

**For:** Washington, DC, and Kansas City FOIA Offices, State and County Offices

**FOIA-Capture (FOIA-CAP) and Annual FOIA Report to USDA for FY 2009**

**Approved by:** Associate Administrator for Operations and Management



**1 Overview**

**A Background**

In FY 2008, FSA automated the process for producing the Annual FOIA Report to USDA through an electronic application called FOIA-CAP. It also directed State and County Offices, and the Washington, DC, and Kansas City National FOIA Offices, to provide cost and staffing information about their administration of the FOIA program on FSA-538.

**B Purpose**

This notice provides:

- that the annual FOIA report to USDA for FY 2009 will be generated from data entered into FOIA-CAP, supplemented by information provided on FSA-538
- that the cut-off date for entering data for FY 2009 into FOIA-CAP is **October 2, 2009**
- that FOIA-CAP will be available for use in tracking FY 2010 requests by **October 19, 2009**
- guidance on providing FOIA administration cost and staffing information required by the Annual FOIA Report to USDA for FY 2009
- guidance on information to include in FOIA-CAP for FY 2010
- an update on the status of possible enhancements to FOIA-CAP.

<b>Disposal Date</b>	<b>Distribution</b>
April 1, 2010	Washington, DC, and Kansas City FOIA Offices and State Offices; State Offices relay to County Offices

## Notice INFO-38

### 1 Overview (Continued)

#### C FOIA-CAP Enhancements

No enhancements of FOIA-CAP will be made until after data input for FY 2009 has been completed and the system has been restored to availability for FY 2010 data entry.

#### E FOIA-CAP Transition from FY 2009 to FY 2010

FOIA-CAP will be unavailable for data input during the transition from FY 2009 to FY 2010. It will be closed for input to enable the system administrator to review and correct the data, if required, before generating the Annual FOIA report. If the review process presents no unexpected problems, FOIA-CAP will be available for FY 2010 data input on Tuesday, October 13, 2009. Otherwise, FOIA-CAP will be available for FY 2010 data input by Monday, October 19, 2009.

Offices that need a printout of their 2009 FOIA Request List **must** generate the printout **before** the system is closed on **October 5, 2009**.

#### F FOIA-CAP Data Entry Instructions for FY 2010

For FY 2010, the following changes to FOIA-CAP data entry instructions are in effect:

- do **not** delete from the database any records entered but not completed in a prior FY

**Note:** DOJ expects that FSA will begin each new FY with the same number of open FOIA requests with which it ended the prior year. If for any reason a request that should have been completed in a prior year is left open, the **only** way it can be removed from open status is by completing it in the database. In this instance, the earliest date that can be entered into the system for its completion is October 1 of the current FY.

- do **not** enter requests for records submitted on FSA-426 or FSA-426A by loss adjusters or requests for records submitted by crop insurance agents
- **do** enter all other requests seeking information about third parties maintained in a Privacy Act system of records when written authorization to release the data was obtained from the individuals to whom the data pertains.

**Note:** These are FOIA requests. FOIA fees and statutory processing deadlines apply to these requests.

## Notice INFO-38

### 1 Overview (Continued)

#### G Annual FOIA Report to USDA

FSA will generate the FY 2009 Annual FOIA Report to USDA primarily from data captured by FOIA-CAP throughout FY 2009. FSA will supplement this data with information on FSA-538 (RPT-I-00-INFO-09-1) with cost and staffing information about the administration of the FOIA program. **Negative reports are required** (Exhibit 1).

### 2 Action

#### A State Office Action

State Offices shall:

- review all open FOIA requests entered by their office, to ensure that all entries are accurate and complete, paying special attention to any requests that have not yet been perfected in the system
- complete entering FOIA requests processed in FY 2009 in FOIA-CAP by COB **October 2, 2009**
- ensure that County Offices follow the contents of this notice
- provide the following to the FSA FOIA Officer by **October 9, 2009**:
  - certification that all FOIA requests processed in State and County Offices in their State in FY 2009 have been entered into FOIA-CAP
  - FOIA office staffing and administrative cost data for their State on FSA-538 (RPT-I-00-INFO-09-1); **negative reports are required** (Exhibit 1).

**Note:** These deadlines were previously announced in Notice INFO-33.

## Notice INFO-38

### 2 Action (Continued)

#### B County Office Action

County Offices shall:

- review all open FOIA requests entered by their office, to ensure that all entries are accurate and complete, paying special attention to any requests that have not yet been perfected in the system
- complete entering FOIA requests processed in FY 2009 in FOIA-CAP by COB **October 2, 2009**
- certify to their State Offices that all FOIA requests processed in their offices in FY 2009 have been entered into FOIA-CAP by **September 25, 2009**
- provide their State Offices with FOIA office staffing and administrative cost data on FSA-538 (RPT-I-00-INFO-09-1) by **September 25, 2009; negative reports are required** (Exhibit 1).

**Note:** These deadlines were previously announced in Notice INFO-33.

#### C Contacts

For questions about this notice, contact Sue Ellen Sloca, FSA FOIA Officer, by either of the following:

- e-mail to [sueellen.sloca@wdc.usda.gov](mailto:sueellen.sloca@wdc.usda.gov)
- telephone at 202-720-1598.

Completing FSA-538 (RPT-I-00-INFO-09-1)

A Instructions for Completing FSA-538

Complete FSA-538 according to the following.

Item	Instruction
1A	Enter FY of the reporting period.
1B	Enter date FSA-538 was submitted.
2	Select office location.
3	Enter name, address, and telephone number of the office completing FSA-538.
4A	<p>Enter number of full-time FOIA employees in the office (or State, for State reports) for whom FOIA responsibilities constitute their entire workload.</p> <p><b>Note:</b> Leave item 4A blank if no employees in the office (or State, for State reports) are engaged in FOIA on a full-time basis.</p>
4B	<p>Enter number of part-time FOIA employees in the office (or State, for State reports) for whom FOIA responsibilities are a collateral duty. Calculate this number by:</p> <ul style="list-style-type: none"> <li>• estimating how many hours each employee spends, in an average week, performing FOIA duties; for example, 10 hours per week</li> <li>• determining, from this number, what percentage of each employee’s time is spent on performing FOIA duties; for example, 25 percent</li> <li>• expressing this amount of time as a decimal fraction; for example, .25 of a full-time equivalent (FTE)</li> <li>• adding together the total number of partial FTE’s arrived at; for example, .25 + .5 + .75 = 1.5 FTE’s.</li> </ul> <p><b>Note:</b> Leave item 4B blank if no employees in the office (or State, for State reports) are engaged in FOIA on a part-time basis.</p>
4C	Enter total of items 4A and 4B.
4D	<p>Calculate cost of FOIA personnel by:</p> <ul style="list-style-type: none"> <li>• calculating the annual salary plus benefits (16 percent of salary) cost to the office of each employee in the office assigned either on a full-time or part-time basis to FOIA responsibilities</li> <li>• multiplying the annual salary plus benefits cost of each employee assigned to FOIA responsibilities by that percentage of his or her time spent performing them, as determined in calculating items 4A and 4B</li> <li>• adding the resulting costs of each employee assigned to FOIA duties to determine the total cost of FOIA personnel.</li> </ul>

Completing FSA-538 (Continued) (RPT-I-00-INFO-09-1)

A Instructions for Completing FSA-538 (Continued)

Item	Instruction
<p>4D (Cntd)</p>	<p>Calculate cost of any other administrative expenses associated with administering the FOIA program by:</p> <ul style="list-style-type: none"> <li>• including any and all expenses associated with the processing of FOIA requests <b>not</b> attributable to the processing of any individual FOIA request, including, but not limited to, the following:                             <ul style="list-style-type: none"> <li>• expenses incurred in providing or attending FOIA training; for example, for transportation, lodging, and meals</li> <li>• expenses incurred in purchasing equipment or supplies for the FOIA program; for example, manila folders in which to store FOIA case files, lift-off (or redaction) tape, redaction software, or copying documents for retention in the FOIA administrative file</li> <li>• expenses incurred in maintaining FOIA records; for example, Federal Records Center storage charges</li> </ul> </li> <li>• <b>not</b> including expenses associated with the operation and maintenance of the office in which staff performing FOIA duties are housed (such as building rent and utilities, or office equipment and furniture) unless any of these costs are exclusively linked to management of the FOIA program; for example, a new filing cabinet purchased for the exclusive use of storing FOIA case files.</li> </ul> <p>Add the total cost of FOIA personnel with the total cost of all other administrative expenses associated with managing the FOIA program.</p>
<p>5</p>	<p>Complete the certification by indicating either of the following:</p> <ul style="list-style-type: none"> <li>• that all FOIA and FOIA/privacy requests received in the office (or State, for State reports) that qualify for input into FOIA-CAP during the FY have been entered into the system</li> <li>• that the office (or State, for State reports) received no FOIA or FOIA/privacy requests that qualified for input into FOIA-CAP during the FY.</li> </ul>
<p>6</p>	<p>FSA official responsible for administering the FOIA program at the office completing FSA-538 should sign, enter their title, and date.</p>

Completing FSA-538 (RPT-I-00-INFO-09-1) (Continued)

**B Example of FSA-538**

The following is an example of FSA-538.

<p>This form is available electronically.</p>		
<p><b>FSA-538</b> (02-20-09)</p>	<p>U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency</p>	<p>1A. Fiscal Year: (Reporting Period)</p>
<p><b>ANNUAL FREEDOM OF INFORMATION ACT REPORT</b> Certification Form</p>		<p>1B. Reporting Date</p>
<p><i>Report Control No. RPT-I-00-INFO-09-1</i></p>		
<p><b>INSTRUCTIONS:</b> County Offices <u>must submit</u> their completed FSA-538s to the State Office by the end of the last full week in September of the FY identified in Item 1. State and National Offices <u>must submit</u> their completed FSA-538s to the FOIA Officer in the National Office by the end of the first full week in October of the FY identified in Item 1.</p>		
<p><b>PART A – REPORTING OFFICE INFORMATION</b></p>		
<p>2. Office Location (Check one below):</p> <p><input type="checkbox"/> National Office    <input type="checkbox"/> State Office    <input type="checkbox"/> County Office</p>		
<p>3A. Name of Responding Office</p>	<p>3B. Office Address (Including Zip Code)</p>	
	<p>3C. Office Telephone Number (Including Area Code)</p>	
<p><b>PART B – FOIA STAFFING AND ADMINISTRATIVE COST DATA</b></p>		
<p>4A. Number of Full-Time FOIA Personnel</p>	<p>4B. Number of Part-Time or Occasional FOIA Personnel</p>	
<p>Example: If one individual, who works 40 hours per week and performs FOIA duties as a collateral function, spends 10 hours per week on FOIA, record his/her time as .25 FTE (10 hours divided by 40 hours = 25% or .25 of an FTE). If more than one person in the office performs FOIA duties as a collateral function, add the partial FTEs spent on FOIA for all of these individuals and provide the total here, e.g., .25 FTE plus .5 FTE = .75 FTEs.</p>		
<p>4C. Total Number of Personnel (Total FTEs = Items 4A and 4B, above.)</p>	<p>4D. Total costs of FOIA personnel, and other related administrative expenses incurred when processing FOIA requests.  * \$</p>	
<p>* Average salary of individuals performing FOIA duties in office plus 16% of salary times total number of FTEs from Item 4C above, plus any other FOIA costs, e.g., FOIA training, spent by office in administering the FOIA program not attributable to individual request processing in FY identified in Item 1.</p>		
<p><b>PART C - CERTIFICATION</b></p>		
<p>5. Certification: Place an "X" in the checkbox below indicating the statement that applies:</p>		
<p><input type="checkbox"/> I certify that all FOIA and FOIA/privacy requests that qualify for input into FOIA-CAP for FY identified in Item 1 have been entered (accurately and completely) into the application.</p>		
<p><input type="checkbox"/> I certify that this office processed "NO" (zero) FOIA or FOIA/privacy requests that qualify for input into FOIA-CAP for FY identified in Item 1.</p>		
<p>6A. Signature of FSA Official</p>	<p>6B. Title</p>	<p>6C. Date Prepared</p>
<p><small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.</small></p>		