

## **Chief FOIA Officer Report to the Department of Justice Pursuant to Attorney General Holder's FOIA Guidelines**

The Farm Credit Administration (FCA or Agency) submits this report in response to the request in the United States Department of Justice Office of Information Policy email of September 30, 2009. The report has been prepared 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 staff is housed in the Office of General Counsel. The Chief FOIA Officer also serves as the acting FOIA Officer. With the assistance of a senior attorney and one administrative person, the Chief FOIA Officer/Acting 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. He receives legal guidance as necessary from a Senior Counsel who is not otherwise a part of the basic FOIA process.

### **I. Steps Taken to Apply the Presumption of Openness**

1. The FCA applies the presumption of openness to all decisions involving the FOIA. The FCA has fully implemented the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. The Chief FOIA Officer/Acting FOIA Officer is responsible for reading, reviewing, and responding to all FOIA requests. The Chief FOIA Officer/Acting FOIA Officer and the senior attorney have attended training from the Department of Justice and reviewed all written guidance. The small FOIA staff has read the President's FOIA Memorandum and the Attorney General's FOIA Guidelines and is fully aware of the presumption of openness. The Chief FOIA Officer/Acting FOIA Officer has read and understands the President's FOIA memorandum and Attorney General's FOIA guidelines and carries them out in response to FOIA requests. However, due to the small size of the FOIA staff, there has been no need to conduct other in-house training or publication. For FY 2009, we withheld records in part in two instances and in full in three instances. For FY 2010, we have not withheld any records. For both these years, we have not

had an opportunity to make a discretionary disclosure. As to administrative appeals, there were 2, which were upheld in full.

2. There has been no relative change in the number of FOIA requests. In FY 2008, there were 12 full grants and 6 partial grants, and in FY 2009, there were 16 full grants and 2 partial grants.

## **II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests**

Because of the FCA's size, the focused nature of the work that it does as the System's regulator, and the small size of the FOIA staff, conducting searches for records is, ordinarily, a very simple and straightforward process. Each of the Agency's offices knows what kinds of records FCA maintains and how to locate them. They also understand the importance of complying with the FOIA's requirements and cooperate fully and quickly in conducting searches. This enables the FOIA staff to proceed efficiently and effectively. The FOIA staff also strives to provide personal service to requesters, to communicate with them directly (usually by telephone), and to ensure that they receive records that are truly responsive to their needs, subject, of course, to applicable FOIA exemptions.

The small FOIA staff ensures constant and clear communication. Program staff has been trained to appreciate the importance of FOIA compliance and has been fully cooperative in conducting searches. Senior staff members are routinely assigned to assist the FOIA Officer with searches and appropriate redactions of records.

Typically, the Chief FOIA Officer/Acting FOIA Officer begins to process a FOIA request on the day of or day after arrival. Upon receipt, the FOIA request is entered into an Agency-wide computerized correspondence tracking system and a paper log for FOIA requests only. The request is forwarded to appropriate program staff, which is ordinarily expected to produce any responsive documents within 20 business days. If the request poses any unusual problems, the FOIA staff works actively with the program staff to resolve them. The computerized correspondence tracking system will also send automatic reminders prior to the expiration of the 20 business day processing time.

As explained above, the FCA's small size and the accessibility of our records make it easy and efficient to conduct Agency-wide searches. The focused nature of the Agency's mission as a banking regulator also facilitates the search and redaction process; most employees know what records FCA keeps and where to find them.

The Chief FOIA Officer/Acting FOIA Officer is able to obtain all necessary Information Technology (IT) support. However, because of the small size of the FOIA staff and relatively small number of FOIA requests each year, the need for IT support is limited. Nevertheless, the Chief FOIA Officer maintains a close and cordial working relationship with the Office of the Chief Information Officer (OCIO), which ensures adequate IT support. The OCIO has a Helpline that provides 24 hour service.

### **III. Steps Taken To Increase Proactive Disclosures**

The FCA has an updated Web site. Staff has worked with the website developers to increase the emphasis on public participation and to make available additional current documents and a greater number of key agency documents. The Agency continuously updates its Web site to include relevant and interesting information for the public. The FCA posts on its Web site numerous documents of interest, including its governing statutes, regulations, FCA Board Policies, FCA Bookletters, the FCA Examination Manual, Information Memoranda, and other materials pertaining to the FCA and the institutions it regulates. Summaries of selected legal opinions prepared by the FCA's Office of General Counsel and public comments received by the FCA on proposed regulations and other policy documents are also posted on the Web site. Examples of additional material provided since issuance of the new FOIA Guidelines include: the FCA Performance and Accountability Report, Fiscal Year 2009; the remarks of Chairman Leland A. Strom before the House Agriculture Subcommittee on Conservation, Credit, Energy, and Research on June 11, 2009; and the Fact Sheet on Director Elections Proposed Rule (which is a new page on the Web site that contains an archive of the rulemaking fact sheets that FCA has issued since 2005).

### **IV. Steps Taken To Greater Utilize Technology**

1. Does your agency currently receive requests electronically?

Yes.

2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

Not applicable.

3. Does your agency track requests electronically?

Yes.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically?

Not applicable.

5. Does your agency use technology to process requests?

No.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

Due to the small number of requests, the Agency has no plans at present to use automated FOIA processing, *i.e.*, electronic scanning of responsive records and redacting of electronic records. FCA's current procedures produce timely responses, and electronic scanning and redacting may not be cost effective given the small number of FOIA requests FCA receives.

7. Does your agency utilize technology to prepare you agency Annual FOIA Report?

No.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

The number of requests to the FCA is so small that using technology to prepare the Annual FOIA Report is unnecessary and would not be cost-effective.

#### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. The Agency does not have a backlog, and we do not remember there ever being one in prior years. In the time period we examined, the FCA responded to all FOIA requests and FOIA appeals within the requisite 20 business days of receipt. In fact, as reported in FCA's last annual FOIA report, the Agency's median response time for FY 2009 was 7 business days.

2. If there has not been a reduction in the backlog describe why that has occurred and what steps your agency is taking to bring about a reduction.

Not applicable.

3. Describe the steps your agency is taking to improve timeliness in responding to requests and to administrative appeals.

Not applicable.