

FOIA EXEMPTIONS

It is the policy of the agency to make records available to the public to the greatest extent possible, in keeping with the spirit of the FOIA, while at the same time protecting sensitive information. The FOIA exemptions listed below apply to federal government information in accordance with 5 U.S.C. 552(b). These are abbreviated definitions. Please click on the link in each listed exemption for more comprehensive information about each:

EXEMPTION 1: Classified secret matters or national defense or foreign policy. Protects from disclosure national security information concerning the national defense or foreign policy, provided that it has been properly classified in accordance with the substantive and procedural requirements of an executive order.

EXEMPTION 2: Internal personnel rules and practices. Exempts from mandatory disclosure records “related solely to the internal personnel rules and practices of an agency.” It encompasses only records that “concern the conditions of employment in federal agencies – such matters as hiring and firing, work rules and discipline, compensation and benefits.”

EXEMPTION 3: Information specifically exempted by other statutes. Incorporates the disclosure prohibitions contained in various other federal statutes. Originally, it was broadly phrased to simply cover information “specifically exempted from disclosure by statute.” *The new Exemption 3 statute prohibits agencies from releasing under the FOIA any proposal “submitted by a contractor in response to the requirements of a solicitation for a competitive proposal,” unless that proposal “is set forth or incorporated by reference in a contract entered into between the agency and the contractor that submitted the proposal.”*

EXEMPTION 4: Trade secrets, commercial or financial information. Protects “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” It is intended to protect the interest of both the government and submitter of information.

EXEMPTION 5: Privileged interagency or intra-agency memoranda or letters. Protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party ...in litigation with the agency.” It has been construed to “exempt those documents, and only those documents, normally privileged in the civil discovery context.”

EXEMPTION 6: Personal information affecting an individual's privacy. Permits the government to withhold all information about individuals in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” It cannot be used to withhold from a requester information pertaining to themselves.

EXEMPTION 7: Records or information compiled for law enforcement purposes. Protects law enforcement records, but only to the extent that the production of such law enforcement records or information **(A)** could reasonably be expected to interfere with enforcement proceedings, **(B)** would deprive a person of a right to a fair trial or an impartial adjudication, **(C)** could reasonably be expected to constitute an unwarranted invasion of personal privacy, **(D)** could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, **(E)** would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to

risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual."

EXEMPTION 8: Regulation or supervision of financial institutions. Protects matters "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

EXEMPTION 9: Wells. Covers "geological and geophysical information and data, including maps, concerning wells."