

**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 (DOJ) Office of Information Policy email of November 18, 2010. 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 staff is housed in the Office of General Counsel. With the assistance of one administrative person, 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. 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 Chief FOIA Officer and the FOIA Officer have read and understand the President's FOIA Memorandum and the Attorney General's FOIA Guidelines, and fully understand the presumption of openness. As such, the FCA has fully implemented the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. The FOIA Officer is responsible for reading, reviewing, and responding to all FOIA requests, which the Chief FOIA Officer reviews. The Chief FOIA Officer and FOIA Officer have attended training from the DOJ, the American Society of Access Professionals, and reviewed all DOJ written guidance. However, due to the small size of the FOIA staff, there has been no need to conduct other in-house training or publication. Additionally, there has been no need to develop or modify internal guidance to

apply the presumption of openness as there is only one FOIA Officer who processes every FOIA request. As stated, the FOIA Officer and the Chief FOIA Officer apply the presumption of openness.

For each FOIA request that has been received and for every record reviewed by the Agency, the FOIA Officer and Chief FOIA Officer ask whether it is appropriate to disclose the record and not whether there is an applicable exemption. The FOIA Officer, under the supervision of the Chief FOIA Officer, withholds records only when there is a foreseeable harm to an Agency interest or when disclosure is prohibited by law even if there is an exemption that could support withholding information. For FY 2010, we withheld records in part in one instance and in full in one instance. For FY 2011, we have not withheld any records.

Again, due to the small size of the Agency, the FOIA Officer is able to consult with the Chief FOIA Officer and staff to determine whether it was appropriate to waive an exemption and make a discretionary disclosure. For example, in FY 2010, we waived exemption (b)(5), made a discretionary disclosure, and released information protected by the deliberative process privilege. Furthermore, we made a number of releases that may have been protected by exemptions (b)(5) and (b)(8) because we concluded that there was no foreseeable harm to an Agency interest and that disclosure was not prohibited by law. As to administrative appeals, there were none in FY 2010.

2. There has been relatively little change in the number of FOIA requests. In FY 2010, there were 12 full grants and 1 partial grant, 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**

The FCA hired a new FOIA attorney during FY 2010. The new FOIA attorney has been sent to various training and conferences, as well as been briefed and trained internally by the Chief FOIA Officer.

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), to clarify any ambiguities, and to ensure that the requesters receive records that are truly responsive to their needs. This is subject, of course, to applicable FOIA exemptions when the information may harm an Agency interest or its disclosure is prohibited by law.

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 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, until the end of FY 2010, a paper log for FOIA requests only. In 2011, in addition to the Agency-wide computerized tracking system, we started tracking FOIA requests in an electronic FOIA processing system. The FOIA Officer forwards the request to appropriate program staff, which is ordinarily expected to produce any responsive documents within 10 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 and the electronic FOIA processing 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 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.

Because there are no backlogs, the Agency believes that it has adequate staffing to administer the FOIA program. Nor, given the absolute timeliness of the FCA's responses to FOIA requesters, has the Agency believe that any additional steps need to be taken to ensure the FOIA program operates efficiently and effectively.

The Chief FOIA Officer interacts with senior leadership at the Agency to ensure accountability and the sustainability of transparency, participation, and collaboration. The Open Government Team is looking for ways to ensure that it is as transparent as possible without violating privacy or confidentiality or compromising security. The Team is also looking at ways to facilitate greater participation and collaboration. For assistance, the Team has asked the public to help FCA identify how we can improve. Currently, FCA has many valuable reports and data sets on our website. In the coming weeks the FCA will be adding a survey that will be offered randomly to users of our website to help us better understand the needs of those visiting our site and solicit suggestions on how we can improve.

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

The Deputy Director of the Office of Congressional and Public Affairs continually assesses what should be placed on its website for the public. As such, the Agency continuously updates its website to include relevant and interesting information for the public. FCA provides various types of information on its website, such as information about the Agency's regulatory activities, quarterly financial indicators about the financial institutions FCA regulates, and information about mergers and other corporate activity between the regulated institutions. Generally, whenever any updated information is posted to the FCA website, the Office of Congressional and Public Affairs posts a notice of the update under "Recent Updates" on the Agency's homepage, along with a link to the updated information. In this way, regular visitors can easily find the most recent updates to the website.

Thus, the FCA posts on its website 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 website. Examples of additional material provided since issuance of the new FOIA Guidelines include: updated Informational Memoranda for the Farm Credit System, Office of the Inspector General Performance Reports, Power Point presentation to the Farm Credit System, news releases, fact sheets, and a report on Mergers, Name Changes, and Other Corporate Activity. The FCA does not use social media to disseminate information.

As discussed above, FCA will be adding a survey on its website that will be offered randomly to users of our website to help us better understand the needs of those visiting our site and solicit suggestions on how we can improve. In other words, the public will be able to inform the FCA of the documents that it would like to see posted on our website. Additionally, we have a direct link on our website, [www.fca.gov/open](http://www.fca.gov/open), which directs the public to available information and explains how to obtain other information.

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

#### **1. Electronic Receipt of FOIA Requests**

The FOIA Officer receives FOIA requests electronically either from a direct link on our FOIA homepage or via an email to [foiaofficer@fca.gov](mailto:foiaofficer@fca.gov). (As we do not have any components, all electronic requests go to the FOIA Officer.)

## 2. Electronic Tracking of FOIA Requests

We track the receipt of all FOIA requests in the FCA's Agency-wide correspondence tracking system, as well as the electronic FOIA processing system. (As we do not have any components, the FOIA Officer ensures the electronic tracking of FOIA requests.)

## 3. Electronic Processing of FOIA Requests

The FCA does not have the capability to process FOIA requests electronically. 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.

## 4. Electronic Preparation of the Annual FOIA Report

For the 2010 Annual FOIA Report, and preceding years, the FCA did not have the capability for the electronic preparation of the Annual FOIA Report. We prepared the reports manually. Due to the small number of FOIA requests each year, preparation of the report was fairly simple and straightforward.

Nevertheless, the Agency has purchased software to track incoming FOIA requests, which will also allow us to electronically prepare the annual FOIA reports in the future. This software is specific to the FOIA.

## **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. The FCA continues to respond 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 2010 was 8 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 reduce any backlogs and to improve timeliness.

Not applicable.

## **Spotlight on Success**

The FCA is very proud of having implemented an electronic FOIA processing system. This new system allows the Agency to quickly assign each FOIA request a tracking number, as well as track our progress in responding to the request. Finally, the electronic FOIA processing system will assist the Agency in efficiently and accurately producing the annual FOIA report.