



**Statutes Used by Federal Departments and Agencies in Conjunction with
Exemption 3 of the FOIA As Reported in Fiscal Year 2011 Annual FOIA Reports**

U.S. Department of Justice
Office of Information Policy

Statute	Type of Information Protected by Statute	Agency (Agencies) and No. of Times Cited
2 U.S.C. § 437g(a)(4)(B), (12)(A)	Any notification or investigation made under this section of the Federal Election Campaign Act pertaining to federal campaign funds	FEC (7)
5 U.S.C. § 574	Dispute resolution communications	DOD (5); ED (4); DOJ (2)
5 U.S.C. app. § 107(a)	Financial disclosure information pertaining to certain government employees	DOC (1); HHS (3); DOJ (84); FCC (2); NEH (1); OGE (6); USPS (2)
5 U.S.C. app. § 3	Names of employees who provide information or complaints to the Inspector General	DHS (1); State (1); VA (4)
5 U.S.C. app. § 7(b)	Employee complaint information	Interior (1), Treasury (2); USAID (2); USPS (14)
6 U.S.C. § 133	Critical infrastructure information	DHS (3); TVA (1)
7 U.S.C. § 12	"[D]ata and information that would separately disclose the business transactions of any person" and trade secrets or names of customers gathered in the course of the Commission's investigations under the Commodity Exchange Act	CFTC (16)
7 U.S.C. § 136	Information regarding the location and use of pesticides	USDA (1); EPA (11)
7 U.S.C. § 1502(c)	Personal information provided by agricultural producer (policy information, yield data, etc.)	USDA (11)
7 U.S.C. § 2276	Identities and respondents of unaggregated survey data	USDA (2)
7 U.S.C. §§ 7411-7425	Confidential communications pertaining to agricultural commodities	USDA (1)
7 U.S.C. § 8791A(2)(a)	"[I]nformation 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" and certain "geospatial information . . . maintained by the Secretary"	USDA (385)
8 U.S.C § 1202(f)	Records pertaining to the issuance or refusal of visas to enter the U.S.	DHS (1); State (15110)
10 U.S.C. § 128	Unclassified special nuclear weapons information	DOD (9)
10 U.S.C. § 130	Unclassified technical data with military or space application	DOD (152)
10 U.S.C. § 130b	Personally identifiable information pertaining to members of the armed forces assigned to "routinely deployable unit[s]" and certain employees of DOD and DHS	DOD (858); DOJ (1)
10 U.S.C. § 130c	Certain sensitive information of foreign governments and international organizations	DOD (52); DOJ (1); State (1)
10 U.S.C. § 424	Organization or any function of, and certain information pertaining to, employees of the Defense Intelligence Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency	DOD (687); DHS (1); DOJ (2); State (2)
10 U.S.C. § 455	Maps, charts, and geodetic data	DOD (14)
10 U.S.C. § 457	Operational files of former National Photographic Interpretation Agency	DOD (2)
10 U.S.C. § 1102	Medical quality assurance records	DOD (39)
10 U.S.C. §§ 1506(d), 1506(f)	Records pertaining to the debriefing of a missing person returned to United States control	DOD (2)
10 U.S.C. § 2305(g)	Certain DOD contractor proposals	DOD (274); DOJ (3); NASA (20)
10 U.S.C. § 2371(i)	Proposals, business plans, or technical information submitted to the DOD as part of a process resulting in awards other than contracts and grants	DOD (2)
12 U.S.C. § 3403	Financial records	DOD (7)



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13 U.S.C. § 301(g)	Shipper's export declarations	DOC (2)
13 U.S.C. §§ 8(b), 9(a)	Certain information collected by the Bureau of the Census	DOC (35)
15 U.S.C. § 18a(h)	Information submitted in connection with the premerger notification provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976	DOJ (6); FTC (15)
15 U.S.C. § 46(f)	"[A]ny trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential"	FTC (65)
15 U.S.C. § 57b-2	Certain investigative materials received by the Federal Trade Commission and "provided pursuant to any compulsory process under this subchapter or which is provided voluntarily in place of such compulsory process"	FTC (126)
15 U.S.C. § 78u-6	Information that could identify a whistleblower	SEC (4)
15 U.S.C. § 78x(d)	Foreign securities authorities	SEC (2)
15 U.S.C. § 80b-10(b)	Investment advisors examinations or investigations	SEC (3)
15 U.S.C. § 638(j)	Small Business Innovation Research Program policy directive	NASA (2)
15 U.S.C. § 638(k)(4)	Company commercialization information	DOE (1)
15 U.S.C. § 1314(g)	Any documentary material or transcripts of oral testimony "provided pursuant to certain civil investigative demands pertaining to antitrust investigations"	DOJ (6)
15 U.S.C. § 2055(a)(2)	Trade secret and other confidential business information	CPSC (203)
15 U.S.C. § 2055(b)(1)	Information that identifies a particular brand name of a consumer product	CPSC (260)
15 U.S.C. § 2055(b)(5)	Information submitted under statutory reporting requirement for certain potentially unsafe consumer products	CPSC (20)
15 U.S.C. § 2055(e)(1)	Information submitted under statutory reporting requirement for certain consumer products involved in product liability actions	CPSC (11)
15 U.S.C. § 2074(c)	Information that identifies persons or those treating injured persons, absent consent	CPSC (301)
15 U.S.C. § 3710a(c)	Trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of Title 5, which is obtained in the conduct of research or as a result of activities under this chapter, which pertains to cooperative research and development agreements for the purpose of technological and industrial innovation	USDA (3)
15 U.S.C. § 4305(d)	Information submitted under the National Cooperative Research and Production Act of 1993	DOJ (1)
16 U.S.C. § 470hh(a)	Descriptions and/or locations of archaeological resources; information describing historical and cultural resources and/or their specific locations; narrative descriptions of objects and their locations.	USDA (14); DOE (1); Interior (19); FERC (3); NASA (1)
16 U.S.C. § 470w-3	National historic preservation information	DOD (37); Interior (9); DOT (2)
16 U.S.C. § 1881(a)	Statistical information contained in fishery management plans	DOC (11)
16 U.S.C. § 5937	Information about the nature and location of a resource that is endangered, threatened, rare or commercially valuable; mineral or paleontological objects or objects of cultural patrimony in the National Park System	Interior (2)
17 U.S.C. §§ 106-107, 706(b)	Certain materials accompanying applications to register copyright claims	CO (3)



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18 U.S.C. § 798(a)	Communications intelligence and cytological devices	DOD (427)
18 U.S.C. § 1461	Obscene materials/records concerning non-mailable matter	USPS (1)
18 U.S.C. §§ 2510-20	Wiretap requests and the contents of any wire, oral, or electronic communication obtained through wiretaps	DHS (5); DOJ (129); USPS (7)
18 U.S.C. § 3123(d)	Certain court orders authorizing or approving the installation and use of a pen register or a trap and trace device; information pertaining to "the existence of the pen register or trap and trace device or the existence of the investigation"	DOJ (35)
18 U.S.C. § 3153	Information regarding pre-trial services	DOJ (5)
18 U.S.C. § 3509(d)	Child victims' and child witnesses' rights	DOD (1); DOJ (3)
18 U.S.C. § 3521(b)(1)	Witness security information	DOJ (58)
18 U.S.C. § 5038	Juvenile arrest records	DOJ (5)
19 U.S.C. § 1332(g)	Confidential business information	USITC (1)
19 U.S.C. § 1677(f)	Certain "information submitted to the administering authority or the [United States International Trade] Commission which is designated as proprietary by the person submitting the information"	USITC (2)
20 U.S.C. § 959(c)(4)(B)	Identities of recent panelists; panelists' notes and comments	NEA (1)
21 U.S.C. § 331(j)	Trade secrets	DOC (1); HHS (24)
21 U.S.C. § 350d(a)(4)	Food registration documents	HHS (5)
21 U.S.C. § 355	Any information or documentary material that may have been filed pursuant to the pharmaceutical agreement notification	FTC (3)
21 U.S.C. § 1904(e)(3)	Investigative information	Treasury (1)
22 U.S.C. § 1461-1a	Certain program information prepared by the United States Information Agency	BBG (3)
22 U.S.C. § 2751	Technical data withheld according to regulations establishing lists or categories of technical data that may not be exported, under the Arms Export Control Act	NASA (10)
22 U.S.C. § 2778(e)	Certain information pertaining to export license applications	DOD (19); State (4)
22 U.S.C. § 4004	Foreign service employee records	State (1)
26 U.S.C. §§ 6103, 6105	Certain tax return information and certain tax convention information	DHS (1082); DOJ (29); Treasury (1909); VA (4); SBA (8); SSA (50); USAID (61); USTDA (4)
25 U.S.C. § 2103(c)	Records related to the decision to grant or disapprove minerals agreements for Indian tribes	Interior (1)
29 U.S.C. § 666(f)	Advance notice of inspection	Labor (52)
29 U.S.C. § 1310(c)	Confidential business information submitted to PBGC under section 4010 of ERISA	PBGC (1)
29 U.S.C. § 1343(f)	Information submitted to PBGC as part of a notice of reportable event	PBGC (1)
30 U.S.C. § 813(g)(1)	Complaint information	Labor (5)
31 U.S.C. § 3729(c)	Records pertaining to financial false claims	FCC (1)
31 U.S.C. § 5319	Reports pertaining to certain monetary instrument transactions	FRB (3); DOJ (24); Treasury (159)



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35 U.S.C. § 122	Information concerning patent applications	USDA (1); DOC (7); NSF (13)
35 U.S.C. § 205	Information pertaining to invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed	USDA (1); VA (205)
38 U.S.C. § 5701	Records pertaining to any claim filed with the Department for names and addresses of present and former members of the Armed Forces and their dependents	VA (1417)
38 U.S.C. § 5705	Records created as part of a medical quality assurance program	VA (58)
38 U.S.C. § 7332	Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity relating to drug abuse, alcoholism, or alcohol abuse, infection with the human immunodeficiency virus (HIV) or sickle cell anemia	VA (1921)
38 U.S.C. § 7451	Information collected in VA nurse and other health-care personnel wage surveys	VA (1)
39 U.S.C. § 410(c)(1)	Records relating to names and addresses of postal customers	USPS (204)
39 U.S.C. § 410(c)(2)	Records relating to commercial information that is proprietary to the Postal Service	USPS (186)
39 U.S.C. § 410(c)(3)	Records relating to information prepared for use in negotiating collective bargaining agreements	USPS (9)
39 U.S.C. § 410(c)(4)	Records prepared for proceedings under 39 U.S.C. Chapter 36, relating to rates, classification, and service changes	USPS (3)
39 U.S.C. § 410(c)(5)	Reports and memoranda of consultants or independent contractors, except to extent they would be required to be disclosed if prepared within USPS	USPS (3)
39 U.S.C. § 412	Records containing lists of postal customers	USPS (16)
41 U.S.C. § 253b(m)(1)	Contractor proposals that are in the possession or control of an executive agency and that have not been set forth or incorporated by reference into contracts	USDA (15); DOC (18); ED (11); DOE (4); HHS (55); DHS (28); HUD (25); DOJ (3); Labor (1); Interior (16); Treasury (45); DOT (5); VA (54); Amtrak (3); CNCS (1); EPA (1); FTC (1); GSA (56); NARA (2); NSF (1); NRC (2); OPIC (1); SSA (2); USTDA (3)
41 U.S.C. § 423	Information that would identify organizations who have submitted proposals prior to the issuance of an award and the disclosure of unfunded grant applications	Interior (5)
41 U.S.C. § 423(a)(1)	Contractor bid or proposal information; source selection information	DOD (18); DOE (10); HHS (4); DHS (5); DOJ (1)
41 U.S.C. § 2102(a), recodifies 41 U.S.C. § 423(a)	Contractor bid or proposal information; source selection information	Treasury (3)
41 U.S.C. § 4702	Certain contractor proposals that have not been set forth or incorporated by reference into contract	DOJ (3)
42 U.S.C. § 242m(d)	Identifiable information for certain research and statistical activities	HHS (6)



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42 U.S.C. § 247d-6b(d)	Information identifying the location of certain stockpiles of drugs, medical devices, vaccines and other biological products, and other supplies	SEC (1)
42 U.S.C. § 262a(h)	Bioterrorism-related information	HHS (6)
42 U.S.C. § 290dd-2	Patent Records	CSOSA (1)
42 U.S.C. § 300aa-12(d)(4)(A)	Medical records presented to a Special Master in National Vaccine Injury Compensation Program court proceedings	HHS (1)
42 U.S.C. § 1320d-6(a)	Patient medical files	USDA (1)
42 U.S.C. §§ 2000e-5(b), 2000e-8(e)	Information obtained by the EEOC in investigating charges of unlawful employment practices	EEOC (2396)
42 U.S.C. § 2000ff-6	Information pertaining to charges of unlawful employment practices	EEOC (26)
42 U.S.C. § 2161(a)	Information that is classified as Restricted Data, Formerly Restricted Data, or Unclassified Controlled Nuclear Information	DOD (51)
42 U.S.C. § 2162	Restricted Data pertaining to atomic weapons and special nuclear material	DOE (19); State (1); NARA (2); TVA (2)
42 U.S.C. § 2167	Unclassified safeguards information concerning atomic energy	NRC (2)
42 U.S.C. § 2168(a)(1)(c) (FRD)	Restricted and formerly restricted data concerning atomic energy	NARA (1)
42 U.S.C. § 3545	Rating factor scores, during the grant selection process	HUD (1)
42 U.S.C. § 3610(d)	Records pertaining to conciliation of disputes regarding allegations of unfair housing practices; information derived from housing discrimination investigations and any final investigative reports pertaining to such investigations	HUD (7)
42 U.S.C. § 3789g	Data received by the Bureau of Justice Statistics and used only for statistical or research purposes	DOJ (5)
42 U.S.C. § 7256(g)(5)	Contracts, leases, etc., with public agencies and private organizations and persons	DOE (2)
42 U.S.C. § 11137(b)	Adverse reports of a health practitioner's conduct	HHS (2)
42 U.S.C. § 12117	Americans with Disabilities Act charges, conciliation materials, required reports, and case file information	EEOC (323)
44 U.S.C. § 3541	Records concerning information security controls and programs that support federal operations	ED (1); SSA (3)
45 U.S.C. §§ 362(d), 362(n)	Names, addresses, and medical records of claimants under the Railroad Retirement and Unemployment Insurance Acts	RRB (12)
46 U.S.C. § 70103(d)	Security plans and other information related to security plans, procedures, or certain programs for vessels or facilities	DHS (3)
49 U.S.C. § 114(r)	Information obtained or developed in carrying out security under the authority of the Aviation and Transportation Act or under chapter 449 of this title	DHS (792)
49 U.S.C. § 1114(b)(3)	Voluntarily provided safety-related information if it is not related to the exercise of the NTSB's accident or incident investigation authority and if the NTSB finds that the disclosure would inhibit the voluntary provision of that type of information	NTSB (4)
49 U.S.C. § 1114(c)(1)	Any portion of cockpit voice recording (CVR) or the portions of a transcript of a CVR that the Board did not find relevant to an investigation	NTSB (2)



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49 U.S.C. § 1114(f)	Any information relating to Board participation in foreign aircraft accidents, where the country conducting the investigation has not issued its report or two years have not elapsed from the date of the accident	NTSB (3)
49 U.S.C. § 31143(b)	Identity of motor carrier safety complainants	DOT (82)
49 U.S.C. § 40110(e)	Contract proposal not incorporated into contract	DOT (11)
49 U.S.C. § 40115	Information harmful to U.S. international aviation negotiation or to any U.S. international carrier	DOT (3)
49 U.S.C. § 40119	Certain information obtained or developed in ensuring transportation security if disclosure of that information would: constitute an invasion of personal privacy, reveal a trade secret or confidential commercial or financial information, or be detrimental to transportation safety	DOT (91)
49 U.S.C. § 40123(a)	Voluntarily submitted information under Aviation Safety Action Program	DOT (48)
49 U.S.C. § 46102(c)	Information pertaining to aviation safety, when required for national defense	DOT (1)
49 U.S.C. § 46311	Information from air carrier records	DOT (1)
49 U.S.C. § 70114	Records concerning commercial space launch activities covered by FOIA Exemption 4 or designated confidential by the submitter	DOT (1)
50 U.S.C. § 402 note	National Security Agency functions and information	DOD (758); DOJ (3); State (3)
50 U.S.C. § 403-1(i)(1)	Intelligence sources and methods	DOD (561); DOJ (83); State (12); ODNI (64)
50 U.S.C. § 403g	Intelligence sources and methods; certain information pertaining to Agency employees, specifically: the organization, names, official titles, salaries, or numbers of personnel employed by the Agency	DOD (41); DHS (2); DOJ (89); State (25); CIA (1746); NARA (24); OPM (901)
50 U.S.C. § 421	Identities of U.S. undercover intelligence officers, agents, informants and sources	DOD (1); NARA (1)
50 U.S.C. § 432b	Operational files of the National Security Agency	DOD (2)
50 U.S.C. § 1806(b)	Electronic surveillance information acquired pursuant to subchapter I of chapter 36 of title 50	DOJ (1)
50 U.S.C. § 2411(c)	Information concerning export license applications	DOC (8); State (2)
50 U.S.C. § 435 note § 1082, Pub. L. No. 102-190	Information concerning U.S. personnel classified as POW/MIA during the Vietnam and Korean conflicts	DOD (2)
50 U.S.C. § 1701 note, Pub. L. No.	Records regarding arbitration of claims before the Iran-United States Claims Tribunal	DOJ (1); State (1)
50 U.S.C. App. § 2170(c)	Information concerning certain mergers, acquisitions, and takeovers	DHS (1); State (2); OSTP (1)
Confidential Information Protection and Statistical Efficiency Act of 2002, Title V of Public Law No. 107-347	Confidential respondent data to BLS survey	Labor (2)
Consolidated Appropriations Act, 2010, Pub. L. No. 111-117	Firearms Trace System Database information	OMB (1)



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Fed. R. Crim. P. 6(e), enacted by Act of July 30, 1997, Pub L. No. 95-78, 91 Stat. 319	Certain records pertaining to grand jury proceedings	DHS (11); HUD (1); DOJ (841); Labor (2); Interior (3); Treasury (1); DOT (2); EPA (2); NARA (1); USPS (11)
IG Act of 1978, Pub. L. No. 95-452, § 7(b)	Employee complaint information	DOD (9); CNCS (1)
Pub. L. No. 103-236, § 533	Certain Open Skies Treaty information	DOD (3)
Pub. L. No. 110-161, 121 Stat. 1844, 1903-04 (2007)	Certain firearms database information	DOJ (208)

**OIP has compiled this chart using information reported by agencies in their Annual FOIA Reports for Fiscal Year 2011. OIP consolidated information from those reports in order to provide an overall summary of the statutes used by agencies in connection with Exemption 3 of the FOIA, along with the number of times those statutes were used. All agency Annual FOIA Reports are available on OIP's website under the "Reports" page. Additionally, data from all agency 2011 Annual FOIA Reports is available on FOIA.gov.*



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Acronym	Agency Name
<i>Amtrak</i>	National Railroad Passenger Corporation (Amtrak)
<i>FRB</i>	Board of Governors of the Federal Reserve System
<i>BBG</i>	Broadcasting Board of Governors
<i>CIA</i>	Central Intelligence Agency
<i>CFTC</i>	Commodity Futures Trading Commission
<i>CNCS</i>	Corporation for National and Community Service
<i>CSOSA</i>	Court Services and Offender Supervision Agency
<i>USDA</i>	Dept. of Agriculture
<i>DOC</i>	Dept. of Commerce
<i>DOD</i>	Dept. of Defense
<i>ED</i>	Dept. of Education
<i>DOE</i>	Dept. of Energy
<i>HHS</i>	Dept. of Health and Human Services
<i>DHS</i>	Dept. of Homeland Security
<i>HUD</i>	Dept. of Housing and Urban Development
<i>DOJ</i>	Dept. of Justice
<i>Labor</i>	Dept. of Labor
<i>State</i>	Dept. of State
<i>Interior</i>	Dept. of the Interior
<i>Treasury</i>	Dept. of the Treasury
<i>DOT</i>	Dept. of Transportation
<i>VA</i>	Dept. of Veterans Affairs
<i>EPA</i>	Environmental Protection Agency
<i>EEOC</i>	Equal Employment Opportunity Commission
<i>FCC</i>	Federal Communications Commission
<i>FEC</i>	Federal Election Commission
<i>FERC</i>	Federal Energy Regulatory Commission
<i>FTC</i>	Federal Trade Commission
<i>GSA</i>	General Services Administration
<i>NASA</i>	National Aeronautics and Space Administration
<i>NARA</i>	National Archives and Records Administration



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Acronym	Agency Name
<i>NEA</i>	National Endowment for the Arts
<i>NEH</i>	National Endowment for the Humanities
<i>NSF</i>	National Science Foundation
<i>NTSB</i>	National Transportation Safety Board
<i>NRC</i>	Nuclear Regulatory Commission
<i>OGE</i>	Office of Government Ethics
<i>OMB</i>	Office of Management and Budget
<i>OPM</i>	Office of Personnel Management
<i>OSTP</i>	Office of Science and Technology Policy
<i>ODNI</i>	Office of the Director of National Intelligence
<i>OPIC</i>	Overseas Private Investment Corporation
<i>PBGC</i>	Pension Benefit Guaranty Corporation
<i>RRB</i>	Railroad Retirement Board
<i>SEC</i>	Securities and Exchange Commission
<i>SBA</i>	Small Business Administration
<i>SSA</i>	Social Security Administration
<i>TVA</i>	Tennessee Valley Authority
<i>USAID</i>	U.S. Agency for International Development
<i>CO</i>	U.S. Copyright Office
<i>CPSC</i>	U.S. Consumer Product Safety Commission
<i>USITC</i>	U.S. International Trade Commission
<i>USPS</i>	U.S. Postal Service
<i>USTDA</i>	U.S. Trade and Development Agency