



## **Open, Public, Electronic and Necessary (OPEN) Government Data Act**

Title II, Foundations for Evidence-Based Policymaking Act (H.R. 4174; S. 2046)

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The federal government possesses an enormous amount of valuable public data, which should be used to improve government services and promote private sector innovation. The OPEN Government Data Act seeks to achieve these goals by creating an expectation that – by default – government data will be open and available whenever possible. Specifically, the bill defines open data without locking in yesterday’s technology; creates minimal standards for making federal government data available to the public; requires the federal government to use open data to improve decision making; ensures accountability by requiring regular oversight; and establishes and formalizes Chief Data Officers (CDO) at federal agencies who will have data governance and implementation responsibilities.

### **Title II – OPEN Government Data Act**

- Sec. 201. Short Title - Open, Public, Electronic and Necessary (OPEN) Government Data Act.
- Sec. 202. Definitions - Adds definitions to section 3502 of title 44, United States Code (USC), enabling the adoption of consistent data practices across the government. The goal is to improve data portability, openness, and transparency without specifying certain formats or technology. These definitions include: “data asset,” “machine-readable,” “metadata,” “open Government data asset,” and “open license.”
- Sec. 202. Guidance to Make Data Open by Default - Requires the Director of the Office of Management and Budget (OMB) to issue government-wide guidance governing the agencies’ implementation of the Act’s requirements while taking into consideration protections for security, privacy, and intellectual property or contractual rights.
- Sec. 202. Federal Agency Responsibilities to Make Data Open by Default - Requires federal agencies to make “data assets” available in open formats and make “public data assets,” which are defined as information subject to disclosure under the Freedom of Information Act (FOIA), available in a “machine-readable” format (semantically structured for computer processing) under an “open license” (a legal guarantee to make information freely and publicly available without restrictions on reuse); Expands agency information management responsibilities by requiring an annually updated and publicly available “strategic information resources management plan” that:
  - Describes how information resources support agency missions; and
  - Includes an “open data plan” outlining agency processes and procedures to comply with OMB guidance, collect data in open formats and improve the “timeliness, completeness, consistency, accuracy, usefulness, and availability” of ‘open Government data assets’,

coordinate with businesses and researchers on their data use, measure the public value of open data, and identify a point of contact to address public feedback.

Requires agencies to comply with OMB's guidance when implementing these requirements.

- Sec. 202. Comprehensive Data Inventory and Federal Data Catalogue - Amends section 3511 of title 44, USC, to require agencies to develop a comprehensive inventory of agency data assets with appropriate metadata and to regularly publish open Government data assets to the General Services Administration (GSA) administered "Federal data catalogue" (currently Data.gov) and in accordance with OMB's guidance, which considers relevant security, privacy, and intellectual property protections, as well as the expectation to disclose data assets subject to disclosure under FOIA.
- Sec. 202. Repository - Requires the OMB Director to work with GSA and the National Archives and Records Administration (NARA) to establish a public repository of "tools, best practices, and schema standards" to facilitate government-wide adoption of open data.
- Sec. 202. Chief Data Officers - Amends section 3520 of title 44, USC, to establish CDOs at each federal agency to coordinate the management of agency data, manage information collection request processes, and develop the inventory in section 3511. Specific duties of the CDOs include:
  - Agency Data Management - Responsibility for enterprise lifecycle data management; Coordinate agency policies for using, protecting, disseminating, and generating data to ensure that the data needs of the agency are met; Manage data assets of the agency (standardization of data format, sharing of data assets, and publication of data assets); Management of open government data assets and open data policies, including publication and access; Leveraging data management best practices.
  - Internal Operations - Engaging with and encouraging collaboration amongst agency employees, the public, and contractors for data use; Coordinating with statistical entities in the agency; Supporting the Performance Improvement Officer of the agency in identifying and using data; Supporting evidence-based policymaking; Reviewing the impact of the IT infrastructure of the agency on data asset accessibility and coordinating with the Chief Information Officer (CIO) to improve IT to reduce barriers that inhibit data asset accessibility; Encouraging agency use of data assets for program and operational improvements.
  - Government-wide Coordination - Identifying proper points of contact, roles, and responsibilities related to implementation of government-wide open data policies; Serving as the liaison to other agencies and OMB on the best way to use existing agency data for statistical purposes; and, assuring agency compliance with regulations and guidance related to data management and access including an annual report to Congress summarizing agency compliance with this Act.
- Sec. 202. Chief Data Officer Council - Creates a new section 3520A of title 44, USC, to establish a Chief Data Officer Council for CDOs to establish data best practices around "use, protection, dissemination, and generation," promote data sharing agreements, identify ways to improve data production and public access, and evaluate new technology. Requires the Government Accountability Office (GAO) to review the Council within four years with the Council dissolving two years later.
- Sec. 202. Reports - GAO shall report on the value of the improved data access under the bill and the completeness of the data inventories within three years, and OMB must report on performance and compliance with amendments made by the bill on a biennial basis.

#### **Title IV. General Provisions**

- Sec. 401. Rule of Construction - Leverages the existing statutory protections under FOIA to prevent the disclosure of information that could harm privacy, national security, intellectual privacy rights, and business sensitive information.
- Sec. 402. Use of Existing Resources - To the extent practicable, agencies shall use existing resources and employees to carry out the requirements of the Act.
- Sec. 403. Effective Date - The Act shall take effect 180 days after enactment.