Board member subject files
 - Board meeting audio tapes
 - Board meeting minutes
 - Chronological files
 - Discrimination complaint files
 - Criminal referrals
 - Enforcement case files
 - Examination reports
 - Examiner commissioning files/tests
 - Examiner commissioning files
 - Examination “permanent” reference files
 - Examination workpapers
 - Financial disclosure records
 - Funding requests
 - General subject/correspondence files of FCA
 - General subject/correspondence files of the Farm Credit System
 - Grievance files
 - Information system documentation
 - Investigative case files
 - Liquidation files of closed institutions
 - Litigation case files
 - Loan inquiry/complaint files
 - Merit promotion files
 - Notational votes
 - Official personnel folders
 - Organization charts of FCA
 - Payment records
 - Payroll files on employees
 - Personnel security case files
 - Policy and procedural directives of FCA
 - Policy and procedures manual case files
 - Press releases of FCA
 - Procurement files
 - Publications of FCA
 - Public rule making files
 - Regulation development files
 - Reports of operations (CRS) and related reports
 - Shareholder reports of Farm Credit System institutions
 - Speeches of FCA officials
 - Training materials
 - Uniform call reports.
-