

Freedom of Information Act (FOIA) and Privacy Act (PA) Guidelines for NRCS

This guidance is for NRCS programs only. It excludes CRP. Any and all CRP FOIA or PA requests or related questions should be directed to FSA.

FOIA and the Farm Bill

Section 1244 of the Farm Bill includes specific statutory language pertaining to the release of technical and financial assistance information. Technical and financial information includes all information given by cooperators to USDA for the purpose of providing technical or financial assistance to an owner, operator, or producer with respect to any natural resources conservation program administered by the NRCS or FSA. It also includes information that is proprietary to the agricultural operation or land that is part of an agricultural operation of the owner, operator, or producer. It does not include payment information, including payment amounts and the names of payment recipients.

Not Releasable

- In general, NRCS technical and financial information is **not releasable** to the public, and
- It cannot be released to any person, Federal agency, local agency, or Indian tribe outside of USDA.
- **We do not release specific contact information (i.e. no phone numbers or addresses; we could provide the information by county or city).**
- Landowners can sign a release waiver allowing TSPs to have access to their case file for specific purposes only (as expressed in the waiver), such as gaining information about applying a practice, acquiring plans, etc.

It is not necessary to go to individual case files for releasable information such as information contained in a published Soil Survey or the FOTG (considered public information under FOIA). The examples below show information that may be contained in the case file that is not releasable to the general public.

Examples of Case File Contents (not all inclusive)	Release
Assistance Notes	No
Problems Identified on the Owner’s, Operator’s, or Producer’s Unit	No
The Owner’s, Operator’s, or Producer’s Objectives	No
Cultural Resources – Kind or Location	No

Resource Inventories Specific to the Owner's, Operator's, or Producer's Unit	No
Benchmark Data (Current Conditions) on the Owner's, Operator's, or Producer's Unit	No
Worksheets Specific to the Unit	No
Land Use Maps Specific to the Unit	No
Information on how the Owner, Operator, or Producer Manages Resources	No
Environmental Evaluation on the Unit	No
Environmental Assessment on the Unit	No
Record of the Owner's, Operator's, or Producer's Decisions	No
Program Contract/Agreement Information	No
Specific Alternatives Developed for the Owner, Operator, or Producer	No
Specific Alternatives Evaluated for the Owner, Operator, or Producer	No
Practices and Systems Installed	No
Acres in the Owner's, Operator's, or Producer's Unit	No
Livestock Numbers on the Owner's, Operator's, or Producer's Unit	No
Economic Data Specific to the Owner's, Operator's, or Producer's Operation	No
Crop Budgets, etc. Developed for the Owner, Operator, or Producer	No
Social Concerns of the Owner, Operator, or Producer	No
Land Relationships for the Owner's, Operator's, or Producer's Operation	No
Permits Obtained by the Owner, Operator, or Producer	No
Conservation Plan(s) for Owner's, Operator's, or Producer's Operation	No
Conservation Compliance Determinations (HEL/Wetlands)	No
Engineering Survey's, Designs, etc. for Owner's, Operator's, or Producer's Operation	No

Releasable

- Technical and financial information **can be released to a person or Federal, State, local, or Tribal agency working in cooperation with NRCS/USDA** to provide technical and financial assistance, or in collecting information from data gathering sites. This applies only to NRCS programs. (All FOIA related **questions on CRP need to be directed to FSA**)
- With a proper written FOIA request **we can release the names, practices, and amounts (acres and dollars) of approved landowners in NRCS conservation programs.**

FOIA Requests

Each state has an appointed FOIA/PA Officer(s). All FOIA requests for records in the state must be referred to that person for processing. Field and Area offices are not to respond to FOIA requests unless the FOIA/PA Officer has reviewed the request. Requests made to Field and Area Offices are to be forwarded the same day working day they are received to the state FOIA/PA Officer(s). This is particularly important as the Law requires that requests be handled within 20 working days.

NRCS employees, consultants, or contractors of NRCS should not provide any non-public information that: reflects on the owner's, operator's, or producer's personal, commercial or financial matters; causes substantial harm to the competitive position of the owner; or impairs the Government's ability to obtain necessary information in the future. As a general matter, requests for personal information contained in files referenced by a personal identifier are exempt from release under exemption (b) (6) of the FOIA, and therefore should be denied under the Privacy Act.

For additional information refer to:

- The NRCS General Manual, Subpart C, Sections 408.40—408.45 (http://policy.nrcs.usda.gov/scripts/lpsiis.dll/GM/GM_120_408_c.htm)
- Department of Agriculture, (7CFR Part 1), USDA Freedom of Information Act Regulations (<http://www.usda.gov/news/foia/usdaregs.pdf>)
- Section 1244 of the Farm Bill (http://www.usda.gov/farmbill/conference_report/full_report.pdf)

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