

**For:** State and County Offices

**Reminder on Releasing Common Land Units (CLU's)**

**Approved by:** Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

Some State and County Offices are being contacted by Federal agencies and State and local governments concerning possible agreements for sharing CLU or providing a copy of the full CLU. Questions have been received about what is acceptable for release on CLU's under the Privacy Act, Freedom of Information Act (FOIA), and Agency policy.

**B Purpose**

This notice:

- provides an overview of some elements of the Privacy Act and FOIA governing the release of data
- provides references for FOIA policy
- explains when the State's FOIA officer should be contacted
- provides an example of some requests and responses in Exhibit 1.

<b>Disposal Date</b>	<b>Distribution</b>
October 1, 2006	State Offices; State Offices relay to County Offices

## 2 Overview of Privacy Act and FOIA

### A General Provisions

The Privacy Act applies to all records about individuals maintained in a Privacy Act system of records. A system of records is a group of records under the control of an Agency from which information is retrieved by the name of the individual or by some other identifying particular like a Social Security number assigned to the individual.

FOIA applies to all Agency records and the Privacy Act never prohibits disclosure of material that FOIA requires to be released like the grade level and salary of an Agency employee. However, when a third party submits FOIA requests for information that is subject to the Privacy Act and the information is **not** required to be released under FOIA, the material may **not** be disclosed without written prior approval from the individual on whom the record is maintained.

### B Privacy Act

The Privacy Act of 1974, 5 U.S.C. 552a, requires Federal agencies to:

- use care in collecting and maintaining information relating to individuals
- make agencies and their employees subject to damages that occur as a result of violations of the Privacy Act.

Federal agencies must collect, maintain, use, or disseminate records of identifiable personal information in a manner that:

- ensures the actions are for a necessary and lawful purpose
- ensures that the information is current and accurate for its intended use
- provides adequate safeguards to prevent misuse of the information.

### C FOIA

Authority for FOIA procedure is authorized by:

- FOIA, 5 U.S.C. 552, enacted September 6, 1966, and subsequent amendments
- the Electronic Freedom of Information Act Amendments of 1996, Pub. L. 104-231, 110 Stat. 3048 1996.

## 2 Overview of Privacy Act and FOIA (Continued)

### C FOIA (Continued)

FOIA establishes a presumption that records in the possession of the agencies and departments of the executive branch of the U.S. Government are accessible to the general public. FOIA sets standards for:

- determining records that must be disclosed and can be withheld
- provides administrative and judicial remedies for those denied access to records.

**Note:** The statute **requires** Federal agencies to provide the fullest possible disclosure of information to the public.

### D Agency Policy References

This subparagraph provides references for Agency policy relating to Privacy Act and FOIA. Agency policy is contained in:

- 2-INFO
- 3-INFO
- 25-AS
- 8-CM, Part 6
- USDA/FSA-2 system of records (see FR notice in Exhibit 2).

## 3 Privacy Act

### A General Provisions

No personal record about an individual that is contained in a system of records shall be disclosed by any means of communication to any person or agency outside of USDA except with prior written consent of the individual to whom the records pertain.

**Note:** The protection afforded and the rights conferred by the Privacy Act extend only to individuals who are citizens of the U.S. and aliens lawfully admitted for permanent residence but do not extend to nonresident aliens, foreign nationals, corporations, proprietorships, and businesses.

### 3 Privacy Act (Continued)

#### A General Provisions (Continued)

Each Federal agency that maintains a system of records **must** publish any changes to the system in a FR notice that informs the public of:

- the existence and location of the system of records
- the kind of information maintained
- the kind of individuals on whom the information is maintained
- the purpose the records are used, including routine uses
- how individuals can exercise their rights.

**Note:** The Farm Records File (Automated), USDA/FSA-2 is the system of records that covers CLU's and acreage report data. A copy of the FR notice is in Exhibit 2.

#### B Exceptions to General Rule

Disclosure to anyone other than the subject of the record is prohibited except when disclosure is:

- to employees within USDA who have a need for the record in performing their official duties
- a **mandatory** disclosure to the public under FOIA, according to 2-INFO
- for emergency circumstances when time required to obtain the consent of the individual to whom the record pertains might result in a delay which could impair the health or safety of an individual

**Note:** Notifications of disclosures of this type should be transmitted to the last known address of the individual.

- for law enforcement purposes to IRS or another government agency within or under the control of U.S. for a civil or criminal law enforcement activity when a written request is received from the agency head specifying the:
  - record desired
  - law enforcement purpose that the record is requested

**3 Privacy Act (Continued)**

**B Exceptions to General Rule (Continued)**

- for routine uses as shown in FR notice (Exhibit 2) and 3-INFO, Exhibit 4
- to GAO
- pursuant to court order
- for statistical research and reporting in a form not individually identifiable
- to Bureau of Census
- to Congress only as specified in 3-INFO, paragraph 22.

**C Releasing CLU under The Privacy Act**

See 3-INFO for the general procedures for releasing data under the USDA/FSA-2 system of records. However, during conversations with the State Offices it has become clear that some reasons to disclose or withhold CLU data under the Privacy Act are being misunderstood or are unclear. The following list provides clarifications of some factors that affect the release of CLU and related data under the Privacy Act:

- data has to be releasable under 1 of the listed routine uses in the FR notice (Exhibit 2) before a Memorandum of Understanding (MOU) would be created to layout the details of how the data will be shared

**Note:** An MOU is **not** sufficient to allow the release of data.

- State Offices do **not** have the authority to sign MOU's with Federal, State, or local governments that govern release of data
- USDA employees and contractors directly employed by USDA are the only people that the exception “to employees within USDA who have a need for the record in performing their official duties” applies

**Note:** The exception does **not** apply to a person who works with, cooperates with, or is affiliated with USDA and is **not** an actual USDA employee. An example would be local extension agents that work with CSREES, but are **not** actual USDA employees.

**Notice CM-524**

**3 Privacy Act (Continued)**

**C Releasing CLU under The Privacy Act (Continued)**

- routine use (2) in the FR notice (Exhibit 2) allows the release of data to agencies charged with the responsibility of investigating or prosecuting a violation of law, but **only** when information available indicates a violation or potential violation of law

**Note:** This means that the requesting agency needs to limit their request to specific individuals and would not receive the data for an entire county so that they could use the data to look for potential violations.

- routine use (21) in the FR notice (Exhibit 2) allows the release of data to State-certified or State-licensed appraisers and employees of Federal Agencies other than USDA qualified to perform real estate appraisals.

**Note:** This authorizes the release of data for the requested individuals or specific farms, but **not** the release of State or county-wide data under this routine use.

**D Releasing CLU to Technical Service Providers (TSP)**

TSP can obtain a producer's information as long as the producer has signed an appropriate release form with certification of identity authorizing the release of data to TSP. Contact State FOIA officer to determine:

- the guidelines for an appropriate release form and certification of identity
- if rates for commercial requestors apply.

**E Contacts**

If there are questions about if an exception or routine use under the Privacy Act applies to a request for CLU or related data, contact the following.

<b>Location/Person</b>	<b>Contact</b>
County Office	State FOIA officer.
State Office	
State FOIA Officer	Norma Ferguson, National FOIA Officer, by: <ul style="list-style-type: none"><li>• e-mail at <a href="mailto:norma.ferguson@wdc.usda.gov">norma.ferguson@wdc.usda.gov</a></li><li>• telephone at 202-720-5534.</li></ul>

## 4 FOIA

### A General Provisions

FOIA applies to all Agency records, and all State and County Offices are considered designated record holding offices. FOIA:

- provides a statutory right of access to government information
- generally requires public access to Federal agency records, unless specifically exempted by FOIA
- does **not** apply to any of the following:
  - Congress
  - Federal courts
  - units within the executive office of the President
- applies to FSA documents or other information-bearing materials that meet either of the following conditions:
  - created or obtained by FSA
  - in the possession and control of FSA at the time of the request.

### B Procedures on Fulfilling FOIA Requests

See 2-INFO for the general procedures for processing FOIA requests. The following are some elements that need to be remembered about FOIA requests for CLU and related data:

- each FOIA request shall be considered separately on a case-by-case basis; just because a similar request was approved or denied does not necessarily mean that the data will always be released or denied
- continuing requests or **standing requests** for records as they become available **shall not** be accepted
- no provision in FOIA requires that an Agency create a new record to fulfill a request for records; creation of records may be undertaken voluntarily **only** if the FOIA officer or coordinator determines this action to be in the public interest or the interest of FSA and creation of the record does **not** interfere with the normal functioning of the office
- examples provided in Exhibit 1 are **not** considered Agency policy, but are only intended to give State Offices an overview of requests the Agency has been receiving
- all offices shall complete FSA-534 to record all FOIA requests and resulting action taken, according to 2-INFO, Exhibit 7.

**4 FOIA (Continued)**

**C Exemptions Restrict Release of Records**

Exemptions to releasing data under FOIA are listed in 2-INFO, paragraph 20. FOIA officer or coordinator shall determine if data is restricted based on an exemption.

**5 State and County Office Action**

**A State Office Action**

The State Office including GIS Specialist/Coordinator shall:

- ensure that provisions of the Privacy Act, FOIA, and Agency policy are followed for CLU and related data
- request guidance from State and National FOIA officers on any questions about the release of CLU and related data.

**B County Office Action**

County Offices shall:

- ensure that provisions of the Privacy Act, FOIA, and Agency policy are followed for CLU and related data
- request guidance from the State FOIA officer on any questions about the release of CLU and related data.

## Examples of Agency Responses to Requests

### Example 1 - Producer Signs Release Form for Private Company Request

A private company wants farm, tract, and field information on producers who subscribe to their service. This includes FSA farm, tract, and field numbers along with tract and field boundaries and crop information from annual acreage reports. Producers who are subscribers sign appropriate release forms with certifications of identity.

The company can have the information if they file a FOIA request providing the signed certifications of identities. If the producers agree for their information to be released to the company, the company can do what it wants with the information we provide.

**Note:** Guidelines for charging Commercial Requestors may apply. Contact State FOIA officer to determine if rates for Commercial Requestors apply.

### Example 2 - Request from University for CLU and Crop Data

University wants CLU boundaries and crop information from the annual crop report. The information will be used to verify (ground truth) analysis of satellite imagery to ensure crops are identified correctly. Request did not specify a need for farm, tract, or field numbers.

There is **not** a routine use to the Privacy Act that allows sharing information with educational institutions, so the university could only receive what is available to the public as described in 8-CM, Part 6.

### Example 3 - Private Company Request for County Data Without Producer Release Forms

A private company wants to purchase CLU's for entire nation, state, county, or subset of county. Request may or may not specifically include farm, tract, and CLU numbers.

The company could only receive what is available to the public as described in 8-CM, Part 6.

### Example 4 - Producer Requests Own Data

A producer wants digital farm, tract, and field data for land they own or operate.

Privacy issues do **not** apply to data associated with that producer and data is provided at no charge. Only CLU's associated with that producer is provided with full attribute data. A producer is considered to have an interest in CLU's if the producer is an operator, owner, or other producer on CLU.

**Examples of Agency Responses to Requests (Continued)****Example 5 - Producer Requests Data for Other CLU**

A producer wants digital farm, tract, and field data for land they **plan** to own or operate.

The producer can have the information if they provide signed certifications of identity authorizing the release from 1 of the present owners.

**Example 6 - Local Government Request**

A local government (for example the taxing authority) wants a full copy of CLU's with attributes including farm, tract, and CLU numbers.

There is **not** a routine use to the Privacy Act that allows sharing information with local governments, so they could only receive what is available to the public as described in 8-CM, Part 6.

**Example 7 - State Government Request**

A State government agency (for example the State Department of Agriculture) wants a full copy of CLU's with attributes including farm, tract, and CLU numbers.

There is **not** a routine use to the Privacy Act that allows sharing information with State governments, so they could only receive what is available to the public as described in 8-CM, Part 6.

**Note:** This includes requests based on "Homeland Security" planning needs.

**Example 8 - Non-USDA Federal Government Request for CRP**

A non-USDA government agency (for example the Fish and Wildlife Service) requests CRP polygons, predominate CP practice, and CRP contract expiration dates for all CRP in a State under FOIA. The request specifically excludes acres, farm, and tract numbers, HEL status, and other attributes. Data will be used in a research project to develop wildlife habitat relationship models and refine landcover/landuse data for the State. Data will not be released to others.

There is **not** a blanket routine use to the Privacy Act that allows sharing information with Non-USDA government agencies. However, upon appeal the Agency determined that the specific records requested could be released in this case. State Office was directed to release the records as shapefiles after performing the required work to extract CRP polygons, incorporate the specific CRP data into the attribute file, remove all other attributes, and create the necessary metadata.

**Examples of Agency Responses to Requests (Continued)****Example 9 - Request for Merged CLU and Acreage Report Data**

Local government requests annual crop report data as a GIS layer for a regional watershed. Information will be used to assist in building a model of the watershed.

The requested data did **not** exist in this format as the area was not participating in the Land Use pilot. No provision in FOIA requires that an Agency create a new record to fulfill a request for records. The requestor could have only received CLU that is available to the public under 8-CM, Part 6, as there is **not** a routine use to the Privacy Act that allows sharing information with local governments.

As the public version of CLU does **not** allow the release of the farm, tract, and CLU numbers there would be no way for the requestor to link CLU's with acreage report data. The requestor withdrew the request.

**Example 10 - Request from Non-USDA Employee Affiliated with USDA Agency**

A local agriculture extension agent requests the full CLU for a county.

There is **not** a routine use to the Privacy Act that allows sharing information with local extension agents, so they can only receive what is available to the public as described in 8-CM, Part 6.

Local agriculture extension agents work with CSREES, but are **not** actual USDA employees. USDA employees and contractors directly employed by USDA are the only people that the exception "to employees within USDA who have a need for the record in performing their official duties" applies. It does **not** apply to someone who works with, cooperates with, or is affiliated with USDA but is **not** an actual USDA employee.

**Example 11 - Request from State-Certified Appraiser for CLU for a State**

State-certified appraiser requests the full CLU for an entire State.

Routine use (21) in FR notice (Exhibit 2) allows the release of data to State-certified or State-licensed appraisers and employees of Federal agencies other than USDA qualified to perform real estate appraisals. However, this routine use is intended to cover requests for specific individuals or farms and **not** the data for an entire State or county. There is **not** a routine use to the Privacy Act that allows sharing information with State-certified or State-licensed appraisers at the State or county-wide level, so they could only receive what is available to the public as described in 8-CM, Part 6.

**FR Notice**

The following is a copy of the FR notice that provides guidance on FOIA information release.

**DEPARTMENT OF AGRICULTURE****Office of the Secretary****Privacy Act of 1974; Revision of Systems of Records and Proposed New Routine Uses**

AGENCY: Office of the Secretary, **USDA**.

ACTION: Notice of revision of privacy act systems of records and proposed new routine uses.

SUMMARY: Notice is hereby given that the United States Department of Agriculture is proposing to change the (**USDA**) Privacy Act Systems of Records maintained by the Farm Service Agency (**FSA**) as follows: A new routine use would be added to two Privacy Act systems of records maintained by **FSA**.

EFFECTIVE DATE: The proposed routine uses will become effective November 9, 2001 unless modified by a subsequent notice to incorporate public comments. Comments must be received by October 10, 2001 to be assured consideration.

ADDRESSES: Interested persons may submit written comments to Diane Flores Korwin, Freedom of Information and Privacy Act (FOIA/PA) Specialist, Public Affairs Staff, Farm Service Agency, U.S. Department of Agriculture, Public Affairs, STOP 0506, 1400 Independence Avenue, SW., Washington, DC 20250-0506; telephone 202-720-5534. The public may inspect comments received on this notice Monday-Friday, except holidays, between 8:15 a.m. and 4:45 p.m. in Room 3625 at the address listed above.

FOR FURTHER INFORMATION CONTACT: Diane Flores Korwin, telephone 202-720-5534.

SUPPLEMENTARY INFORMATION: This notice concerns two of the Privacy Act systems of records maintained by **FSA**; **USDA/FSA-2**, "Farm Records File" and **USDA/FSA-14**, "Applicant/Borrower File." The proposed revisions would provide disclosure of certain records in these files to State-certified or State-licensed appraisers, and to employees of other Federal agencies who are qualified to conduct real estate appraisals.

Disclosure of this information to State-certified or State-licensed appraisers, and to employees of other Federal agencies who are qualified to conduct real estate appraisals is a use of the information compatible with the specific administrative purposes for which the information was collected. Limited disclosure is clearly within **FSA**'s mandate to promote a viable agricultural economy, and is essential for effective implementation of appraisal standards established under of the Financial Institutions Reform Recovery and Enforcement Act (FIRREA) of 1989, 12, U.S.C. ch. 34A. Release of this producer and farm information relates to effective analyses of comparable properties and determinations of capitalization rates in connection with appraisers' valuations of properties using the comparable sales and income approaches.

Appraisers' ethical and other standards and general practices promulgated pursuant to the FIRREA provide safeguards against further dissemination of the information provided to persons outside **USDA**. Appraisals are confidential and may not be released to other parties without the approval of the appraiser and the client. Appraisal reports identify properties, but do not identify the owner by name, and those appraisers who violate the ethical standards are subject to discipline by State certification boards.

The **FSA** also publishes information regarding acreage allotments and marketing quotas for farms raising tobacco and peanuts as required by law. However, information concerning the acreage, yield, storage, and marketing by farmers engaged in production of tobacco and peanuts will only be released in a manner that does not identify the information furnished by individual producers. 7 U.S.C. 1373 prohibits release of this information in a form identifiable to an individual producer.

**FR Notice (Continued)**

Pursuant to the Privacy Act, 5 U.S.C. 552a, **USDA** hereby takes the following action:

**(1) USDA/FSA-2, ``Farm Records File"**

This system is being amended to add a routine use allowing the limited disclosure of Producer and Farm Information to State-certified or State-licensed appraisers and employees of Federal agencies other than **USDA** who are qualified to conduct real estate appraisals.

The specific information to be disclosed to the appraiser is:

- Production Flexibility Contract Acres
- Payment yields
- Agricultural use acres and cropland acres
- Copies of aerial photography
- Conservation Reserve Program (CRP) acres
- Highly erodible land (HEL) delineations
- Wetland classifications

Notwithstanding the foregoing, **USDA** will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by **USDA** and is necessary for the administration of Title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. Sec. 1361 et seq., unless the information to be released is in an aggregate form that does not identify the information furnished by any person. **FSA** will continue to make available for public inspection information regarding acreage allotments and farm marketing quotas established for farms as required by law.

**(2) USDA/FSA-14, ``Applicant/Borrower File"**

This system is being amended to add a routine use allowing the limited disclosure of Producer and Farm Information to state-certified or state-licensed appraisers and employees of Federal agencies other than **USDA** who are qualified to conduct real estate appraisals.

The specific information to be disclosed to the appraiser is:

- Production Flexibility Contract Acres
- Payment yields
- Agricultural use acres and cropland acres
- Copies of aerial photography
- Conservation Reserve Program (CRP) acres
- Highly erodible land (HEL) delineations
- Wetland classifications

Notwithstanding the foregoing, **USDA** will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by **USDA** and is necessary for the administration of Title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1361 et seq., unless the information to be released is in an aggregate form that does not identify the information furnished by any person. **FSA** will continue to make available for public inspection, information regarding acreage allotments and farm marketing quotas established for farms, as required by law.

Signed at Washington, DC, on August 31, 2001.  
Ann M. Veneman,  
Secretary.

## FR Notice (Continued)

**USDA/FSA-2.****SYSTEM NAME:**

Farm Records File (Automated), **USDA/FSA-2.**

**SYSTEM LOCATION:**

This system of records is under the control of the Deputy Administrator for Program Delivery and Field Operations, **FSA, USDA**, Stop 0539, PO Box 2415, Washington, DC 20013. The data will be maintained at the county **FSA** office which services the particular farm, the State **FSA** Office of the State where the particular county **FSA** office is located, the Kansas City Management Office, 8930 Ward Parkway, PO Box 419205, Kansas City, Missouri 64141-0205; the Kansas City Commodity Office, PO Box 419205, 9200 Ward Parkway, Kansas City, Missouri 64141-0205, and the **FSA** National Office. The address of each county and State **FSA** office can be found in the local telephone directory under the heading "United States Government, Department of Agriculture, Farm Service Agency."

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Farm owners, operators, and other producers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The information in the system consists of documentation of participation in the active programs as well as discontinued programs. This includes names and addresses of producers and is not necessarily limited to farm allotments, quotas, bases, and history; compliance data; production and marketing data; lease and transfer of allotments and quotas; appeals; new grower applications; conservation program documents; program participation and payment documents; appraisals, leases, and data for farm reconstitution; and, for payment limitation purposes, financial statements, and other applicable farm information as well such documents as tax statements, wills, trusts, partnership agreements, and corporate charters.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

7 U.S.C. 135b, 450j, 450k, 405l, 1281-1393, 1421-1449, 1461-1469, 1471-1471i, 1781-1787; 15 U.S.C. 714-714p; 16 U.S.C. 590a-590q, 1301-1311, 1501-1510, 1606, 2101-2111, 2201-2205, 3501, 3801-3847, 4601, 5822; 26 U.S.C. 6109; 40 U.S.C. App. 1, 2, 203; 43 U.S.C. 1592; and 48 U.S.C. 1469.

**PURPOSE(S):**

To facilitate the Congressional mandate that **FSA** and CCC operate farm programs that control the price and supply of certain agricultural commodities that protect the environment and that enhance the marketing and distribution of certain agricultural commodities.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Records contained in this system may be disclosed:

(1) To a cooperative marketing association approved to carry out CCC rice support loan and marketing programs, but only that data regarding member and related individual participation in such programs;

(2) To the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute, rule, regulation or order issued pursuant thereto, of any records within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto;

(3) To a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery to the extent that records sought are relevant to the subject of the proceeding;

(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual;

(5) To the Internal Revenue Service to establish the tax liability of individuals as required by the Internal Revenue Code;

(6) To State or local tax authorities having an agreement with CCC to withhold taxes or fees from loan proceeds;

**FR Notice (Continued)**

- (7) To the Bureau of Reclamation (BOR), but only that data necessary for the BOR to administer the Reclamation Act of 1982 as amended;
- (8) To boards or other entities authorized by state statute to collect commodity assessments;
- (9) To the Food Safety and Inspection Service;
- (10) To the Peanut Board with respect to producers of peanuts and their participation in the peanut price support, production control and quota programs;
- (11) To the Bureau of Indian Affairs the name and address of producers to assist in the distribution of funds to Native American Indians;
- (12) To candidates for **FSA** county and/or community committee positions the names and addresses of producers in the county for the purpose of county committee elections;
- (13) To tobacco analysis laboratories the producers' names and addresses as well as crop-specific data regarding tobacco being analyzed prior to the marketing of such tobacco;
- (14) To the public who may inspect farm allotment and quota data for marketing quota crops as required by the Agricultural Act of 1938, as amended; (15) To State Foresters the names and addresses of producers and crop-specific data regarding their operations with respect to forestry conservation practices;
- (16) To cotton buyers the names of cotton producers;
- (17) To cotton ginneries the names, addresses and cotton acreages;
- (18) To members of Congress the names and addresses of producers; and
- (19) To the public when they need to obtain the names and addresses of producers who have loans with **FSA** or CCC to prevent such individual from purchasing commodity that has been placed under a CCC loan.
- (20) To State or local taxing authorities or their contracted appraisal companies the name of and address of producers for tax appraisal purposes; and
- (21) To State-certified or State-licensed appraisers and employees of Federal agencies other than **USDA** qualified to perform real estate appraisals.

The specific information to be disclosed to the appraiser is:

- Production Flexibility Contract Acres
- Payment yields
- Agricultural use acres and cropland acres
- Copies of aerial photography
- Conservation Reserve Program (CRP) acres
- Highly erodible land (HEL) delineations
- Wetland classifications

Notwithstanding the foregoing, **USDA** will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by **USDA** and is necessary for the administration of Title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1361 et seq., unless the information to be released is in an aggregate form that does not identify the information furnished by any person. **FSA** will continue to make available for public inspection, information regarding acreage allotments and farm marketing quotas established for farms, as required by law.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in file folders and Department computer systems at applicable locations as set out above under the heading ``System Location'.

**RETRIEVABILITY:**

Records may be indexed by individual name, farm number, tax identification number, Social Security Number, or loan number.

**SAFEGUARDS:**

Records are kept in locked Government office buildings. Access to these records is limited to authorized **FSA** personnel and representatives. Records stored in computer files are protected by passwords and other electronic security systems. Additionally, any negotiable documents, such as warehouse receipts, are kept in a fireproof cabinet.

**FR Notice (Continued)****RETENTION AND DISPOSAL:**

Program documents are destroyed within 6 years after end of participation, except for conservation program documents, which are retained for periods sufficient to insure compliance equal to the life of the practice. Other documents, such as powers of attorney or leases, are destroyed after such document is no longer valid. Original loan notes are returned to producers after liquidation of loan.

**SYSTEM MANAGER(S) AND ADDRESS:**

Deputy Administrator for Program Delivery and Field Operations, **FSA, USDA**, Stop 0539, PO Box 2415, Washington, DC 20013.

**NOTIFICATION PROCEDURE:**

An individual may request information regarding this system of records, or information as to whether the system contains records pertaining to the individual from the System Manager listed above.

**RECORD ACCESS PROCEDURES:**

An individual may obtain information about a record in the system which pertains to such individual by submitting a written request to the above listed System Manager. The envelope and letter should be marked "Privacy Act Request." A request for information pertaining to an individual should contain: name, address, ZIP code, name of system of record, year of records in question, and any other pertinent information to help identify the file.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should direct their request to the above listed System Manager, and should include the reason for contesting it and the proposed amendment to the information with supporting information to show how the record is inaccurate. A request for contesting records pertaining to an individual should contain: name, address, ZIP code, name of system of record, year of records in question, and any other pertinent information to help identify the file.

**RECORD SOURCE CATEGORIES:**

Information in this system is submitted by county and State Committees and their representatives, the Office of Inspector General and other investigatory agencies, the Office of the General Counsel, the Kansas City Commodity Office, the Kansas City Management Office, the Natural Resources and Conservation Service and by third parties and by the individual who is the subject of the file.

**USDA/FSA-14****SYSTEM NAME:**

Applicant/Borrower, **USDA/FSA-14**.

**SYSTEM LOCATION:**

Each Farm Service Agency (**FSA**) applicant's/borrower's records are located in the Agricultural Credit Team Office, County, District, or State Office through which the financial assistance is sought or was obtained, and electronic account records are in the Finance Office in St. Louis, Missouri. A State Office version of the Team Office, County or District office file may be located in or accessible by the State Office which is responsible for that Agricultural Credit Team, County or District Office. Correspondence regarding borrowers is located in the Agricultural Credit Team, County, District, State and National Office files. The addresses of Agricultural Credit Team, County, District and State Offices are listed in the telephone directory of the appropriate city or town under the heading "United States Government, Department of Agriculture, Farm Service Agency." The Finance Office is located at 1520 Market Street, St. Louis, Missouri 63103.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Present and former **FSA** applicants/borrowers and their respective household members including members of associations.

## FR Notice (Continued)

## CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes files containing characteristics of applicants/borrowers and their respective household members, such as gross and net income, sources of income, capital, assets and liabilities, net worth, age, race, number of dependents, marital status, reference material, farm or ranch operating plans, and property appraisals. The system also includes credit reports and personal references from credit agencies, lenders, businesses, and individuals. In addition, a running record of observation concerning the operations of the person being financed is included. A record of deposits to and withdrawals from an individual's supervised bank account is also contained in those files where appropriate. In some Agricultural Credit Team and County Offices, this record is maintained in a separate folder containing only information relating to activity within supervised bank accounts. Some items or information are extracted from the individual's file and placed in a card file for quick reference.

## AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 et. seq., 42 U.S.C. 1471 et. seq., and 42 U.S.C. 2706.

## ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records contained in this system may be disclosed:

(1) To the appropriate agency, whether Federal, State, local, tribal, foreign, or other public authority foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing a statute or a rule, regulation or order issued pursuant thereto, or of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving agency;

(2) To business firms in a trade area that buy chattel or crops or sell them for commission. The disclosure may include the name, home address, social security numbers and financial information. This is being done so that **FSA** may benefit from the purchaser notification provisions of section 1324 of the Food Security Act of 1985 (7 U.S.C. 163(e)). The Act requires that potential purchasers of farm commodities must be advised ahead of time that a lien exists in order for the creditor to perfect its lien against such purchases;

(3) To the appropriate authority when a default involves a security interest in tribal allotted or trust land. The disclosure may include the name, home address, and information concerning default on loan repayment. Pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 (42 U.S.C. 12701 et. seq.), liquidation may be pursued only after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe(s);

(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual;

(5) To a collection or servicing contractor, financial institution, or a local, State, or Federal agency, when **FSA** determines such referral is appropriate for servicing or collecting the borrower's account or as provided in contracts with servicing or collection agencies. The disclosure may include name, home address, social security number, and financial information;

(6) In a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation and, by careful review, the agency determines that the records are both relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the agency collected the records;

(7) To financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources when **FSA** determines such referral is appropriate to encourage the borrowers to refinance their **FSA** indebtedness as required by Title V of the Housing Act of 1949, as amended (42 U.S.C. 1471). The disclosure may include name, home address, and financial information for selected borrowers;

(8) To the Department of the Treasury, Internal Revenue Service (IRS), any legally enforceable debt(s), to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made, in accordance with the IRS regulations at 26 CFR 301.6402-6T, Offset of Past Due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A;

## FR Notice (Continued)

(9) To the Defense Manpower Data Center, Department of Defense, and the United States Postal Service any information regarding indebtedness, for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the **FSA** in order to collect debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365) by voluntary repayment, administrative or salary offset procedures, or by collection agencies;

(10) To lending institutions any financial information when **FSA** determines the individual may be financially capable of qualifying for credit with or without a guarantee. The referral may contain name, home address, and financial information;

(11) To lending institutions that have a lien against the same property as **FSA**, for the purpose of the collection of the debt. These loans can be under the direct or guaranteed loan programs. Disclosure may include names, home addresses, social security numbers, and financial information;

(12) To private attorneys under contract with either **FSA** or with the Department of Justice for the purpose of foreclosure and possession actions and collection of past due accounts in connection with **FSA** loans;

(13) To the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records;

(14) To the Department of Housing and Urban Development (HUD) as a record of location utilized by Federal agencies for an automatic credit prescreening system. The disclosure may include names, home addresses, social security numbers, and financial information;

(15) To the Department of Labor, State Wage Information Collection agencies, and other Federal, State, and local agencies, as well as those responsible for verifying information furnished to qualify for Federal benefits, to conduct wage and benefit matching through manual and/or automated means, for the purpose of determining compliance with Federal regulations and appropriate servicing actions against those not entitled to program benefits, including possible recovery of improper benefits. This may include names, home addresses, social security numbers, and financial information; and

(16) To financial consultants, advisors, or underwriters, when **FSA** determines such referral is appropriate for developing packaging and marketing strategies involving the sale of **FSA** loan assets. The referral may include names, home addresses, and financial information; and

(17) To state-certified or state-licensed appraisers and employees of Federal agencies other than **USDA** qualified to perform real estate appraisals.

The specific information to be disclosed to the appraiser is:

- Production Flexibility Contract Acres
- Payment yields
- Agricultural use acres and cropland acres
- Copies of aerial photography
- Conservation Reserve Program (CRP) acres
- Highly erodible land (HEL) delineations
- Wetland classifications

Notwithstanding the foregoing, **USDA** will not release to appraisers information indicating the acreage, yield, storage and marketing of peanuts or tobacco if that information was requested by **USDA** and is necessary for the administration of title III of the Agricultural Adjustment Act of 1938, 7 U.S.C. 1361 et seq., unless the information to be released is in an aggregate form that does not identify the information furnished by any person. **FSA** will continue to make available for public inspection information regarding acreage allotments and farm marketing quotas established for farms as required by law.