



**Statutes Used by Federal Departments and Agencies in Conjunction with
Exemption 3 of the FOIA As Reported in Fiscal Year 2010 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 (6)
5 U.S.C. § 552a	Grant applications submitted by individuals	NEA (2)
5 U.S.C. § 552b(c)(1)	Closed Board Meeting minutes	OPIC (1)
5 U.S.C. § 574	Communications relating to proceedings	ED (2); FMC (1)
5 U.S.C. § 5749(j)	Dispute Resolution Communications between a Neutral and a Party to the Dispute	DOD (4)
5 U.S.C. § 638(j)(2)	Contracts withheld data generated by contractors who elected to retain their data rights in accordance with the retention period agreed to under the contract	NASA (1)
5 U.S.C. § 7114	Defining agencies' and representatives' duet to negotiate in good faith to include disclosure of certain labor relations training and guidance materials and limiting the issuance of certain subpoenas	Treasury (2)
5 U.S.C. § 7301 note, 503(e), Pub. L. No. 100-71	Results of drug tests of Federal employees	DOT (1)
5 U.S.C. §§ 7114(b)(4), 7132	Pen Register Information	HHS (1)
5 U.S.C. app. § 105	Financial Disclosure Reports	DOC (2); DOD (1); DOE (1)
5 U.S.C. app. § 107(a)	Financial disclosure information pertaining to certain government employees	HHS (5); DHS (1); DOJ (67); DOT (1); FCC (1); IAF (1); USPS (3)
5 U.S.C. app. 3	Names or employees who provide information or complaints to the Inspector General	State (1); VA (1)
6 U.S.C. § 133	Critical Infrastructure Information	DHS (2)
7 U.S.C. § 136	Information regarding the location and the use of pesticides.	USDA (1)
7 U.S.C. § 136h Sect. 10g	Analytical, health, environmental effects and efficacy data that prohibits registrants from disclosing information to foreign competitors	EPA (20)
7 U.S.C. § 1502(c)	Personal information provided by the producer (policy information, yield data, etc.)	USDA (8)
7 U.S.C. § 2276	Identities and respondents of unaggregated survey data	USDA (7)
7 U.S.C. §§ 2011-2036, The Food Stamp Act (and 7 C.F.R. 272.1 (2) 11 (e)(8))	Names and personal information of SNAP (Food Stamps) recipients; confidential information provided by firms participating in SNAP.	USDA (10)
8 U.S.C § 1202(f)	Records pertaining to the issuance or refusal of visas to enter the U.S.	State (5494)
10 U.S.C. § 1102	Medical Quality Assurance Records	DOD (16)
10 U.S.C. § 128	Unclassified Special Nuclear Weapons Information	DOD (11); NARA (1)
10 U.S.C. § 130	Unclassified Technical Data with Military or Space Application	DOD (69)
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	DOJ (2); DOD (615)
10 U.S.C. § 130c	Certain sensitive information of foreign governments and international organizations	DOD (63); DHS (7)
10 U.S.C. § 2305(g)	DOD Contractor Proposals	DOD (340); NASA (17)



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10 U.S.C. § 2485(h)	Food Donation Program Information	DOD (2)
10 U.S.C. § 2640(h)	Charter air transportation for members of armed forces	DOD (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 (411); DHS (1); State (5); NARA (1)
10 U.S.C. § 455	Maps, Charts, and Geodetic Data	DOD (2)
10 U.S.C. § 457	Operational files of former National Photographic Interpretation Agency	DOD (5)
10 U.S.C. § 613a(a)	Proceedings of Promotion Selection Boards	DOD (7)
12 U.S.C. § 3403	Confidentiality of Financial Records	DOD (7)
12 U.S.C. § 3413(h)(4)	Information related to individual applicants for loan guarantees	DOI (1)
13 U.S.C. § 301(g)	Shipper's Export Declarations	DOC (3)
13 U.S.C. § 9	Information collected by the Bureau of the Census	DOC (18)
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 (2)
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 (2); FTC (10)
15 U.S.C. § 2055(a)(2)	Trade secret and other confidential business information	CPSC (194)
15 U.S.C. § 2055(b)(1)	Information that identifies a particular brand name of a consumer product	CPSC (177)
15 U.S.C. § 2055(b)(5)	Information submitted under statutory reporting requirement for certain potentially unsafe consumer products	CPSC (6)
15 U.S.C. § 2055(e)(1)	Information submitted under statutory reporting requirement for certain consumer products involved in product liability actions	CPSC (6)
15 U.S.C. § 2074(c)	Information that identifies persons or those treating injured persons, absent consent	CPSC (183)
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	HHS (1)
15 U.S.C. § 4305(d)	Information submitted under the National Cooperative Research and Production Act of 1993	DOJ (1)
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 (43)
15 U.S.C. § 4606	Intellectual property, trade secrets, and technical data owned by Sematech and Sematech participants	DOD (1)
15 U.S.C. § 57b-2(b)	Materials received pursuant to compulsory process in a law enforcement investigation	FTC (87)
15 U.S.C. § 638(k)(4)	Company commercialization information	DOE (1)
15 U.S.C. § 7301	Information received in the course of investigations regarding building failures	DOC (5)
15 U.S.C. § 78x(d)	Foreign Securities Authorities	SEC (1)
15 U.S.C. § 80a-30c	Investment Company Examination	SEC (1)



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15 U.S.C. § 80b-10(b)	Investment Advisors Examinations or Investigations	SEC (1)
15 U.S.C. § 78q(h)(5)	Associated persons of broker-dealers, government securities brokers or dealers, or municipal securities dealers	SEC (1)
16 U.S.C. § 1881(a)	Statistical information contained in fishery management plans	DOC (12)
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 (3); DOI (33); FERC (5)
16 U.S.C. § 470w-3	National Historic Preservation Information	USDA (11); DOD (43); DOI (9)
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.	DOI (5)
18 U.S.C. § 1461	Obscene materials/records concerning non-mailable matter	DHS (1); DOJ (1); USPS (1)
18 U.S.C. § 208	Financial disclosure forms/personal financial interest	HHS (4)
18 U.S.C. § 208(d)(1)	Ethics waiver	OSC (1)
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 (38)
18 U.S.C. § 3153	Information regarding pre-trial services	DOJ (3)
18 U.S.C. § 3509	Child Victims' and Child Witnesses' Rights	DOD (1)
18 U.S.C. § 3521 (b)(1)	Witness Security Information	DOJ (60)
18 U.S.C. § 5038	Juvenile Arrest Records	DOJ (10)
18 U.S.C. § 701	Official Badges, identification cards	Treasury (20)
18 U.S.C. § 798(a)	Communications Intelligence and Cytological Devices	DOD (383)
18 U.S.C. §§ 2252, 2252A	"[M]aterial pertaining to the sexual exploitation of children"; "material constituting or containing child pornography"	DOJ (1)
18 U.S.C. §§ 2510-20	Wiretap requests and the contents of any wire, oral, or electronic communication obtained through wiretaps	DHS (17); DOJ (111); NARA (1); USPS (2)
19 U.S.C. § 1332(g)	Confidential Business Information	USITC (1)
19 U.S.C. § 1677(g)	Privilege or Confidential Information	USITC (3)
21 U.S.C. § 331(j)	Trade Secrets	HHS (41)
21 U.S.C. § 350d(a)(4)	Food Registration Documents	HHS (1)
21 U.S.C. § 355	Any information or documentary material that may have been filed pursuant to the pharmaceutical agreement notification	FTC (2)
22 U.S.C. § 1461-1a	Information produced by VOA for audiences outside the U.S.	BBG (1)



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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 (2)
22 U.S.C. § 2778(e)	Certain information pertaining to export license applications	DOJ (1); State (8)
22 U.S.C. § 2778(e) § 38 (e) of the Arms Export Control Act	Information Subject to Arms Exports Controls	DOD (14)
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	USDA (1); DOC (1); DOD (1); DHS (968); DOJ (61); Treasury (2091); OPIC (1) OSHRC (1); SBA (4); SSA (91); USAID (48); USTDA (1)
28 U.S.C. § 651	Documents filed under seal and confidential mediation documents	DOJ (1)
29 U.S.C. § 666(f)	Advance Notice of Inspection	DOL (81)
30 U.S.C. § 813(g)(1)	Complaint Information	DOL (5)
30 U.S.C. § 872(b)	Mine Maps	DOL (1)
31 U.S.C. § 3730	Records pertaining to financial false claims	DOJ (1)
31 U.S.C. § 5319	Reports pertaining to certain monetary instrument transactions	DOJ (23); FRB (3); Treasury (144)
35 U.S.C. § 122	Information concerning patent applications	DOC (8); NSF (22)
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.	DOD (1); VA (1)
35 U.S.C. §§ 181-188	Information concerning certain inventions and patents	DOD (2); DOE (1)
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 (774)
38 U.S.C. § 5705	Records created as part of a medical quality assurance program	VA (51)
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 (1692)
39 U.S.C. § 410(c)(1)	Records relating to names and addresses of postal customers	USPS (57)
39 U.S.C. § 410(c)(2)	Records relating to commercial information that is proprietary to the Postal Service	USPS (122)
39 U.S.C. § 410(c)(3)	Records relating to information prepared for use in negotiating collective bargaining agreements	USPS (11)
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 (2)



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39 U.S.C. § 410(c)(5)	Reports and memoranda of consultants or independant contractors, except to extent they would be required to be disclosed if prepared within USPS	USPS (1)
39 U.S.C. § 412	Records containing lists of postal customers	USPS (7)
40 U.S.C. § 403g	CIA Functions	OPM (1)
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 (16); DOC (20); DOD (24); DOE (10); ED (3); DHS (29); HHS (50); HUD (19); DOI (2); DOT (8) State (1); Treasury (3); VA (36); EPA (2); FCC (1); FTC (1); GSA (53); NARA (2); NSF (22); NRC (1); SEC (2); TVA (2); USAID (6); USITC (1)
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	DOD (1); HHS (5); DOI (7); NASA (2)
41 U.S.C. § 423(a)(1)	Contractor bid or proposal information; source selection information	DOE (6); DHS (5)
41 U.S.C. § 423(b) and (e)(1)	Procurement integrity information	DOT (1)
41 U.S.C. § 423(d)	Proprietary or source selecting information about ongoing federal procurements	SEC (1)
42 U.S.C. § 11137(b)	Adverse reports of a health practitioner's conduct	HHS (1)
42 U.S.C. § 12117	ADA charges conciliation materials, required reports and case file information	EEOC (3987)
42 U.S.C. § 2161	Information that is classified as Restricted Data, Formerly Restricted Data, or Unclassified Controlled Nuclear Information	DOE (21)
42 U.S.C. § 2162	Restricted Data pertaining to atomic weapons and special nuclear material	DOD (43); State (1)
42 U.S.C. § 2167	Unclassified Safeguards Information	NRC (1)
42 U.S.C. § 2168(a)(1)(c) (FRD)	Restricted and Formerly Restricted Data (A.E. of 1954)	NARA (1)
42 U.S.C. § 241(d)	Names and identifying characteristics of research subjects	EPA (2)
42 U.S.C. § 242m(d)	Identifiable information for certain research and statistical activities	HHS (2)
42 U.S.C. § 262a(h)(1)(C)	Bioterrorism-related information	HHS (4)
42 U.S.C. § 290dd-2	Patent Records	DOD (2)
42 U.S.C. § 299c-3(c) and (d)	Raw research data in Healthcare Cost and Utilization Project database	HHS (2)
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 (3)
42 U.S.C. § 300hh-12	Public Health Security and Bioterrorism Preparedness and Response Act of 2002	SEC (4)
42 U.S.C. § 3545	Rating factor scores, during the grant selection process	HUD (2)



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42 U.S.C. § 3789g	Data received by the Bureau of Justice Statistics and used only for statistical or research purposes	DOJ (2)
42 U.S.C. §§ 2000e-5(b), 2000e-8(e)	Information obtained by the EEOC in investigating charges of unlawful employment practices	USDA (1); EEOC (2497)
43 U.S.C. §§ 1350-1352	Conservation Information Documents	DOI (1)
45 U.S.C. § 362(d), (n)	Names, Addresses, and Medical Records of Claimants under the Railroad Retirement and Unemployment Insurance Acts	RRB (10)
46 U.S.C. § 40306	Information and documents, other than agreements, filed with the Commission under 46 U.S.C. Chapter 403 regarding agreements	FMC (1)
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 (3)
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 (5)
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 (632)
49 U.S.C. § 24301	Bid proposals not incorporated in contracts	Amtrak (4)
49 U.S.C. § 31143(b)	Identity of motor carrier safety complainants	DOT (88)
49 U.S.C. § 40110(e)	Contract proposal not incorporated into contract	DOT (5)
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 (50)
49 U.S.C. § 40123(a)	Aviation Safety Action Program voluntarily submitted information	DOT (23)
50 U.S.C. § 1701 note, Pub. L. No. 99-93 § 505	Records regarding arbitration of claims before the Iran-United States Claims Tribunal	State (2)
50 U.S.C. § 2411(c)	Information concerning export license applications	DOC (26); State (2)
50 U.S.C. § 402 note	NSA Functions and Information	DOD (583); State (6)
50 U.S.C. § 403-1(i)(1)	Intelligence Sources and Methods	DOD (433); DOJ (82); ODNI (31)
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 (4); DHS (1); DOJ (105); State (22); NARA (14)
50 U.S.C. § 421	Identities of U.S. Undercover Intelligence Officers, Agents, Informants and Sources	DOD (2); NARA (2)
50 U.S.C. § 431	Operational files of the Central Intelligence Agency	DOJ (2)
50 U.S.C. § 435 note § 1082, Pub. L. No. 102-190	Information Concerning US Personnel Classified as POW/MIA During the Vietnam and Korean Conflicts	DOD (5)



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50 U.S.C. Appx § 2170(c)	Authority to Review Certain Mergers, Acquisitions, and Takeovers	DOD (2)
Agricultural Bioterrorism Protection Act of 2002, Sec. 212, Regulation of Certain Biological Agents and Toxins	Use and locations of biological agents and toxins	USDA (3)
Agricultural Marketing Agreement Act of 1937, as amended (AMAA) (d)(3) (7 U.S.C. § 601 et seq), 9 C.F.R. Part 900 and 9 C.F.R. Part 929	Confidential and Financial Information	USDA (1)
CIA Act of 1949	CIA budget information and information relating to the organization	CIA (1;525)
Confidential Information Protection and Statistical Efficiency Act of 2002, Title V of Public Law No. 107-347	Confidential Respondent Data to BLS Survey	DOL (8)
Fed. R. Crim. P. 6(e), enacted by Act of July 30, 1997, Pub L. No. 95-78, 91 Stat. 391	Certain records pertaining to grand jury proceedings	DHS (9); DOJ (777); DOI (6); DOL (1); Treasury (20); DOT (2); EPA (1); USPS (9)
IG Act of 1978, Pub. L. No. 95-452 § 7(b)	Employee Complaint Information	DOD (8); USPS (7)
Pub. L. No. 111-8, 123 Stat. 524	Information required to be maintained by Federal Firearms Licensees and information maintained in the ATF Firearms Tracing Systems	DOJ (226)
Section 1619 of the Food, Conservation, and Energy Act of 2008	Information provided by an agricultural producer or owner of agricultural land in order to participate in a USDA program, and concerning agricultural operations, farming or conservation practices or the land itself. Information contained in any type of USDA geospatial information system (GIS) with producer-provided information about <u>agricultural land or operations</u>	USDA (344)
Section 8(a) of the Commodity Exchange Act, 7 U.S.C. § 12(a)	Business transactions or market positions of any person and trade secrets or names of customers, and any data or information concerning or obtained in connection with any pending investigation of any person	CFTC (13)

**OIP has compiled this chart using information reported by agencies in their Annual FOIA Reports for Fiscal Year 2010. 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 2010 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>CIA</i>	Central Intelligence Agency
<i>CFTC</i>	Commodity Futures Trading Commission
<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>DOI</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>FMC</i>	Federal Maritime Commission
<i>FTC</i>	Federal Trade Commission
<i>GSA</i>	General Services Administration
<i>IAF</i>	Inter-American Foundation
<i>NASA</i>	National Aeronautics and Space Administration
<i>NARA</i>	National Archives and Records Administration
<i>NEA</i>	National Endowment for the Arts



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Acronym	Agency Name
<i>NSF</i>	National Science Foundation
<i>NTSB</i>	National Transportation Safety Board
<i>NRC</i>	Nuclear Regulatory Commission
<i>OPM</i>	Office of Personnel Management
<i>OSC</i>	Office of Special Counsel
<i>ODNI</i>	Office of the Director of National Intelligence
<i>OPIC</i>	Overseas Private Investment 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>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