

**For:** FPAC Business Center FOIA Offices, and FSA State and County Offices

**FOIA-Capture (FOIA-CAP) and Annual FOIA Report to USDA for FY 2023**

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



**1 Overview**

**A Background**

In FY 2018, the responsibility of processing FSA FOIA requests at the national level was transferred to the Farm Production and Conservation Business Center (FPAC-BC). In FY 2020, FSA State Offices began tracking all FOIA requests in FOIAXpress.

FPAC-BC is required to submit an annual report on FOIA activities performed at the FSA State and County Office levels to USDA. County Offices will continue to use FOIA-CAP for requests in 2024.

**B Purpose**

This notice provides guidance on:

- FOIA activities to be reported in the FY 2023 annual report
- FOIA-CAP availability for FY 2024
- key FOIA issues for FY 2023
- submitting FSA-538 data to FPAC-BC.

Disposal Date	Distribution
March 1, 2024	Washington, DC, and Kansas City, MO, FOIA Offices and State Offices; State Offices relay to County Offices

## **2 FOIA Activities for FY 2023 Annual Report**

### **A Recording Progress and Closing out FOIA-CAP for FY 2023**

County Offices must record FOIA activity performed in FY 2023 (received, perfected, final response, etc.) into FOIA-CAP until the database is suspended. The deadline to load performed tasks into FOIA-CAP database is **Friday, September 29, 2023**.

State Offices will continue to timely record FOIA activity in FOIAXpress. The FOIAXpress software will not be suspended in October.

FOIA data loaded in FOIA-CAP and FOIAXpress will be pulled by the National Office on October 4, 2023, for the FY 2023 annual report. FSA-538, Part B **will not** be used to determine the staffing and costs associated with administering FOIA in FY 2023.

County Offices, with State Office assistance, must record all FOIA requests that were received but not completed in FY 2023 for later processing in FOIA-CAP. The FY 2023 FOIA-CAP data will be available for reports until **Friday, October 20, 2023**.

### **B Submitting FSA-538 Data (Parts A and C Only) Through Electronic Mail**

State Offices must submit a summary FSA-538 (Parts A and C only) (Exhibit 1) for their State to FPAC-BC by e-mail to **SM.FP.FOIA@usda.gov**.

## **3 FY 2024 FOIA Requests**

### **A FOIA-CAP Requests During FOIA-CAP Suspension**

County Offices will manually process new FY 2024 FOIA requests according to 2-INFO during the FOIA-CAP suspension.

FOIA-CAP is scheduled to be available for FY 2024 reporting on **Monday, October 23, 2023**.

### **B FOIA-CAP Requests After FY 2024 Becomes Available**

County Offices will close out unfinished FY 2023 FOIA-CAP requests and load new requests received after September 30, 2023, after FY 2024 FOIA-CAP becomes available.

County Offices will load FY 2024 FOIA requests in the order they are received.

### **C FOIAXpress Requests in FY 2024**

State Offices will continue to process FOIA requests in FOIAXpress. For State Offices this includes any FOIA requests assigned by the FPAC-BC FOIA Group within the FOIAXpress system. The FOIAXpress tracking number should be preserved even if the request is ultimately processed by a County Office, to ensure that the request can be tracked.

## Notice INFO-81

### 3 FY 2024 FOIA Requests (Continued)

#### D Reminders

State and County Offices are reminded of the following requirements for FY 2024:

- unless otherwise instructed, **do not** use Exemption 1 to respond to any FOIA request
- County Offices are required to input request descriptions in the “Optional Notes” field in FOIA-CAP for FY 2024
- requests for acreage reports and maps from insurance companies, agents, and loss adjusters on signed FSA-426 will **not** be loaded in FOIA-CAP
- the “FOIA-CAP User Guide” is available at the FOIA-CAP website.

### 4 Action

#### A State Office Action

State Offices will:

- review all open FOIA requests received by their offices 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 2023 in FOIAXpress by COB **Friday, September 29, 2022**
- review all County Office FSA-538's to determine complete and accurate reporting, and assist County Offices, as necessary
- ensure that County Offices follow the contents of this notice
- provide to FPAC-BC State Summary FSA-538 (Parts A and C only) by **Friday, October 13, 2023**.

**Note:** Negative reports are **required**.

**4 Action (Continued)**

**B County Office Action**

County Offices will:

- review all open FOIA requests received 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 2022 in FOIA-CAP by COB **Friday, September 29, 2023**
- certify to their State Office that all FOIA requests processed in FY 2022 have been entered into FOIA-CAP by **Friday, October 6, 2023**, on FSA-538 (Parts A and C only).

**Note:** Negative reports are **required**.

**C Contact**

For questions about:

- this notice or the annual report, contact Amber Ross, Stakeholder Relations Branch Chief, by either of the following:
  - e-mail to **amber.ross@usda.gov**
  - telephone at 816-926-6371
- submitting State reports to FPAC-BC through **SM.FP.FOIA@usda.gov**, contact Christina Vander Linden by either of the following:
  - e-mail to **christina.vanderlinden@usda.gov**
  - telephone at 816-823-2669.

**FSA-538 (RPT-I-00-INFO-09-1)****A Instructions for Completing FSA-538**

Complete FSA-538 according to the following.

<b>Item</b>	<b>Instruction</b>
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	Leave item 4A blank.
4B	Leave item 4B blank.
4C	Leave item 4C blank.
4D	Leave item 4D blank.
5	<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 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 FY.</li></ul>
6	FSA official responsible for administering the FOIA program at the office completing FSA-538 should sign, enter their title, and date.

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

## B Example of FSA-538

The following is an example of FSA-538 as posted electronically on the SharePoint site.

This form is available electronically.		
<b>FSA-538</b> (02-20-09)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency
<b>ANNUAL FREEDOM OF INFORMATION ACT REPORT</b> <b>Certification Form</b>		1A. Fiscal Year: (Reporting Period)
		1B. Reporting Date
<i>Report Control No. RPT-I-00-INFO-09-1</i>		
<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.		
<b>PART A – REPORTING OFFICE INFORMATION</b>		
2. Office Location (Check one below): <input type="checkbox"/> National Office <input type="checkbox"/> State Office <input type="checkbox"/> County Office		
3A. Name of Responding Office		3B. Office Address (Including Zip Code)
		3C. Office Telephone Number (Including Area Code)
<b>PART B – FOIA STAFFING AND ADMINISTRATIVE COST DATA</b>		
4A. Number of Full-Time FOIA Personnel		4B. Number of Part-Time or Occasional FOIA Personnel
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.		
4C. Total Number of Personnel (Total FTEs = Items 4A and 4B, above.)		4D. Total costs of FOIA personnel, and other related administrative expenses incurred when processing FOIA requests.  * \$
* 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.		
<b>PART C – CERTIFICATION</b>		
5. Certification: Place an "X" in the checkbox below indicating the statement that applies:		
<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.		
<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.		
6A. Signature of FSA Official	6B. Title	6C. Date Prepared
<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>		