



DEPARTMENT OF DEFENSE  
DIRECTORATE FOR FREEDOM OF INFORMATION AND SECURITY REVIEW  
1155 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1155

16 FEB 2000

Ref: 00-CORR-018

MEMORANDUM FOR: SEE DISTRIBUTION LIST

SUBJECT: FOIA Exemption Three Statutes

Attached is a revised list of Freedom of Information Act (FOIA) 5 USC § 552(b)(3) statutes commonly used as exemption three statutes within DoD. Changes to the statutes have been indicated in bold type.

An asterisk identifies statutes known to have been determined valid exemption three statutes as a result of litigation.

Our memorandum of January 28, 1999, subject: "FOIA Exemption Three Statutes," forwarded a revised (b)(3) list as an attachment. This memorandum supersedes the January 28, 1999, memorandum.

  
H. J. McIntyre  
Director

Attachment:  
As stated



<b>(b)(3) Statutes</b>	<b>Type of Information Covered</b>	
[UNITED STATES CODE COMMONLY APPLICABLE TO DoD UNDER THE FOIA AT 5 USC §552 (b)(3).]	[INFORMATION SPECIFICALLY EXEMPTED BY A STATUTE ESTABLISHING PARTICULAR CRITERIA FOR WITHHOLDING. THE LANGUAGE OF THE STATUTE MUST CLEARLY STATE THAT THE INFORMATION WILL NOT BE DISCLOSED.]	
<p>NOTE:  [*] ASTERISK -- DENOTES VALID BY LITIGATION.  <b>BOLD ENTRIES -- REPRESENT CHANGES IDENTIFIED SINCE THE LAST PRINTING OF THIS LIST.</b></p>		
1.	5 USC §574 (j)	Administrative Dispute Resolution Act - Dispute resolution communication between a neutral and a party to the dispute
2. *	5 USC App. 4, Sec 207(a) (1) (2)	Ethics in Governments Act of 1978 - Protecting Financial Disclosure Reports of Special Government Employees
3. *	5 USC §7114 (b) (4)	Civil Service Reform Act - Representation Rights and Duties, Labor Unions
4.	10 USC §128	Authority to Withhold Unclassified Special Nuclear Weapons Information
5. *	10 USC §130	Authority to Withhold Unclassified Technical Data with Military or Space Application
6.	10 USC §130b	<b>Personnel in Overseas, Sensitive or Routinely Deployable Units</b>
7.	10 USC §424	Protection of Organizational and Personnel Information for DIA, NRO, and NIMA
8.	10 USC §455	Maps, Charts, and Geodetic Data; Public Availability
9.	10 USC §457	<b>Operational Files Previously Maintained by or Concerning Activities of the National Photographic Interpretation Center</b>
10.	10 USC §618 (f)	Action on Reports of Selection Boards
11.	10 USC §1102	Confidentiality of Medical Records
12.	10 USC §1506 (f)	Debriefing of a Missing Person Returned to U.S. Control During the Period Beginning on July 8, 1959, and Ending on February 10, 1996
13.	10 USC §2305 (g)	Protection of Contractor Proposals
14.	10 USC 2371 (i)	<b>Research Projects: Transactions Other Than Contracts and Grants</b>
15.	10 USC §2487	Commissary stores: limitations on release of sales information

16.	10 USC §2640(h)	Authority to Protect Safety-Related Information Voluntarily Provided by an Air Carrier
17.	12 USC §3403	Confidentiality of Financial Records
18.	15 USC §3705(e) (E)	Centers for Industrial Technology - Reports of Technology Innovations
19.	16 USC §470w-3	National Historic Preservation
20.*	18 USC §798(a)	Communications Intelligence
21.	18 USC §1917	Interference with Civil Service Examinations
22.*	18 USC §2510-2520	Protection of Wiretap Information (specific applicable section(s) must be involved)
23.	21 USC §1175	Drug Abuse Prevention/Rehabilitation
24.	22 USC §2778(e) Sec 38(e) of the Arms Export Control Act	Control of Arms Exports
25.*	26 USC §6103	Confidentiality and Disclosure of Returns and Return Information
26.	31 USC §3729(d) 31 USC §3730(b) (2)	False Claims Act Civil Action for False Claims
27.*	35 USC §122	Confidential Status of Patent Applications
28.	35 USC §181-188	Secrecy of Certain Inventions and Withholding of Patents (specific applicable section(s) must be involved)
29.	35 USC §205	Confidentiality of Inventions Information
30.	41 USC §423	Procurement Integrity
31.	42 USC §290dd-2	Confidentiality of Patient Records
32.*	42 USC §2162(a) (RD) 42 USC §2168(a) (1) (C) (FRD)	Information Regarding Atomic Energy: Restricted and Formerly Restricted Data (A.E. Act of 1954) (specific applicable sections must be invoked)
33.	50 USC §435 Note Sec 1082, P.L. 102-190	Disclosure of Information Concerning US Personnel Classified as POW/MIA During Vietnam Conflict (McCain "Truth Bill")
34.*	50 USC §402 Note	NSA Functions and Information (NSA Use)

	Sec 6, P.L. 86-36	
35.*	50 USC §403-3(c)(6) National Security Act of 1947, Subsection 102(d)(3), as amended	Intelligence Sources and Methods
36.*	50 USC §403(g) Section 6 of the CIA Act of 1949	CIA Functions and Information
37.	50 USC §421	Protection of Identities of US Undercover Intelligence Officers, Agents, Informants and Sources
38.	50 USC §2407	Foreign Boycotts
39.*	Sec 12(c)(1) of the Export Administration Act of 1979 (50 App 2411(c)(1))	Confidentiality of Information Obtained Under the Export Administration Act of 1979
40.*	Rule 6(e), Federal Rules of Criminal Procedure	Grand Jury Information but only to the extent that the documents reveal the internal workings or deliberations of the grand jury. Documents extrinsic to the jury's internal working process do not qualify. See <u>Astley v. Lawson</u> , C.A. No. 89-2806 D.C.C. Jan. 11, 1991
41.*	Rule 32	Federal Rules Disclosure of Presentence Reports of Criminal Procedures
42.	IG Act of 1978, Sec 7(b), P.L. 95-452	Confidentiality of Employee Complaints to the IG
43.	P.L. 100-180, Sec 276(a)	Protection of Sematech Information
44.	Freedom of Information Exemption for Certain Open Skies Treaty Data, P.L. 103-236, Sec 533, codified at 5 USC §552 note	Protection of Certain Open Skies Treaty Information
45.	Public Law 105-271, 112 Stat. 2386, Sec. 4(f)(3)(A) (reprinted at 15 USC §1 note)	Year 2000 Readiness and Disclosure Act