

GAO@100 Highlights

Highlights of [GAO-21-148](#), a report to congressional requesters

Why GAO Did This Study

FOIA requires federal agencies to provide the public with access to government records and information based on the principles of openness and accountability in government. FOIA also specifies nine exemptions agencies may cite to withhold information when responding to FOIA requests. These exemptions cover information related to national defense or foreign policy; internal agency personnel rules and practices; certain nondisclosure provisions in other statutes; trade secrets and commercial information; privileged interagency or intra-agency memorandums; personal privacy; law enforcement; the regulation of financial institutions; and geological information. FOIA's exemption 3, also referred to as the (b)(3) exemption, specifically authorizes withholding information on the basis of another federal statute that prohibits disclosure of that information.

GAO was asked to review federal agency use of (b)(3) exemptions. This report describes the (b)(3) exemption statutes cited by agencies and the frequency of their use from fiscal years 2010 through 2019, and key statistics related to the use of (b)(3) exemption statutes from fiscal years 2017 through 2019.

GAO reviewed FOIA data reported by agencies for fiscal years 2010 through 2019; updated the catalog of (b)(3) statutes GAO reported in June 2018 to include fiscal years 2017 to 2019; reviewed relevant documentation; and interviewed Department of Justice officials.

View [GAO-21-148](#). For more information, contact Michelle Sager at (202) 512-6806 or SagerM@gao.gov.

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FREEDOM OF INFORMATION ACT

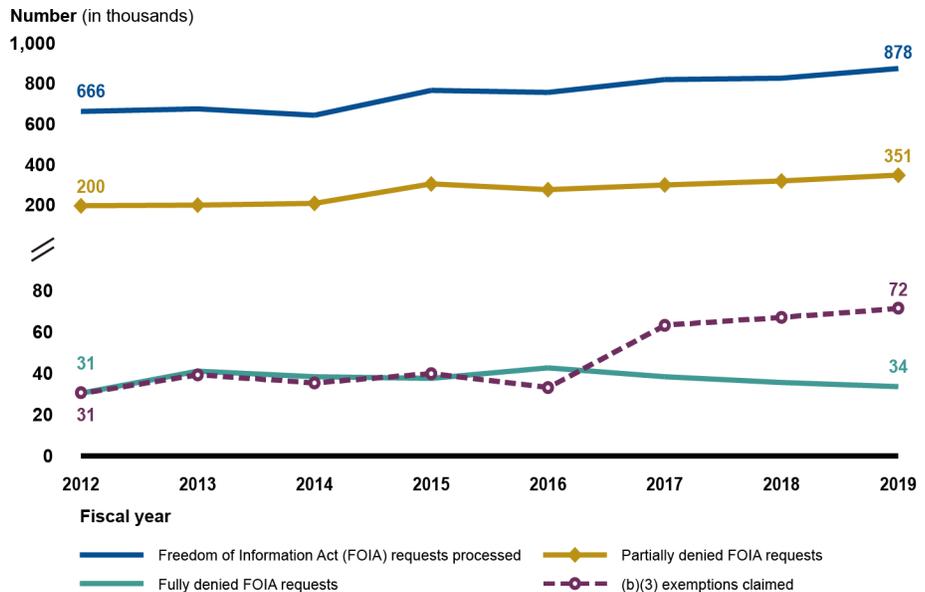
Update on Federal Agencies' Use of Exemption Statutes

What GAO Found

In fiscal years 2010 through 2019, federal agencies claimed a total of 256 statutes as the basis for withholding requested information using Freedom of Information Act (FOIA) exemptions known as (b)(3) exemptions. During this time, 91 agencies reported withholding information using at least one of the 256 statutes a total of more than 525,000 times. The most-commonly used statute related to withholding records pertaining to the issuance or refusal of visas to enter the United States (8 U.S.C. § 1202(f)).

Agencies' use of (b)(3) exemptions more than doubled from fiscal year 2012 to fiscal year 2019 while the number of FOIA requests processed increased 32 percent. At the same time, full denials of requests based on a statutory exemption increased by 10 percent and partial denials, when an agency provided the requester with some, but not all, of the information requested, increased by 76 percent.

Freedom of Information Act Requests Processed, Partial Denials, Full Denials, and Use of (b)(3) Exemptions, Fiscal Years 2012-2019



Source: GAO analysis of FOIA.gov data. | GAO-21-148

Several of the most-used (b)(3) exemption statutes showed large increases in use in fiscal years 2017 through 2019. For example, agencies increased their use of a section of the Bank Secrecy Act, which exempts information pertaining to reportable financial transactions (31 U.S.C. § 5319), by 235 percent—from 958 times in fiscal year 2016 to 3,209 times in fiscal year 2017. Further, agencies cited 19 additional statutes to withhold information in fiscal years 2017 through 2019 that had not been used in fiscal years 2010 through 2016. Four of these statutes had been enacted or amended since 2016.