

## § 602.8

(3) If a submitter sues to prevent release, we will promptly tell the requester and will not disclose the business information until after the court's decision.

(4) If a requester sues to compel disclosure, we will promptly tell the business submitter.

### § 602.8 Appeals.

(a) *How to appeal.* You may appeal a total or partial denial of your FOIA request within 30 calendar days of the date of the denial letter. Your appeal must be in writing and addressed to the Director, Office of Management Services (OMS), Farm Credit Administration. You may send it:

(1) By mail to 1501 Farm Credit Drive, McLean, Virginia 22102-5090;

(2) By facsimile to (703) 893-2608; or

(3) By E-mail to [foiaappeal@fca.gov](mailto:foiaappeal@fca.gov).

(b) *FCA action on appeal.* Within 20 business days of receiving your appeal, the OMS Director will tell you, in writing, whether we have granted or denied it. If you send your appeal to the wrong address, the 20-day response time will not begin until the OMS Director receives your appeal.

(c) *Unusual circumstances.* In unusual circumstances, the OMS Director may extend the 20-day response time by telling you in writing why we need more time and the date we will mail you our response. All extensions, including any extension of the response time for the first request, may not total more than 10 business days.

[64 FR 41770, Aug. 2, 1999, as amended at 70 FR 69645, Nov. 17, 2005]

### § 602.9 Current FOIA index.

FCA will make a current index available for public inspection and copying, as required by the FOIA. We will give you an index for the cost of copying it. Because we rarely receive requests for an index, we have not published one in the FEDERAL REGISTER.

## Subpart C—FOIA Fees

### § 602.10 Definitions.

*Commercial use request* means an information request by an individual or entity seeking information for a use or purpose that furthers the commercial,

## 12 CFR Ch. VI (1-1-14 Edition)

trade, or profit interests of that individual or entity.

*Direct costs* means the costs FCA incurs in searching for and reproducing documents to respond to a FOIA request. For a commercial use request, it also means the costs we incur in reviewing documents to respond to the request. Direct costs include the pro rated cost of the salary of the employee performing the work (based on the basic rate of pay plus 16 percent to cover benefits) and the cost of operating reproduction equipment. They do not include overhead expenses.

*Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education that runs a program of scholarly research.

*Noncommercial scientific institution* means a nonprofit institution that conducts scientific research that is not intended to promote any particular product or industry.

*Pages* mean 8-1/2 × 11 inch or 11 × 14 inch paper copies.

*Representative of the news media* means any person actively gathering news for an entity that publishes or broadcasts news to the public. *News* means information about current events or of current interest to the public.

*Reproduce (or reproduction)* means copying a record.

*Review* means looking at documents found in response to a FOIA request to decide whether any portion should be withheld. It does not include the time spent resolving legal or policy issues.

*Search* means all time spent looking for material responsive to a FOIA request, including page-by-page or line-by-line identification of material within documents.

### § 602.11 Fees by type of requester.

Depending on your identity and the purpose of your request, the FCA may charge you the direct costs of searching for responsive records, reviewing the records, and reproducing them. If necessary, we will seek clarification before classifying the request.