

**For:** FSA FOIA Offices and State and County Offices

**Section 1619 of the Food, Conservation, and Energy Act of 2008 (Section 1619)  
and Payment Information Under FOIA**

**Approved by:** Acting Administrator



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**1 Overview**

**A Background**

Section 1619 (7 U.S.C. 8791) restricts public access under FOIA (5 U.S.C. 552) to “information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department.” Nonetheless, it still permits the disclosure, to the public, in response to FOIA requests, of “payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law.”

**B Purpose**

This notice provides guidance on how to interpret the phrase “payment information” in the context of responding to FOIA requests.

**C Contacts**

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

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

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<b>Disposal Date</b>	<b>Distribution</b>
December 1, 2010	All FSA FOIA Offices and State Offices; State Offices relay to County Offices

## Notice INFO-41

### 2 Definitions

#### A Definition of Payment Information Under FOIA

In the context of responding to FOIA requests, payment information means:

- amount of payment(s), which includes:
  - dollar amount(s) of individual payments made under any given program
  - total amount(s) of payments made under a given program or group of programs for a given period of time
  - dollar amounts of “repayments” made or required to be made to FSA when portions of payments made are required to be repaid

**Note:** This does **not** include amounts of payments assigned by payment recipients to other parties.

- received from FSA, which includes:
  - program year in which payments made
  - State and/or State and county processing payments made
  - **only** payments actually made

**Note:** Payments scheduled or contracted to be made at a future date, but not yet issued by FSA, do **not** qualify as “received from FSA”.

- by:
  - an agricultural producer
  - owner of agricultural land
  - or other recipient of FSA farm program payment(s)

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### 2 Definitions (Continued)

#### A Definition of Payment Information Under FOIA (Continued)

- as a result of the individual's participation in the respective FSA farm program, which include the following:
  - conservation programs
  - direct and counter-cyclical programs
  - disaster assistance programs
  - energy programs
  - price support programs
  - tobacco transition programs
  - and any other similar programs administered by FSA.

**Note:** It does **not** include any loan programs administered by DAFLP. Direct and guaranteed loans are **not** considered to be "payments" with respect to Section 1619 and Exemption 3 of FOIA. Information about direct and guaranteed loans is protected by the Privacy Act Systems of Records Notice USDA/FSA-14 and Exemption 6 of FOIA.

#### B Definition of Names and Addresses of Recipients of Payments Under FOIA

In the context of responding to FOIA requests, names and addresses of recipients of payments means the names and addresses, for payment purposes, of payment recipients as provided on the forms required for signup or participation in FSA farm program. It does **not** mean or include the following:

- the home addresses of payment recipients, if their respective home address is different from the address provided for payment purposes
- the names of individuals or entities to whom payments may be assigned
- the names of financial institutions where payments are direct deposited.

**Note:** The fact that the payment is direct deposited may be released. This sheds light on how FSA administers payments.

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### 2 Definitions (Continued)

#### C FOIA Implications of These Definitions

Accordingly, the following information/data is releasable to the public under FOIA:

- the amount a named individual or entity received as payment from FSA under a given farm program or group of programs, in a given year
- the names, addresses, and payments (amounts of payment made) to FSA farm program payment recipients
  - by general geographic location
    - nationwide
    - by State
    - by State and county
  - by specific farm program under which payment made
  - by farm number
  - by program year of payment.

### 3 Action

#### A State Office Action

State Offices shall:

- communicate the contents of this notice to County Offices, and provide training in its application, if required
- comply with this notice
- ensure that County Offices comply with this notice.

#### B County Office Action

County Offices shall comply with this notice.