



**Statutes Used by Federal Departments and Agencies in Conjunction with
Exemption 3 of the FOIA As Reported in Fiscal Year 2012 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	Total No. of Citations in FY 2012
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)	7
5 U.S.C. § 574	Dispute resolution communications	USDA (1); DOD (7); ED (2); NARA (3)	13
5 U.S.C. app. § 105	Financial disclosure reports and applications to inspect financial disclosure reports	OGE (2)	2
5 U.S.C. app. § 107(a)	Financial disclosure information pertaining to certain government employees	DOD (2); DOE (1); HHS (4); DOJ (53); DOT (1); USPS (1)	62
5 U.S.C. app. § 3	Names of employees who provide information or complaints to the Inspector General	State (1)	1
5 U.S.C. app. § 7(b)	Employee complaint information	VA (6); USPS (12)	18
6 U.S.C. § 133	Critical infrastructure information	DOE (1); DHS (4)	5
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 (13)	13
7 U.S.C. § 136	Information regarding the location and use of pesticides	USDA (2); EPA (14)	16
7 U.S.C. § 608(d)(2)	Information for marketing order programs that is categorized as trade secrets and commercial or financial information	USDA (1)	1
7 U.S.C. § 1502(c)	Personal information provided by agricultural producer (policy information, yield data, etc.)	USDA (9)	9
7 U.S.C. § 2018(c)	Names and other personally identifiable information of SNAP (Food Stamps) recipients and firms participating in program	USDA (56)	56
7 U.S.C. § 2105(c)	Information provided by handlers or any class of handlers in preparation of the filing of reports concerning cotton and its products	USDA (1)	1
7 U.S.C. § 2276(a)(2)	"[I]nformation furnished under a provision of law referred to in subsection (d) of this section [concerning provisions for the collection of information regarding certain agricultural products] . . . unless such information has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information"	USDA (5)	5
7 U.S.C. § 2619(c)	Furnished by handlers and importers of potatoes for the filing of reports	USDA (1)	1
7 U.S.C. § 7414(i)(4)	Information provided by handlers and importers of agricultural commodities in connection with the filing of reports	USDA (1)	1
7 U.S.C. § 8791	"[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	USDA (340)	340
8 U.S.C § 1202(f)	Records pertaining to the issuance or refusal of visas to enter the U.S.	DHS (1); State (5774); NARA (1)	5776
10 U.S.C. § 128	Unclassified special nuclear weapons information	DOD (4)	4



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10 U.S.C. § 130	Certain "technical data with military or space application in the possession of, or under the control of, the Department of Defense"	DOD (122)	122
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 (765); DHS (3); DOJ (2)	770
10 U.S.C. § 130c	Certain sensitive information of foreign governments and international organizations	DOD (33)	33
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 (766); DHS (2); DOJ (2); State (3); NARA (6)	779
10 U.S.C. § 455	Maps, charts, and geodetic data	DOD (26)	26
10 U.S.C. § 612a(a)	Proceedings from Selection and Special Selection Boards for Active Duty Officers and Warrant Officers	DOD (1)	1
10 U.S.C. § 1102	Medical quality assurance records	DOD (8)	8
10 U.S.C. §§ 1506(d), 1506(f)	Records pertaining to the debriefing of a missing person returned to United States control	DOD (2)	2
10 U.S.C. § 2305(g)	Certain DOD contractor proposals	DOD (198); NASA (12)	210
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 (1)	1
10 U.S.C. § 2485(h)	Limitations on release of Commissary Commercially Valuable Information	DOD (1)	1
10 U.S.C. § 2640(h)	Safety-related information voluntarily provided by an air carrier	DOD (9)	9
13 U.S.C. § 301(g)	Shipper's export declarations	DOC (16)	16
13 U.S.C. §§ 8(b), 9(a)	Certain information collected by the Bureau of the Census	DOC (24)	24
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 (5); FTC (16)	21
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 (57)	57
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 (108)	108
15 U.S.C. § 78u-6	Information that could identify a whistleblower	SEC (4)	4
15 U.S.C. § 78x(d)	Foreign securities authorities	SEC (1)	1
15 U.S.C. § 80b-10(b)	Investment advisors examinations or investigations	SEC (3)	3
15 U.S.C. § 638(k)(4)	Company commercialization information	DOE (1)	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 (4)	4
15 U.S.C. § 2055(a)(2)	Trade secret and other confidential business information	CPSC (175)	175
15 U.S.C. § 2055(b)(1)	Information that identifies a particular brand name of a consumer product	CPSC (210)	210
15 U.S.C. § 2055(b)(5)	Information submitted under statutory reporting requirement for certain potentially unsafe consumer products	CPSC (13)	13



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15 U.S.C. § 2074(c)	Information that identifies persons or those treating injured persons, absent consent	CPSC (194)	194
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	DOD (1)	1
15 U.S.C. § 7301	Information received in the course of investigations regarding building failures	DOC (3)	3
16 U.S.C. § 470hh	Information pertaining to the nature and location of certain archaeological resources	USDA (31); DOC (2); Interior (30); FERC (4)	67
16 U.S.C. § 470w-3	Information about the location, character, or ownership of a historic resource	USDA (12); DOD (39); Interior (16); DOT (1)	68
16 U.S.C. § 1881(a)	Statistical information contained in fishery management plans	DOC (11)	11
16 U.S.C. § 4304	Specific locations of significant caves	Interior (4)	4
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 (5)	5
17 U.S.C. §§ 106(1), 106(3), 107	Certain materials accompanying applications to register copyright claims	CO (1)	1
18 U.S.C. § 798	Certain classified information pertaining to the communication, intelligence, and cryptographic devices of the United States or any foreign government	DOD (1044); NASA (1)	1045
18 U.S.C. § 1461	Obscene materials/records concerning non-mailable matter	USPS (1)	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 (131); NARA (1); USPS (1)	138
18 U.S.C. § 2517	Wiretap requests and the contents of any wire, oral, or electronic communication obtained through wiretaps	USPS (1)	1
18 U.S.C. § 2722(a)	Personal information from a motor vehicle record	DHS (1)	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"	HHS (2); DOJ (45)	47
18 U.S.C. § 3509(d)	Certain records containing identifying information pertaining to children involved in criminal proceedings	DOD (12); DHS (1)	13
18 U.S.C. § 3521(b)(1)(g)	Witness security information	DOJ (52)	52
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 (1)	1
21 U.S.C. § 331(j)	Certain information "concerning any method or process which as a trade secret is entitled to protection"	HHS (53)	53
21 U.S.C. § 350d(a)(4)	Food registration documents	HHS (3)	3



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21 U.S.C. § 355	Any information or documentary material that may have been filed pursuant to the pharmaceutical agreement notification	FTC (2)	2
22 U.S.C. § 1461-1a	Certain program information prepared by the United States Information Agency	BBG (1)	1
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 (20)	20
22 U.S.C. § 2778(e)	Certain information pertaining to export license applications	State (2)	2
23 U.S.C. § 403 note	Identities of subjects of traffic accident investigations	DOT (3)	3
26 U.S.C. §§ 6103, 6105	Certain tax return information and certain tax convention information	DOD (3); DOE (8); DHS (2533); DOJ (40); Treasury (2609); VA (14); NARA (5); OPIC (2); SSA (73); USAID (45); USTDA (1)	5333
25 U.S.C. § 2103(c)	Records related to the decision to grant or disapprove minerals agreements for Indian tribes	Interior (3)	3
29 U.S.C. § 666(f)	Advance notice of inspection	Labor (84)	84
30 U.S.C. § 813(g)	Complaint information	Labor (2)	2
31 U.S.C. § 3730	Records pertaining to civil actions for false claims against the United States Government	DOJ (1); VA (2)	3
31 U.S.C. § 5319	Reports pertaining to monetary instrument transactions filed under subchapter II of chapter 53 of title 31 and records of those reports	DOJ (34); Treasury (250); FRB (4); FDIC (2); NCUA (2)	292
35 U.S.C. § 122	Applications for patents; certain information pertaining to applications for patents	DOC (7); DOD (1); NSF (13)	21
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)	1
38 U.S.C. § 5701	Records pertaining to any claim filed with the Department of Veterans Affairs for names and addresses of present and former members of the Armed Forces and their dependents	VA (142)	142
38 U.S.C. § 5705	Records created as part of a medical quality assurance program	VA (59)	59
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	VA (2122)	2122
38 U.S.C. § 7451(d)(5)	Information collected in VA nurse and other health-care personnel wage surveys	VA (2)	2
39 U.S.C. § 410(c)(1)	Records relating to names and addresses of postal customers	USPS (224)	224
39 U.S.C. § 410(c)(2)	Records relating to commercial information that is proprietary to the Postal Service	USPS (186)	186
39 U.S.C. § 410(c)(3)	Records relating to information prepared for use in negotiating collective bargaining agreements	USPS (2)	2



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39 U.S.C. § 412	Records containing lists of postal customers	USPS (21)	21
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	DOC (12); DOE (8); DHS (28); Interior (7); NARA (2); NSF (2); USAID (9)	68
41 U.S.C. § 423(a)(1)	Contractor bid or proposal information; source selection information	DOC (1); DOD (28); DOJ (5); Interior (21); BBG (2); NASA (2); NARA (2)	61
41 U.S.C. § 2102(a)	Contractor bid or proposal information; source selection information	DOD (28); DOE (12); DOT (3)	43
41 U.S.C. § 4702	Certain contractor proposals that have not been set forth or incorporated by reference into contract	USDA (13); ED (8); HHS(22); HUD (14); DOJ (3); Labor (1); Treasury (4); DOT (6); VA (39); EPA (11); FCA (1); FCC (2); FMC (1); GSA (113); NRC (2); TVA (6); USITC (2); USTDA (1)	249
42 U.S.C. § 242m(d)	Identifiable information for certain research and statistical activities	HHS (1)	1
42 U.S.C. § 262a(h)	Bioterrorism-related information	HHS (7)	7
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); DOJ (2)	5
42 U.S.C. § 405(r)	Death certificates and records pertaining to deaths provided to the Commissioner of Social Security under this subsection	SSA (2)	2
42 U.S.C. §§ 2000e-5(b), 2000e-8(e)	Information obtained by the EEOC in investigating charges of unlawful employment practices	EEOC (4080)	4080
42 U.S.C. § 2000ff-6	Information pertaining to charges of unlawful employment practices	EEOC (409)	409
42 U.S.C. § 2000g-2(b)	Community Relations Service confidentiality information	DOJ (4)	4
42 U.S.C. § 2162	Restricted Data pertaining to atomic weapons and special nuclear material	DOE (9); NARA (1)	10
42 U.S.C. § 2167	Certain safeguards information concerning atomic energy	NRC (1)	1
42 U.S.C. § 2168(a)(1)(c)	Restricted and formerly restricted data concerning atomic energy	NARA (3)	3
42 U.S.C. § 3527a	Covered selected information during the grant selection process	HUD (2)	2
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 (9); DOJ (1)	10



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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 (9)	9
42 U.S.C. § 7256(g)(5)	Contracts, leases, etc., with public agencies and private organizations and persons	DOE (6)	6
42 U.S.C. § 11137(b)	Adverse reports of a health practitioner's conduct	HHS (3)	3
42 U.S.C. § 12117	Americans with Disabilities Act charges, conciliation materials, required reports, and case file information	EEOC (742)	742
44 U.S.C. § 3501 note	Census coding for geographical locations	FRB (1)	1
44 U.S.C. § 3541 et seq.	Records concerning information security controls and programs that support federal operations	ED (2); SSA (1)	3
44 U.S.C. § 3545	Information that may adversely affect information security	VA (1)	1
45 U.S.C. § 362(d)	Information obtained by the Railroad Retirement Board that reveals, in any manner, an employee's identity	RRB (15)	15
46 U.S.C. § 70103(d)	Security plans and other information related to security plans, procedures, or certain programs for vessels or facilities	DHS (1)	1
49 U.S.C. § 114(s)	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 (1287)	1287
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 (2)	2
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 (2)	2
49 U.S.C. § 1136(d)	Passenger lists	NTSB (3)	3
49 U.S.C. § 31105(h)(1)	Names of certain motor carrier employees	DOT (99)	99
49 U.S.C. § 40110(e)	Contract proposal not incorporated into contract	DOT (4)	4
49 U.S.C. § 40115	Information harmful to U.S. international aviation negotiation or to any U.S. international carrier	DOT (1)	1
49 U.S.C. § 40119(b)	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 (92)	92
50 U.S.C. § 402 note	National Security Agency functions and information	DOD (1390); DOJ (2); State (3)	1395
50 U.S.C. § 403-1(i)(1)	Intelligence sources and methods	DOD (2034); DOJ (105); NARA (1); ODNI (52)	2192



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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 (23); DHS (6); DOJ (99); State (10); CIA (2208); NARA (123); OPM (906)	3375
50 U.S.C. § 421	Identities of U.S. undercover intelligence officers, agents, informants, and sources	DOD (4); NARA (1)	5
50 U.S.C. § 431	"[O]perational files of the Central Intelligence Agency"	DOJ (1)	1
50 U.S.C. § 432b	Operational files of the National Security Agency	DOD (2)	2
50 U.S.C. § 1806(b)	Electronic surveillance information acquired pursuant to subchapter I of chapter 36 of title 50	DOJ (1)	1
50 U.S.C. § 2411(c)	Information pertaining to license applications under the Export Administration Act	DOC (3)	3
50 U.S.C. § 435 note	Information concerning U.S. personnel classified as POW/MIA during the Vietnam and Korean conflicts	DOD (4)	4
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	HHS (2); DHS (11); DOJ (757); Labor (2); State (2); Interior (4); Treasury (2); EPA (3); NARA (7); USPS (12)	802
Fed. R. Crim. P. 32, enacted by Act of July 31, 1975, Pub L. No. 94-64, § 2, 89 Stat. 370	Presentence reports and recommendations	DOJ (1)	1
IG Act of 1978, Pub. L. No. 95-452, § 7	Employee complaints to the IG	DOD (24); HHS (35)	59
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 (131)	131

**OIP has compiled this chart using information reported by agencies in their Annual FOIA Reports for Fiscal Year 2012. 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 2012 Annual FOIA Reports is available on FOIA.gov.*



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Acronym	Agency Name
<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>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>FCA</i>	Farm Credit Administration
<i>FCC</i>	Federal Communications Commission
<i>FDIC</i>	Federal Deposit Insurance Corporation
<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>NASA</i>	National Aeronautics and Space Administration
<i>NARA</i>	National Archives and Records Administration



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<i>NCUA</i>	National Credit Union Administration
<i>NTSB</i>	National Transportation Safety Board
<i>NRC</i>	Nuclear Regulatory Commission
<i>OGE</i>	Office of Government Ethics
<i>OPM</i>	Office of Personnel Management
<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>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