

Calendar No. 718114TH CONGRESS
2^D SESSION**S. 2852****[Report No. 114–396]**

To expand the Government’s use and administration of data to facilitate transparency, effective governance, and innovation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2016

Mr. SCHATZ (for himself, Mr. SASSE, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 8, 2016

Reported by Mr. JOHNSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To expand the Government’s use and administration of data to facilitate transparency, effective governance, and innovation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Open, Public, Electronic, and Necessary Government
 4 Data Act” or the “OPEN Government Data Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; agency defined.
- Sec. 3. Rule of construction.
- Sec. 4. Federal information policy definitions.
- Sec. 5. Requirement for making open and machine-readable the default for
Government data.
- Sec. 6. Responsibilities of the Office of Electronic Government.
- Sec. 7. Data inventory and planning.
- Sec. 8. Technology portal.
- Sec. 9. Enhanced responsibilities for chief information officers and chief infor-
mation officers council duties.
- Sec. 10. Evaluation of agency analytical capabilities.
- Sec. 11. Effective date.

7 **SEC. 2. FINDINGS; AGENCY DEFINED.**

8 (a) **FINDINGS.**—The Congress finds the following:

9 (1) Federal Government data is a valuable na-
 10 tional resource. Managing Federal Government data
 11 to make it open, available, discoverable, and useable
 12 to the general public, businesses, journalists, aca-
 13 demics, and advocates promotes efficiency and effec-
 14 tiveness in Government, creates economic opportuni-
 15 ties, promotes scientific discovery, and most impor-
 16 tantly, strengthens our democracy.

17 (2) Maximizing the usefulness of Federal Gov-
 18 ernment data that is appropriate for release rests
 19 upon making it readily available, discoverable, and

1 usable—in a word: open. Information presumptively
2 should be available to the general public unless the
3 Federal Government reasonably foresees that disclo-
4 sure could harm a specific, articulable interest pro-
5 tected by law or the Federal Government is other-
6 wise expressly prohibited from releasing such data
7 due to statutory requirements.

8 (3) The Federal Government has the responsi-
9 bility to be transparent and accountable to its citi-
10 zens.

11 (4) Data controlled, collected, or created by the
12 Federal Government should be originated, trans-
13 mitted, and published in modern, open, and elec-
14 tronic format, to be as readily accessible as possible,
15 consistent with data standards imbued with author-
16 ity under this Act and to the extent permitted by
17 law.

18 (5) The effort to inventory Government data
19 will have additional benefits, including identifying
20 opportunities within agencies to reduce waste, in-
21 crease efficiencies, and save taxpayer dollars. As
22 such, this effort should involve many types of data,
23 including data generated by applications, devices,
24 networks, and equipment, which can be harnessed to

1 improve operations, lower energy consumption, re-
 2 duce costs, and strengthen security.

3 (6) Communication, commerce, and data tran-
 4 scend national borders. Global access to Government
 5 information is often essential to promoting innova-
 6 tion, scientific discovery, entrepreneurship, edu-
 7 cation, and the general welfare.

8 (b) AGENCY DEFINED.—In this Act, the term “agen-
 9 cy” has the meaning given that term in section 3502 of
 10 title 44, United States Code, and includes the Federal
 11 Election Commission.

12 **SEC. 3. RULE OF CONSTRUCTION.**

13 Nothing in this Act, or the amendments made by this
 14 Act, shall be construed to require the disclosure of infor-
 15 mation or records that are exempt from public disclosure
 16 under section 552 of title 5, United States Code.

17 **SEC. 4. FEDERAL INFORMATION POLICY DEFINITIONS.**

18 Section 3502 of title 44, United States Code, is
 19 amended—

20 (1) in paragraph (13), by striking “; and” at
 21 the end and inserting a semicolon;

22 (2) in paragraph (14), by striking the period at
 23 the end and inserting a semicolon; and

24 (3) by inserting at the end the following new
 25 paragraphs:

1 “(15) the term ‘data’ means recorded informa-
2 tion, regardless of form or the media on which the
3 data is recorded;

4 “(16) the term ‘data asset’ means a collection
5 of data elements or data sets that may be grouped
6 together;

7 “(17) the term ‘Enterprise Data Inventory’
8 means the data inventory developed and maintained
9 pursuant to section 3523;

10 “(18) the term ‘machine-readable’ means a for-
11 mat in which information or data can be easily pro-
12 cessed by a computer without human intervention
13 while ensuring no semantic meaning is lost;

14 “(19) the term ‘metadata’ means structural or
15 descriptive information about data such as content,
16 format, source, rights, accuracy, provenance, fre-
17 quency, periodicity, granularity, publisher or respon-
18 sible party, contact information, method of collec-
19 tion, and other descriptions;

20 “(20) the term ‘nonpublic data asset’—

21 “(A) means a data asset that may not be
22 made available to the public for privacy, secu-
23 rity, confidentiality, regulation, or other reasons
24 as determined by law; and

1 “(B) includes data provided by contractors
2 that is protected by contract, license, patent,
3 trademark, copyright, confidentiality, regula-
4 tion, or other restriction;

5 “(21) the term ‘open format’ means a technical
6 format based on an underlying open standard that
7 is—

8 “(A) not encumbered by restrictions that
9 would impede use or reuse; and

10 “(B) based on an underlying open stand-
11 ard that is maintained by a standards organiza-
12 tion;

13 “(22) the term ‘open Government data’ means
14 a Federal Government public data asset that is—

15 “(A) machine-readable;

16 “(B) available in an open format; and

17 “(C) part of the worldwide public domain
18 or, if necessary, published with an open license;

19 “(23) the term ‘open license’ means a legal
20 guarantee applied to a data asset that is made avail-
21 able to the public that such data asset is made avail-
22 able—

23 “(A) at no cost to the public; and

1 “(B) with no restrictions on copying, pub-
 2 lishing, distributing, transmitting, citing, or
 3 adapting; and

4 “(24) the term ‘public data asset’ means a col-
 5 lection of data elements or a data set maintained by
 6 the Government that—

7 “(A) may be released; or

8 “(B) has been released to the public in an
 9 open format and is discoverable through a
 10 search of Data.gov.”.

11 **SEC. 5. REQUIREMENT FOR MAKING OPEN AND MACHINE-**
 12 **READABLE THE DEFAULT FOR GOVERNMENT**
 13 **DATA.**

14 (a) **AMENDMENT.**—Subchapter I of chapter 35 of
 15 title 44, United States Code, is amended by adding at the
 16 end the following new section:

17 **“§ 3522. Requirements for Government data**

18 “(a) **MACHINE-READABLE DATA REQUIRED.**—Gov-
 19 ernment data assets made available by an agency shall be
 20 published as machine-readable data.

21 “(b) **OPEN BY DEFAULT.**—When not otherwise pro-
 22 hibited by law, Government data assets shall—

23 “(1) be available in an open format; and

24 “(2) be available under open licenses.

1 “(c) OPEN LICENSE OR WORLDWIDE PUBLIC DO-
2 MAIN DEDICATION REQUIRED.—When not otherwise pro-
3 hibited by law, Government data assets published by or
4 for an agency shall be made available under an open li-
5 cense or, if not made available under an open license and
6 appropriately released, shall be considered to be published
7 as part of the worldwide public domain.

8 “(d) INNOVATION.—Each agency may engage with
9 nongovernmental organizations, citizens, non-profit orga-
10 nizations, colleges and universities, private and public
11 companies, and other agencies to explore opportunities to
12 leverage the agency’s public data asset in a manner that
13 may provide new opportunities for innovation in the public
14 and private sectors in accordance with law and regula-
15 tion.”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
17 The table of sections for subchapter I of chapter 35 of
18 title 44, United States Code, is amended by adding at the
19 end the following new item:

“Sec. 3522. Requirements for Government data.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 subsections (a) and (b) shall take effect 270 days after
22 the date of the enactment of this Act and shall apply with
23 respect to any contract entered into by an agency on or
24 after such effective date.

1 (d) USE OF OPEN DATA ASSETS.—Not later than
 2 270 days after the date of the enactment of this section,
 3 the head of each agency shall ensure that any activities
 4 by the agency or any new contract entered into by the
 5 agency meet the requirements of section 3522 of title 44,
 6 United States Code, as added by subsection (a).

7 **SEC. 6. RESPONSIBILITIES OF THE OFFICE OF ELECTRONIC**
 8 **GOVERNMENT.**

9 (a) COORDINATION OF FEDERAL INFORMATION RE-
 10 SOURCES MANAGEMENT POLICY.—Section 3503 of title
 11 44, United States Code, is amended by adding at the end
 12 the following new subsection:

13 “(c) COORDINATION OF FEDERAL INFORMATION RE-
 14 SOURCES MANAGEMENT POLICY.—The Administrator of
 15 the Office of Information and Regulatory Affairs shall
 16 work with the Federal Chief Information Officer and with
 17 the heads of other offices within the Office of Management
 18 and Budget to oversee and advise the Director on Federal
 19 information resources management policy.”.

20 (b) AUTHORITY AND FUNCTIONS OF DIRECTOR.—
 21 Section 3504(h) of title 44, United States Code, is amend-
 22 ed—

23 (1) in paragraph (1), by inserting “, the Fed-
 24 eral Chief Information Officer,” after “the Director

1 of the National Institute of Standards and Tech-
 2 nology”;

3 ~~(2)~~ in paragraph (4)—

4 ~~(A)~~ in subparagraph (A), by striking “; and”
 5 and inserting a semicolon; and

6 ~~(B)~~ by inserting at the end the following
 7 new subparagraph:

8 “~~(C)~~ oversee the completeness of the En-
 9 terprise Data Inventory and the extent to which
 10 the agency is making all data collected and gen-
 11 erated by the agency available to the public in
 12 accordance with section ~~3523~~.”;

13 ~~(3)~~ in paragraph (5), by striking the period at
 14 the end and inserting “; and”;

15 ~~(4)~~ by inserting at the end the following new
 16 paragraph:

17 “~~(6)~~ coordinate the development and review of
 18 Federal information resources management policy by
 19 the Administrator of the Office of Information and
 20 Regulatory Affairs and the Federal Chief Informa-
 21 tion Officer.”.

22 ~~(c) CHANGE OF NAME OF THE OFFICE OF ELEC-~~
 23 ~~TRONIC GOVERNMENT.—~~

24 ~~(1) DEFINITIONS.—~~Section 3601 of title 44,
 25 United States Code, is amended—

1 (A) by striking paragraph (1);

2 (B) by redesignating paragraphs (2)
3 through (4) as paragraphs (1) through (3), re-
4 spectively; and

5 (C) by inserting after paragraph (3), as so
6 redesignated, the following new paragraph:

7 “(4) ‘Federal Chief Information Officer’ means
8 the Federal Chief Information Officer of the Office
9 of the Federal Chief Information Officer established
10 under section 3602;”.

11 (2) OFFICE OF THE FEDERAL CHIEF INFORMA-
12 TION OFFICER.—Section 3602 of title 44, United
13 States Code, is amended—

14 (A) in the heading, by striking “**Elec-**
15 **tronic Government**” and inserting “**the**
16 **Federal Chief Information Officer**”;

17 (B) in subsection (a), by striking “Office
18 of Electronic Government” and inserting “Of-
19 fice of the Federal Chief Information Officer”;

20 (C) in subsection (b), by striking “an Ad-
21 ministrator” and inserting “a Federal Chief In-
22 formation Officer”;

23 (D) in subsection (c), by striking “The Ad-
24 ministrator” and inserting “The Federal Chief
25 Information Officer”;

1 (E) in subsection (d), by striking “The Ad-
 2 ministrators” and inserting “The Federal Chief
 3 Information Officer”;

4 (F) in subsection (e), by striking “The Ad-
 5 ministrators” and inserting “The Federal Chief
 6 Information Officer”;

7 (G) in subsection (f)—

8 (i) by striking “the Administrator
 9 shall” and inserting “the Federal Chief In-
 10 formation Officer shall”; and

11 (ii) in paragraph (16), by striking
 12 “the Office of Electronic Government” and
 13 inserting “the Office of the Federal Chief
 14 Information Officer”; and

15 (H) in subsection (g), by striking “the Of-
 16 fice of Electronic Government” and inserting
 17 “the Office of the Federal Chief Information
 18 Officer”.

19 (3) CHIEF INFORMATION OFFICERS COUNCIL.—

20 Section 3603 of title 44, United States Code, is
 21 amended—

22 (A) in subsection (b)(2), by striking “The
 23 Administrator of the Office of Electronic Gov-
 24 ernment” and inserting “The Federal Chief In-
 25 formation Officer”;

1 (B) in subsection (c)(1), by striking “The
2 Administrator of the Office of Electronic Gov-
3 ernment” and inserting “The Federal Chief In-
4 formation Officer”; and

5 (C) in subsection (f)(3), by striking “the
6 Administrator” and inserting “the Federal
7 Chief Information Officer”.

8 (4) E-GOVERNMENT FUND.—Section 3604 of
9 title 44, United States Code, is amended—

10 (A) in subsection (a)(2), by striking “the
11 Administrator of the Office of Electronic Gov-
12 ernment” and inserting “the Federal Chief In-
13 formation Officer”;

14 (B) in subsection (b), by striking “Admin-
15 istrator”, each place it appears, and inserting
16 “Federal Chief Information Officer”; and

17 (C) in subsection (c), by striking “the Ad-
18 ministrator” and inserting “the Federal Chief
19 Information Officer”.

20 (5) PROGRAM TO ENCOURAGE INNOVATIVE SO-
21 LUTIONS TO ENHANCE ELECTRONIC GOVERNMENT
22 SERVICES AND PROCESSES.—Section 3605 of title
23 44, United States Code, is amended—

1 (A) in subsection (a), by striking “The Ad-
 2 ministrators” and inserting “The Federal Chief
 3 Information Officer”;

4 (B) in subsection (b), by striking “, the
 5 Administrator,” and inserting “, the Federal
 6 Chief Information Officer,”; and

7 (C) in subsection (c)—

8 (i) in paragraph (1)—

9 (I) by striking “The Adminis-
 10 trators” and inserting “The Federal
 11 Chief Information Officer”; and

12 (II) by striking “proposals sub-
 13 mitted to the Administrator” and in-
 14 serting “proposals submitted to the
 15 Federal Chief Information Officer”;

16 (ii) in paragraph (2), by striking “the
 17 Administrator” and inserting “the Federal
 18 Chief Information Officer”; and

19 (iii) in paragraph (4), by striking “the
 20 Administrator” and inserting “the Federal
 21 Chief Information Officer”.

22 (6) TECHNICAL AND CONFORMING AMEND-
 23 MENTS.—

24 (A) TABLE OF SECTIONS.—The table of
 25 sections for chapter 36 of title 44, United

1 States Code, is amended by striking the item
2 relating to section 3602 and inserting the fol-
3 lowing new item:

“3602. Office of the Federal Chief Information Officer.”

4 (B) POSITIONS AT LEVEL III.—Section
5 5314 of title 5, United States Code, is amended
6 by striking “Administrator of the Office of
7 Electronic Government” and inserting “Federal
8 Chief Information Officer”.

9 (C) OFFICE OF ELECTRONIC GOVERN-
10 MENT.—Section 507 of title 31, United States
11 Code, is amended by striking “The Office of
12 Electronic Government” and inserting “The Of-
13 fice of the Federal Chief Information Officer”.

14 (D) ELECTRONIC GOVERNMENT AND IN-
15 FORMATION TECHNOLOGIES.—Section 305 of
16 title 40, United States Code, is amended by
17 striking “Administrator of the Office of Elec-
18 tronic Government” and inserting “Federal
19 Chief Information Officer”.

20 (E) CAPITAL PLANNING AND INVESTMENT
21 CONTROL.—Section 11302(e)(4) of title 40,
22 United States Code, is amended by striking
23 “Administrator of the Office of Electronic Gov-
24 ernment”, each place it appears, and inserting
25 “Federal Chief Information Officer”.

1 (F) RESOURCES, PLANNING, AND PORT-
 2 FOLIO MANAGEMENT.—The second subsection
 3 (e) of section 11319 of title 40, United States
 4 Code, is amended by striking “Administrator of
 5 the Office of Electronic Government”, each
 6 place it appears, and inserting “Federal Chief
 7 Information Officer”.

8 (7) RULE OF CONSTRUCTION.—The amend-
 9 ments made by this subsection were to change the
 10 name of the Office of Electronic Government and
 11 the Administrator of such office and shall not be
 12 construed to effect any of the substantive provisions
 13 of the provisions amended or to require a new ap-
 14 pointment by the President.

15 **SEC. 7. DATA INVENTORY AND PLANNING.**

16 (a) ENTERPRISE DATA INVENTORY.—

17 (1) AMENDMENT.—Subchapter I of chapter 35
 18 of title 44, United States Code, as amended by sec-
 19 tion 5, is further amended by adding at the end the
 20 following new section:

21 **“§ 3523. Enterprise data inventory**

22 “(a) AGENCY DATA INVENTORY REQUIRED.—In
 23 order to develop a clear and comprehensive understanding
 24 of the data assets in the possession of an agency, the head
 25 of each agency, in consultation with the Director of the

1 Office of Management and Budget, shall develop and
2 maintain an enterprise data inventory (in this section, re-
3 ferred to as the 'Enterprise Data Inventory') that ac-
4 counts for any data asset created, collected, under the con-
5 trol or direction of, or maintained by the agency after the
6 effective date of this section, with the ultimate goal of in-
7 cluding all data assets, to the extent practicable. The En-
8 terprise Data Inventory shall include each of the following:

9 “(1) Data assets used in agency information
10 systems, including program administration, statisti-
11 cal, and financial activity.

12 “(2) Data assets shared or maintained across
13 agency programs and bureaus.

14 “(3) Data assets that are shared among agen-
15 cies or created by more than 1 agency.

16 “(4) A clear indication of all data assets that
17 can be made publicly available under section 552 of
18 title 5.

19 “(5) A description of whether the agency has
20 determined that an individual data asset may be
21 made publicly available and whether such data asset
22 is currently available to the public.

23 “(6) Nonpublic data assets.

1 “(7) Government data assets generated by ap-
2 plications, devices, networks, and equipment, cat-
3 egorized by source type.

4 “(b) PUBLIC AVAILABILITY.—The Chief Information
5 Officer of each agency shall use the guidance provided by
6 the Director issued pursuant to section 3504(a)(1)(C)(ii)
7 to make public data assets included in the Enterprise
8 Data Inventory publicly available in an open format and
9 under an open license.

10 “(c) NON-PUBLIC DATA.—Non-public data included
11 in the Enterprise Data Inventory may be maintained in
12 a non-public section of the inventory.

13 “(d) AVAILABILITY OF ENTERPRISE DATA INVEN-
14 TORY.—The Chief Information Officer of each agency—

15 “(1) shall make the Enterprise Data Inventory
16 available to the public on Data.gov;

17 “(2) shall ensure that access to the Enterprise
18 Data Inventory and the data contained therein shall
19 be consistent with applicable law and regulation; and

20 “(3) may implement paragraph (1) in a manner
21 that maintains a non-public portion of the Enter-
22 prise Data Inventory.

23 “(e) REGULAR UPDATES REQUIRED.—The Chief In-
24 formation Officer of each agency shall update the Enter-

1 prise Data Inventory for such agency not less than annu-
2 ally.

3 “(f) USE OF EXISTING RESOURCES.—The Chief In-
4 formation Officer of each agency shall use existing proce-
5 dures and systems to compile and publish the Enterprise
6 Data Inventory for such agency when practicable.”.

7 (2) TECHNICAL AND CONFORMING AMEND-
8 MENT.—The table of sections for subchapter I of
9 chapter 35 of title 44, United States Code, as
10 amended by section 5, is further amended by adding
11 at the end the following new item:

“Sec. 3523. Enterprise data inventory.”.

12 (b) STANDARDS FOR ENTERPRISE DATA INVEN-
13 TORY.—Section 3504(a)(1) of title 44, United States
14 Code, is amended—

15 (1) in subparagraph (A), by striking “; and”
16 and inserting a semicolon;

17 (2) in subparagraph (B)—

18 (A) by moving clause (vi) two ems to the
19 left; and

20 (B) in clause (vi), by striking the period at
21 the end and inserting “; and”; and

22 (3) by inserting at the end the following new
23 subparagraph:

24 “(C) issue standards for the Enterprise Data
25 Inventory described in section 3523, including—

1 “(i) a requirement that the Enterprise
2 Data Inventory include a compilation of
3 metadata about agency data assets; and

4 “(ii) criteria that the head of each agency
5 shall use in determining whether to make a par-
6 ticular data asset publicly available in a manner
7 that takes into account—

8 “(I) the expectation of confidentiality
9 associated with an individual data asset;

10 “(II) security considerations, includ-
11 ing the risk that information in an indi-
12 vidual data asset in isolation does not pose
13 a security risk but when combined with
14 other available information may pose such
15 a risk;

16 “(III) cost and value to the public of
17 converting the data into a manner that
18 could be understood and used by the pub-
19 lic;

20 “(IV) the expectation that all data as-
21 sets that would otherwise be made avail-
22 able under section 552 of title 5 (com-
23 monly referred to as the Freedom of Infor-
24 mation Act) be disclosed; and

1 “(V) any other considerations that the
2 Director determines to be relevant.”.

3 (c) FEDERAL AGENCY RESPONSIBILITIES.—Section
4 3506 of title 44, United States Code, is amended—

5 (1) in subsection (b)—

6 (A) in paragraph (1)(C), by striking “secu-
7 rity;” and inserting the following: “security
8 by—

9 “(i) using open format for any new
10 Government data asset created or obtained
11 on the date that is 180 days after the date
12 of the enactment of this clause; and

13 “(ii) encouraging the adoption of open
14 format for all open Government data cre-
15 ated or obtained before the date of the en-
16 actment of this clause;”.

17 (B) in paragraph (4), by striking “sub-
18 chapter; and” and inserting “subchapter and a
19 review of each agency’s Enterprise Data Inven-
20 tory described in section 3523;”;

21 (C) in paragraph (5), by striking the pe-
22 riod at the end and inserting “; and”; and

23 (D) by inserting at the end the following
24 new paragraph:

1 “(6) in consultation with the Director, develop
2 an open data plan as a part of the requirement for
3 a strategic information resources management plan
4 described in paragraph (2) that, at a minimum—

5 “(A) requires the agency to develop proe-
6 esses and procedures that—

7 “(i) require each new data collection
8 mechanism to use an open format; and

9 “(ii) allow the agency to collaborate
10 with non-Government entities, researchers,
11 businesses, and private citizens for the
12 purpose of understanding how data users
13 value and use open Government data;

14 “(B) identifies and implements methods
15 for collecting and analyzing digital information
16 on data asset usage by users within and outside
17 of the agency, including designating a point of
18 contact within the agency to assist the public
19 and to respond to quality issues, usability, rec-
20 ommendations for improvements, and com-
21 plaints about adherence to open data require-
22 ments in accordance with subsection (d)(2);

23 “(C) develops and implements a process to
24 evaluate and improve the timeliness, complete-

1 ness, accuracy, usefulness, and availability of
2 open Government data;

3 “(D) requires the agency to update the
4 plan at an interval determined by the Director;

5 “(E) includes requirements for meeting the
6 goals of the agency open data plan including
7 technology, training for employees, and imple-
8 menting procurement standards, in accordance
9 with existing law, that allow for the acquisition
10 of innovative solutions from the public and pri-
11 vate sector; and

12 “(F) prohibits the dissemination and acci-
13 dental disclosure of nonpublic data assets.”;

14 (2) in subsection (e), by striking “With respect
15 to” and inserting “Except as provided under sub-
16 section (j), with respect to”;

17 (3) in subsection (d)—

18 (A) in the matter preceding paragraph (1),
19 by striking “shall”;

20 (B) in paragraph (1)—

21 (i) in the matter preceding subpara-
22 graph (A), by inserting “shall” before “en-
23 sure”;

1 (ii) in subparagraph (A), by striking
2 “sources” and inserting “sources and
3 uses”; and

4 (iii) in subparagraph (C), by inserting
5 “, including providing access to open Gov-
6 ernment data online” after “economical
7 manner”;

8 (C) in paragraph (2), by inserting “shall”
9 before “regularly”;

10 (D) in paragraph (3)—

11 (i) by inserting “shall” before “pro-
12 vide”; and

13 (ii) by striking “, and” and inserting
14 a semicolon;

15 (E) in paragraph (4)—

16 (i) in the matter preceding subpara-
17 graph (A), by inserting “may” before
18 “not”; and

19 (ii) by striking the period at the end
20 and inserting a semicolon; and

21 (F) by inserting at the end the following
22 new paragraphs:

23 “(5) shall take the necessary precautions to en-
24 sure that the agency maintains the production and
25 publication of data assets which are directly related

1 to activities that protect the safety of human life or
2 property as identified by the open data plan of the
3 agency required by subsection (b)(6); and

4 “(6) may engage the public in using open Gov-
5 ernment data and encourage collaboration by—

6 “(A) publishing information on open Gov-
7 ernment data usage in regular, timely intervals,
8 but not less than annually;

9 “(B) receiving public input regarding pri-
10 orities for the analysis and disclosure of data
11 assets to be published;

12 “(C) assisting civil society groups and
13 members of the public working to expand the
14 use of open Government data; and

15 “(D) hosting challenges, competitions,
16 events, or other initiatives designed to create
17 additional value from open Government data.”;
18 and

19 (4) by adding at the end the following new sub-
20 section:

21 “(j) COLLECTION OF INFORMATION EXCEPTION.—

22 Notwithstanding subsection (c), an agency is not required
23 to meet the requirements of paragraphs (2) and (3) of
24 such subsection if—

1 ~~“(1) the waiver of such requirements is ap-~~
 2 ~~proved by the head of the agency;~~

3 ~~“(2) the collection of information is—~~

4 ~~“(A) online and electronic;~~

5 ~~“(B) voluntary and there is no perceived or~~
 6 ~~actual tangible benefit to the provider of the in-~~
 7 ~~formation;~~

8 ~~“(C) of an extremely low burden that is~~
 9 ~~typically completed in five minutes or less; and~~

10 ~~“(D) focused on gathering input about the~~
 11 ~~performance of, or public satisfaction with, an~~
 12 ~~agency providing service; and~~

13 ~~“(3) the agency publishes representative sum-~~
 14 ~~maries of the collection of information under sub-~~
 15 ~~section (e).”.~~

16 ~~(d) REPOSITORY.—The Director of the Office of~~
 17 ~~Management and Budget shall collaborate with the Office~~
 18 ~~of Government Information Services and the Adminis-~~
 19 ~~trator of General Services to develop and maintain an on-~~
 20 ~~line repository of tools, best practices, and schema stand-~~
 21 ~~ards to facilitate the adoption of open data practices. The~~
 22 ~~repository shall—~~

23 ~~(1) include definitions, regulation and policy,~~
 24 ~~checklists, and case studies related to open data, this~~
 25 ~~Act, and the amendments made by this Act, and~~

1 (2) facilitate collaboration and the adoption of
2 best practices across the Federal Government relat-
3 ing to the adoption of open data practices.

4 (e) SYSTEMATIC AGENCY REVIEW OF OPER-
5 ATIONS.—Section 305 of title 5, United States Code, is
6 amended—

7 (1) in subsection (b), by inserting at the end
8 the following new sentence: “To the greatest extent
9 practicable, each agency shall use existing data to
10 support such reviews if the data is accurate and
11 complete.”;

12 (2) in subsection (c)—

13 (A) by redesignating paragraphs (2) and
14 (3) as paragraphs (3) and (4), respectively; and

15 (B) by inserting after paragraph (1) the
16 following new paragraph:

17 “(2) determining the status of achieving the
18 mission, goals, and objectives of the agency as de-
19 scribed in the strategic plan of the agency published
20 pursuant to section 306;” and

21 (3) by adding at the end the following new sub-
22 section:

23 “(d) OPEN DATA COMPLIANCE REPORT.—Not later
24 than 1 year after the date of the enactment of this sub-
25 section, and every two years thereafter, the Director of

1 the Office of Management and Budget shall electronically
 2 publish a report on agency performance and compliance
 3 with the Open, Public, Electronic, and Necessary Govern-
 4 ment Data Act and the amendments made by that Act.”.

5 (f) GAO REPORT.—Not later than 2 years after the
 6 date of the enactment of this Act, the Comptroller General
 7 of the United States shall submit to the Committee on
 8 Oversight and Government Reform of the House of Rep-
 9 resentatives and the Committee on Homeland Security
 10 and Governmental Affairs of the Senate a report that
 11 identifies—

12 (1) the value of information made available to
 13 the public as a result of this Act, and the amend-
 14 ments made by this Act; and

15 (2) whether it is valuable to expand the publicly
 16 available information to any other data assets.

17 **SEC. 8. TECHNOLOGY PORTAL.**

18 (a) AMENDMENT.—Subchapter I of chapter 35 of
 19 title 44, United States Code, is amended by inserting after
 20 section 3511 the following new section:

21 **“§ 3511A. Technology portal**

22 “(a) DATA.GOV REQUIRED.—The Administrator of
 23 General Services shall maintain a single public interface
 24 online as a point of entry dedicated to sharing open Gov-
 25 ernment data with the public.

1 “(b) COORDINATION WITH AGENCIES.—The Director
 2 of the Office of Management and Budget shall determine,
 3 after consultation with the head of each agency and the
 4 Administrator of General Services, the method to access
 5 any open Government data published through the inter-
 6 face described in subsection (a).”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 8 The table of sections for subchapter I of chapter 35 of
 9 title 44, United States Code, is amended by inserting after
 10 the item relating to section 3511 the following new item:
 “Sec. 3511A. Technology portal.”.

11 (c) DEADLINE.—Not later than 180 days after the
 12 date of the enactment of this Act, the Administrator of
 13 General Services shall meet the requirements of section
 14 3511A(a) of title 44, United States Code, as added by sub-
 15 section (a).

16 **SEC. 9. ENHANCED RESPONSIBILITIES FOR CHIEF INFOR-**
 17 **MATION OFFICERS AND CHIEF INFORMATION**
 18 **OFFICERS COUNCIL DUTIES.**

19 (a) AGENCY CHIEF INFORMATION OFFICER GEN-
 20 ERAL RESPONSIBILITIES.—

21 (1) GENERAL RESPONSIBILITIES.—Section
 22 11315(b) of title 40, United States Code, is amend-
 23 ed—

24 (A) in paragraph (2), by striking “; and”
 25 and inserting a semicolon;

1 (B) in paragraph (3), by striking the pe-
2 riod at the end and inserting a semicolon; and

3 (C) by inserting at the end the following
4 new paragraphs:

5 “(4) data asset management, format standard-
6 ization, sharing of data assets, and publication of
7 data assets;

8 “(5) the compilation and publication of the En-
9 terprise Data Inventory for the agency required
10 under section 3523 of title 44;

11 “(6) ensuring that agency data conforms with
12 open data best practices;

13 “(7) ensuring compliance with the requirements
14 of subsections (b), (c), (d), and (f) of section 3506
15 of title 44;

16 “(8) engaging agency employees, the public,
17 and contractors in using open Government data and
18 encourage collaborative approaches to improving
19 data use;

20 “(9) supporting the agency Performance Im-
21 provement Officer in generating data to support the
22 function of the Performance Improvement Officer
23 described in section 1124(a)(2) of title 31;

24 “(10) reviewing the information technology in-
25 frastructure of the agency and the impact of such

1 infrastructure on making data assets accessible to
2 reduce barriers that inhibit data asset accessibility;

3 “(11) ensuring that the agency is maximizing
4 its own use of data, including data generated by ap-
5 plications, devices, networks, and equipment owned
6 by the Government and such use is not otherwise
7 prohibited, to reduce costs, improve operations, and
8 strengthen security and privacy protections; and

9 “(12) identifying points of contact for roles and
10 responsibilities related to open data use and imple-
11 mentation as required by the Director of the Office
12 of Management and Budget.”.

13 (2) ADDITIONAL DEFINITIONS.—Section 11315
14 of title 40, United States Code, is amended by add-
15 ing at the end the following new subsection:

16 “(d) ADDITIONAL DEFINITIONS.—In this section, the
17 terms ‘data’, ‘data asset’, ‘Enterprise Data Inventory’,
18 and ‘open Government data’ have the meanings given
19 those terms in section 3502 of title 44.”.

20 (b) AMENDMENT.—Section 3603(f) of title 44,
21 United States Code, is amended by adding at the end the
22 following new paragraph:

23 “(8) Work with the Office of Government Infor-
24 mation Services and the Director of the Office of
25 Science and Technology Policy to promote data

1 interoperability and comparability of data assets
2 across the Government.”.

3 **SEC. 10. EVALUATION OF AGENCY ANALYTICAL CAPABILI-**
4 **TIES.**

5 (a) OMB GUIDANCE FOR AGENCY REVIEW.—Not
6 later than 1 year after the date of the enactment of this
7 Act, the Director of the Office of Management and Budget
8 shall review each agency to assess the extent of the agen-
9 cy’s use of data assets to support decisionmaking, cost
10 savings, and performance within the agency.

11 (b) AGENCY REVIEW; REPORT.—Not later than 2
12 years after the date of the enactment of this Act, each
13 agency Chief Operating Officer shall submit to Congress
14 and the Director of the Office of Management and Budget
15 a report on the review described in subsection (a).

16 (c) REQUIREMENTS OF AGENCY REPORT.—The re-
17 port described in subsection (b) shall assess the coverage,
18 quality, methods, effectiveness, and independence of the
19 agency’s evaluation research and analysis efforts, includ-
20 ing each of the following:

21 (1) A list of the activities and operations of the
22 agency that are being evaluated and analyzed and
23 the activities and operations that have been evalu-
24 ated and analyzed during the previous 5 years.

1 (2) The extent to which the evaluations re-
2 search and analysis efforts and related activities of
3 the agency support the needs of various divisions
4 within the agency.

5 (3) The extent to which the evaluation research
6 and analysis efforts and related activities of the
7 agency address an appropriate balance between
8 needs related to organizational learning, ongoing
9 program management, performance management,
10 strategic management, interagency and private sec-
11 tor coordination, international and external over-
12 sight, and accountability.

13 (4) The extent to which the agency uses meth-
14 ods and combinations of methods that are appro-
15 priate to agency divisions and the corresponding re-
16 search questions being addressed, including an ap-
17 propriate combination of formative and summative
18 evaluation research and analysis approaches.

19 (5) The extent to which evaluation and research
20 capacity is present within the agency to include per-
21 sonnel, agency process for planning and imple-
22 menting evaluation activities, disseminating best
23 practices and findings, and incorporating employee
24 views and feedback.

1 (6) The extent to which the agency has the ca-
 2 pacity to assist front-line staff and program offices
 3 to develop the capacity to use evaluation research
 4 and analysis approaches and data in the day-to-day
 5 operations.

6 (d) **GAO REVIEW OF AGENCY REPORTS.**—Not later
 7 than 3 years after the date of the enactment of this Act,
 8 the Comptroller General of the United States shall submit
 9 to Congress a report that summarizes agency findings and
 10 highlights trends from the reports submitted pursuant to
 11 subsection (b) and recommends actions to further improve
 12 agency capacity to use evaluation techniques and data to
 13 support evaluation efforts.

14 **SEC. 11. EFFECTIVE DATE.**

15 This Act, and the amendments made by this Act,
 16 shall take effect on the date that is 180 days after the
 17 date of the enactment of this Act.

18 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

19 (a) *SHORT TITLE.*—This Act may be cited as the
 20 “Open, Public, Electronic, and Necessary Government Data
 21 Act” or the “OPEN Government Data Act”.

22 (b) *TABLE OF CONTENTS.*—The table of contents for
 23 this Act is as follows:

- Sec. 1. Short title; table of contents.*
- Sec. 2. Findings; agency defined.*
- Sec. 3. Rule of construction.*
- Sec. 4. Federal information policy definitions.*

Sec. 5. Requirement for making open and machine-readable the default for Government data.

Sec. 6. Responsibilities of the Office of Electronic Government.

Sec. 7. Data inventory and planning.

Sec. 8. Technology portal.

Sec. 9. Enhanced responsibilities for chief information officers and chief information officers council duties.

Sec. 10. Evaluation of agency analytical capabilities.

Sec. 11. Effective date.

1 SEC. 2. FINDINGS; AGENCY DEFINED.

2 (a) *FINDINGS.*—Congress finds the following:

3 (1) *Federal Government data is a valuable na-*
 4 *tional resource. Managing Federal Government data*
 5 *to make it open, available, discoverable, and useable*
 6 *to the general public, businesses, journalists, aca-*
 7 *demics, and advocates promotes efficiency and effec-*
 8 *tiveness in Government, creates economic opportuni-*
 9 *ties, promotes scientific discovery, and most impor-*
 10 *tantly, strengthens our democracy.*

11 (2) *Maximizing the usefulness of Federal Govern-*
 12 *ment data that is appropriate for release rests upon*
 13 *making it readily available, discoverable, and usa-*
 14 *ble—in a word: open. Information presumptively*
 15 *should be available to the general public unless the*
 16 *Federal Government reasonably foresees that disclo-*
 17 *sure could harm a specific, articulable interest pro-*
 18 *ected by law or the Federal Government is otherwise*
 19 *expressly prohibited from releasing such data due to*
 20 *statutory requirements.*

1 (3) *The Federal Government has the responsi-*
2 *bility to be transparent and accountable to its citi-*
3 *zens.*

4 (4) *Data controlled, collected, or created by the*
5 *Federal Government should be originated, trans-*
6 *mitted, and published in modern, open, and electronic*
7 *format, to be as readily accessible as possible, con-*
8 *sistent with data standards imbued with authority*
9 *under this Act and to the extent permitted by law.*

10 (5) *The effort to inventory Government data will*
11 *have additional benefits, including identifying oppor-*
12 *tunities within agencies to reduce waste, increase effi-*
13 *ciencies, and save taxpayer dollars. As such, this ef-*
14 *fort should involve many types of data, including*
15 *data generated by applications, devices, networks, and*
16 *equipment, which can be harnessed to improve oper-*
17 *ations, lower energy consumption, reduce costs, and*
18 *strengthen security.*

19 (6) *Communication, commerce, and data tran-*
20 *scend national borders. Global access to Government*
21 *information is often essential to promoting innova-*
22 *tion, scientific discovery, entrepreneurship, education,*
23 *and the general welfare.*

24 (b) *AGENCY DEFINED.—In this Act, the term “agency”*
25 *has the meaning given that term in section 3502 of title*

1 44, *United States Code*, and includes the *Federal Election*
2 *Commission*.

3 **SEC. 3. RULE OF CONSTRUCTION.**

4 *Nothing in this Act, or the amendments made by this*
5 *Act, shall be construed to require the disclosure of informa-*
6 *tion or records that are exempt from public disclosure under*
7 *section 552 of title 5, United States Code (commonly known*
8 *as the “Freedom of Information Act”).*

9 **SEC. 4. FEDERAL INFORMATION POLICY DEFINITIONS.**

10 *Section 3502 of title 44, United States Code, is amend-*
11 *ed—*

12 *(1) in paragraph (13), by striking “; and” at the*
13 *end and inserting a semicolon;*

14 *(2) in paragraph (14), by striking the period at*
15 *the end and inserting a semicolon; and*

16 *(3) by adding at the end the following:*

17 *“(15) the term ‘data’ means recorded informa-*
18 *tion, regardless of form or the media on which the*
19 *data is recorded;*

20 *“(16) the term ‘data asset’ means a collection of*
21 *data elements or data sets that may be grouped to-*
22 *gether;*

23 *“(17) the term ‘Enterprise Data Inventory’*
24 *means the data inventory developed and maintained*
25 *pursuant to section 3523;*

1 “(18) the term ‘machine-readable’ means a for-
2 mat in which information or data can be easily proc-
3 essed by a computer without human intervention
4 while ensuring no semantic meaning is lost;

5 “(19) the term ‘metadata’ means structural or
6 descriptive information about data such as content,
7 format, source, rights, accuracy, provenance, fre-
8 quency, periodicity, granularity, publisher or respon-
9 sible party, contact information, method of collection,
10 and other descriptions;

11 “(20) the term ‘nonpublic data asset’—

12 “(A) means a data asset that may not be
13 made available to the public for privacy, secu-
14 rity, confidentiality, regulation, or other reasons
15 as determined by law; and

16 “(B) includes data provided by contractors
17 that is protected by contract, license, patent,
18 trademark, copyright, confidentiality, regulation,
19 or other restriction;

20 “(21) the term ‘open format’ means a technical
21 format based on an underlying open standard that
22 is—

23 “(A) not encumbered by restrictions that
24 would impede use or reuse; and

1 “(B) based on an underlying open standard
2 that is maintained by a standards organization;

3 “(22) the term ‘open Government data’ means a
4 Federal Government public data asset that is—

5 “(A) machine-readable;

6 “(B) available in an open format; and

7 “(C) part of the worldwide public domain
8 or, if necessary, published with an open license;

9 “(23) the term ‘open license’ means a legal guar-
10 antee applied to a data asset that is made available
11 to the public that such data asset is made available—

12 “(A) at no cost to the public; and

13 “(B) with no restrictions on copying, pub-
14 lishing, distributing, transmitting, citing, or
15 adapting; and

16 “(24) the term ‘public data asset’ means a collec-
17 tion of data elements or a data set maintained by the
18 Government that—

19 “(A) may be released; or

20 “(B) has been released to the public in an
21 open format and is discoverable through a search
22 of Data.gov.”.

1 **SEC. 5. REQUIREMENT FOR MAKING OPEN AND MACHINE-**
 2 **READABLE THE DEFAULT FOR GOVERNMENT**
 3 **DATA.**

4 (a) *AMENDMENT.*—Subchapter I of chapter 35 of title
 5 44, United States Code, is amended by adding at the end
 6 the following:

7 **“§ 3522. Requirements for Government data**

8 “(a) *MACHINE-READABLE DATA REQUIRED.*—Govern-
 9 ment data assets made available by an agency shall be pub-
 10 lished as machine-readable data.

11 “(b) *OPEN BY DEFAULT.*—When not otherwise prohib-
 12 ited by law, and to the extent practicable, Government data
 13 assets shall—

14 “(1) be available in an open format; and

15 “(2) be available under open licenses.

16 “(c) *OPEN LICENSE OR WORLDWIDE PUBLIC DOMAIN*
 17 *DEDICATION REQUIRED.*—When not otherwise prohibited
 18 by law, and to the extent practicable, Government data as-
 19 sets published by or for an agency shall be made available
 20 under an open license or, if not made available under an
 21 open license and appropriately released, shall be considered
 22 to be published as part of the worldwide public domain.

23 “(d) *INNOVATION.*—Each agency may engage with
 24 nongovernmental organizations, citizens, non-profit organi-
 25 zations, colleges and universities, private and public com-
 26 panies, and other agencies to explore opportunities to lever-

1 *age the agency’s public data asset in a manner that may*
 2 *provide new opportunities for innovation in the public and*
 3 *private sectors in accordance with law and regulation.”.*

4 (b) *TECHNICAL AND CONFORMING AMENDMENT.—The*
 5 *table of sections for subchapter I of chapter 35 of title 44,*
 6 *United States Code, is amended by inserting after the item*
 7 *relating to section 3521 the following:*

“3522. Requirements for Government data.”.

8 (c) *EFFECTIVE DATE.—Notwithstanding section 11,*
 9 *the amendments made by subsections (a) and (b) shall take*
 10 *effect on the date that is 1 year after the date of enactment*
 11 *of this Act and shall apply with respect to any contract*
 12 *entered into by an agency on or after such effective date.*

13 (d) *USE OF OPEN DATA ASSETS.—Not later than 1*
 14 *year after the date of enactment of this Act, the head of*
 15 *each agency shall ensure that any activities by the agency*
 16 *or any new contract entered into by the agency meet the*
 17 *requirements of section 3522 of title 44, United States Code,*
 18 *as added by subsection (a).*

19 **SEC. 6. RESPONSIBILITIES OF THE OFFICE OF ELECTRONIC**
 20 **GOVERNMENT.**

21 (a) *COORDINATION OF FEDERAL INFORMATION RE-*
 22 *SOURCES MANAGEMENT POLICY.—Section 3503 of title 44,*
 23 *United States Code, is amended by adding at the end the*
 24 *following:*

1 “(c) *COORDINATION OF FEDERAL INFORMATION RE-*
2 *SOURCES MANAGEMENT POLICY.*—*The Federal Chief Infor-*
3 *mation Officer shall work in coordination with the Admin-*
4 *istrator of the Office of Information and Regulatory Affairs*
5 *and with the heads of other offices within the Office of Man-*
6 *agement and Budget to oversee and advise the Director on*
7 *Federal information resources management policy.*”.

8 (b) *AUTHORITY AND FUNCTIONS OF DIRECTOR.*—*Sec-*
9 *tion 3504(h) of title 44, United States Code, is amended—*

10 (1) *in paragraph (1), by inserting “, the Federal*
11 *Chief Information Officer,” after “the Director of the*
12 *National Institute of Standards and Technology”;*

13 (2) *in paragraph (4)—*

14 (A) *in subparagraph (A), by striking “;*
15 *and” and inserting a semicolon; and*

16 (B) *by adding at the end the following:*

17 “(C) *oversee the completeness of the Enter-*
18 *prise Data Inventory and the extent to which the*
19 *agency is making all data collected and gen-*
20 *erated by the agency available to the public in*
21 *accordance with section 3523;”;*

22 (3) *in paragraph (5), by striking the period at*
23 *the end and inserting “; and”;* and

24 (4) *by adding at the end the following:*

1 “(6) coordinate the development and review of
2 *Federal information resources management policy by*
3 *the Administrator of the Office of Information and*
4 *Regulatory Affairs and the Federal Chief Information*
5 *Officer.”.*

6 (c) *CHANGE OF NAME OF THE OFFICE OF ELECTRONIC*
7 *GOVERNMENT.—*

8 (1) *DEFINITIONS.—Section 3601 of title 44,*
9 *United States Code, is amended—*

10 (A) *by striking paragraph (1);*

11 (B) *by redesignating paragraphs (2)*
12 *through (4) as paragraphs (1) through (3), re-*
13 *spectively; and*

14 (C) *by inserting after paragraph (3), as so*
15 *redesignated, the following:*

16 “(4) ‘*Federal Chief Information Officer*’ means
17 *the Federal Chief Information Officer of the Office of*
18 *the Federal Chief Information Officer established*
19 *under section 3602;”.*

20 (2) *OFFICE OF THE FEDERAL CHIEF INFORMA-*
21 *TION OFFICER.—Section 3602 of title 44, United*
22 *States Code, is amended—*

23 (A) *in the heading, by striking “Elec-*
24 *tronic Government” and inserting “the*
25 *Federal Chief Information Officer”;*

1 (B) in subsection (a), by striking “Office of
2 Electronic Government” and inserting “Office of
3 the Federal Chief Information Officer”;

4 (C) in subsection (b), by striking “an Ad-
5 ministrator” and inserting “a Federal Chief In-
6 formation Officer”;

7 (D) in subsection (c), by striking “The Ad-
8 ministrator” and inserting “The Federal Chief
9 Information Officer”;

10 (E) in subsection (d), by striking “The Ad-
11 ministrator” and inserting “The Federal Chief
12 Information Officer”;

13 (F) in subsection (e), by striking “The Ad-
14 ministrator” and inserting “The Federal Chief
15 Information Officer”;

16 (G) in subsection (f)—

17 (i) in the matter preceding paragraph
18 (1), by striking “the Administrator shall”
19 and inserting “the Federal Chief Informa-
20 tion Officer shall”; and

21 (ii) in paragraph (16), by striking
22 “the Office of Electronic Government” and
23 inserting “the Office of the Federal Chief
24 Information Officer”; and

1 (H) in subsection (g), by striking “the Of-
2 fice of Electronic Government” and inserting
3 “the Office of the Federal Chief Information Offi-
4 cer”.

5 (3) CHIEF INFORMATION OFFICERS COUNCIL.—
6 Section 3603 of title 44, United States Code, is
7 amended—

8 (A) in subsection (b)(2), by striking “The
9 Administrator of the Office of Electronic Govern-
10 ment” and inserting “The Federal Chief Infor-
11 mation Officer”;

12 (B) in subsection (c)(1), by striking “The
13 Administrator of the Office of Electronic Govern-
14 ment” and inserting “The Federal Chief Infor-
15 mation Officer”; and

16 (C) in subsection (f)(3), by striking “the
17 Administrator” and inserting “the Federal Chief
18 Information Officer”.

19 (4) E-GOVERNMENT FUND.—Section 3604 of
20 title 44, United States Code, is amended—

21 (A) in subsection (a)(2), by striking “the
22 Administrator of the Office of Electronic Govern-
23 ment” and inserting “the Federal Chief Informa-
24 tion Officer”;

1 (B) in subsection (b), by striking “Adminis-
2 trator” each place it appears and inserting
3 “Federal Chief Information Officer”; and

4 (C) in subsection (c), by striking “the Ad-
5 ministratoꝛ” and inserting “the Federal Chief
6 Information Officer”.

7 (5) PROGRAM TO ENCOURAGE INNOVATIVE SOLU-
8 TIONS TO ENHANCE ELECTRONIC GOVERNMENT SERV-
9 ICES AND PROCESSES.—Section 3605 of title 44,
10 United States Code, is amended—

11 (A) in subsection (a), by striking “The Ad-
12 ministratoꝛ” and inserting “The Federal Chief
13 Information Officer”;

14 (B) in subsection (b), by striking “, the Ad-
15 ministratoꝛ,” and inserting “, the Federal Chief
16 Information Officer,”; and

17 (C) in subsection (c)—

18 (i) in paragraph (1)—

19 (I) by striking “The Adminis-
20 trator” and inserting “The Federal
21 Chief Information Officer”; and

22 (II) by striking “proposals sub-
23 mitted to the Administrator” and in-
24 serting “proposals submitted to the
25 Federal Chief Information Officer”;

1 (ii) in paragraph (2), by striking “the
2 Administrator” and inserting “the Federal
3 Chief Information Officer”; and

4 (iii) in paragraph (4), by striking “the
5 Administrator” and inserting “the Federal
6 Chief Information Officer”.

7 (6) *TECHNICAL AND CONFORMING AMEND-*
8 *MENTS.—*

9 (A) *TABLE OF SECTIONS.—*The table of sec-
10 tions for chapter 36 of title 44, United States
11 Code, is amended by striking the item relating to
12 section 3602 and inserting the following:

“3602. *Office of the Federal Chief Information Officer.*”.

13 (B) *POSITIONS AT LEVEL III.—*Section 5314
14 of title 5, United States Code, is amended by
15 striking “Administrator of the Office of Elec-
16 tronic Government” and inserting “Federal
17 Chief Information Officer”.

18 (C) *OFFICE OF ELECTRONIC GOVERN-*
19 *MENT.—*Section 507 of title 31, United States
20 Code, is amended by striking “The Office of
21 Electronic Government” and inserting “The Of-
22 fice of the Federal Chief Information Officer”.

23 (D) *ELECTRONIC GOVERNMENT AND INFOR-*
24 *MATION TECHNOLOGIES.—*Section 305 of title 40,
25 United States Code, is amended by striking “Ad-

1 *administrator of the Office of Electronic Govern-*
2 *ment” and inserting “Federal Chief Information*
3 *Officer”.*

4 (E) *CAPITAL PLANNING AND INVESTMENT*
5 *CONTROL.—Section 11302(c)(4) of title 40,*
6 *United States Code, is amended by striking “Ad-*
7 *ministrator of the Office of Electronic Govern-*
8 *ment” each place it appears and inserting “Fed-*
9 *eral Chief Information Officer”.*

10 (F) *RESOURCES, PLANNING, AND PORTFOLIO*
11 *MANAGEMENT.—The second subsection (c) of sec-*
12 *tion 11319 of title 40, United States Code, is*
13 *amended by striking “Administrator of the Office*
14 *of Electronic Government” each place it appears*
15 *and inserting “Federal Chief Information Offi-*
16 *cer”.*

17 (G) *ADDITIONAL TECHNICAL AND CON-*
18 *FORMING AMENDMENTS.—*

19 (i) *Section 2222(i)(6) of title 10,*
20 *United States Code, is amended by striking*
21 *“section 3601(4)” and inserting “section*
22 *3601(3)”.*

23 (ii) *Section 506D(k)(1) of the National*
24 *Security Act of 1947 (50 U.S.C. 3100(k)(1))*

1 is amended by striking “section 3601(4)”
2 and inserting “section 3601(3)”.

3 (7) *RULE OF CONSTRUCTION.*—The amendments
4 made by this subsection are for the purpose of chang-
5 ing the name of the Office of Electronic Government
6 and the Administrator of such office and shall not be
7 construed to affect any of the substantive provisions
8 of the provisions amended or to require a new ap-
9 pointment by the President.

10 **SEC. 7. DATA INVENTORY AND PLANNING.**

11 (a) *ENTERPRISE DATA INVENTORY.*—

12 (1) *AMENDMENT.*—Subchapter I of chapter 35 of
13 title 44, United States Code, as amended by section
14 5, is amended by adding at the end the following:

15 **“§ 3523. Enterprise data inventory**

16 “(a) *AGENCY DATA INVENTORY REQUIRED.*—

17 “(1) *IN GENERAL.*—In order to develop a clear
18 and comprehensive understanding of the data assets
19 in the possession of an agency, the head of each agen-
20 cy, in consultation with the Director of the Office of
21 Management and Budget, shall develop and maintain
22 an enterprise data inventory (in this section referred
23 to as the ‘Enterprise Data Inventory’) that accounts
24 for any data asset created, collected, under the control
25 or direction of, or maintained by the agency after the

1 *effective date of this section, with the ultimate goal of*
2 *including all data assets, to the extent practicable.*

3 “(2) *CONTENTS.—The Enterprise Data Inven-*
4 *tory shall include each of the following:*

5 “(A) *Data assets used in agency informa-*
6 *tion systems, including program administration,*
7 *statistical, and financial activity.*

8 “(B) *Data assets shared or maintained*
9 *across agency programs and bureaus.*

10 “(C) *Data assets that are shared among*
11 *agencies or created by more than 1 agency.*

12 “(D) *A clear indication of all data assets*
13 *that can be made publicly available under sec-*
14 *tion 552 of title 5 (commonly referred to as the*
15 *‘Freedom of Information Act’).*

16 “(E) *A description of whether the agency*
17 *has determined that an individual data asset*
18 *may be made publicly available and whether the*
19 *data asset is currently available to the public.*

20 “(F) *Non-public data assets.*

21 “(G) *Government data assets generated by*
22 *applications, devices, networks, and equipment,*
23 *categorized by source type.*

24 “(b) *PUBLIC AVAILABILITY.—The Chief Information*
25 *Officer of each agency shall use the guidance provided by*

1 *the Director issued pursuant to section 3504(a)(1)(C)(ii) to*
2 *make public data assets included in the Enterprise Data*
3 *Inventory publicly available in an open format and under*
4 *an open license.*

5 “(c) *NON-PUBLIC DATA.*—*Non-public data included in*
6 *the Enterprise Data Inventory may be maintained in a*
7 *non-public section of the inventory.*

8 “(d) *AVAILABILITY OF ENTERPRISE DATA INVEN-*
9 *TORY.*—*The Chief Information Officer of each agency—*

10 “(1) *shall make the Enterprise Data Inventory*
11 *available to the public on Data.gov;*

12 “(2) *shall ensure that access to the Enterprise*
13 *Data Inventory and the data contained therein is*
14 *consistent with applicable law and regulation; and*

15 “(3) *may implement paragraph (1) in a manner*
16 *that maintains a non-public portion of the Enterprise*
17 *Data Inventory.*

18 “(e) *REGULAR UPDATES REQUIRED.*—*The Chief In-*
19 *formation Officer of each agency shall—*

20 “(1) *to the extent practicable, complete the En-*
21 *terprise Data Inventory for the agency not later than*
22 *1 year after the date of enactment of this section; and*

23 “(2) *add additional data assets to the Enterprise*
24 *Data Inventory for the agency not later than 90 days*

1 *after the date on which the data asset is created or*
 2 *identified.*

3 “(f) *USE OF EXISTING RESOURCES.*—When prac-
 4 *ticable, the Chief Information Officer of each agency shall*
 5 *use existing procedures and systems to compile and publish*
 6 *the Enterprise Data Inventory for the agency.”.*

7 (2) *TECHNICAL AND CONFORMING AMEND-*
 8 *MENT.*—The table of sections for subchapter I of chap-
 9 *ter 35 of title 44, United States Code, as amended by*
 10 *section 5, is amended by inserting after the item re-*
 11 *lating to section 3522 the following:*

 “3523. *Enterprise data inventory.*”.

12 (b) *STANDARDS FOR ENTERPRISE DATA INVEN-*
 13 *TORY.*—Section 3504(a)(1) of title 44, United States Code,
 14 *is amended—*

15 (1) *in subparagraph (A), by striking “; and”*
 16 *and inserting a semicolon;*

17 (2) *in subparagraph (B)(vi), by striking the pe-*
 18 *riod at the end and inserting “; and”; and*

19 (3) *by adding at the end the following:*

20 “(C) *issue standards for the Enterprise Data In-*
 21 *ventory described in section 3523, including—*

22 “(i) *a requirement that the Enterprise Data*
 23 *Inventory include a compilation of metadata*
 24 *about agency data assets; and*

1 “(ii) criteria that the head of each agency
2 shall use in determining whether to make a par-
3 ticular data asset publicly available in a man-
4 ner that takes into account—

5 “(I) the expectation of confidentiality
6 associated with an individual data asset;

7 “(II) security considerations, including
8 the risk that information in an individual
9 data asset in isolation does not pose a secu-
10 rity risk but when combined with other
11 available information may pose such a risk;

12 “(III) the cost and value to the public
13 of converting the data into a manner that
14 could be understood and used by the public;

15 “(IV) the expectation that all data as-
16 sets that would otherwise be made available
17 under section 552 of title 5 (commonly re-
18 ferred to as the ‘Freedom of Information
19 Act’) be disclosed; and

20 “(V) any other considerations that the
21 Director determines to be relevant.”.

22 (c) *FEDERAL AGENCY RESPONSIBILITIES.*—Section
23 3506 of title 44, United States Code, is amended—

24 (1) in subsection (b)—

1 (A) in paragraph (1)(C), by striking “secu-
2 rity;” and inserting the following: “security by—

3 “(i) using open format for any new
4 Government data asset created or obtained
5 on the date that is 1 year after the date of
6 enactment of this clause; and

7 “(ii) to the extent practicable, encour-
8 aging the adoption of open form for all open
9 Government data created or obtained before
10 the date of enactment of this clause;”.

11 (B) in paragraph (4), by striking “sub-
12 chapter; and” and inserting “subchapter and a
13 review of each agency’s Enterprise Data Inven-
14 tory described in section 3523;”;

15 (C) in paragraph (5), by striking the period
16 at the end and inserting “; and”; and

17 (D) by adding at the end the following:

18 “(6) in consultation with the Director, develop
19 an open data plan as a part of the requirement for
20 a strategic information resources management plan
21 described in paragraph (2) that, at a minimum and
22 to the extent practicable—

23 “(A) requires the agency to develop proc-
24 esses and procedures that—

1 “(i) require each new data collection
2 mechanism to use an open format; and

3 “(ii) allow the agency to collaborate
4 with non-Government entities, researchers,
5 businesses, and private citizens for the pur-
6 pose of understanding how data users value
7 and use open Government data;

8 “(B) identifies and implements methods for
9 collecting and analyzing digital information on
10 data asset usage by users within and outside of
11 the agency, including designating a point of con-
12 tact within the agency to assist the public and
13 to respond to quality issues, usability, rec-
14 ommendations for improvements, and complaints
15 about adherence to open data requirements in
16 accordance with subsection (d)(2);

17 “(C) develops and implements a process to
18 evaluate and improve the timeliness, complete-
19 ness, accuracy, usefulness, and availability of
20 open Government data;

21 “(D) requires the agency to update the plan
22 at an interval determined by the Director;

23 “(E) includes requirements for meeting the
24 goals of the agency open data plan including
25 technology, training for employees, and imple-

1 *menting procurement standards, in accordance*
2 *with existing law, that allow for the acquisition*
3 *of innovative solutions from the public and pri-*
4 *vate sector; and*

5 *“(F) prohibits the dissemination and acci-*
6 *idental disclosure of nonpublic data assets.”;*

7 (2) *in subsection (c), by striking “With respect*
8 *to” and inserting “Except as provided under sub-*
9 *section (j), with respect to”;*

10 (3) *in subsection (d)—*

11 *(A) in the matter preceding paragraph (1),*
12 *by striking “shall”;*

13 *(B) in paragraph (1)—*

14 *(i) in the matter preceding subpara-*
15 *graph (A), by inserting “shall” before “en-*
16 *sure”;*

17 *(ii) in subparagraph (A), by striking*
18 *“sources” and inserting “sources and uses”;*
19 *and*

20 *(iii) in subparagraph (C), by inserting*
21 *“, including providing access to open Gov-*
22 *ernment data online” after “economical*
23 *manner”;*

24 *(C) in paragraph (2), by inserting “shall”*
25 *before “regularly”;*

1 (D) in paragraph (3)—

2 (i) by inserting “shall” before “pro-
3 vide”; and

4 (ii) by striking “; and” and inserting
5 a semicolon;

6 (E) in paragraph (4)—

7 (i) in the matter preceding subpara-
8 graph (A), by inserting “may” before “not”;
9 and

10 (ii) by striking the period at the end
11 and inserting a semicolon; and

12 (F) by adding at the end the following:

13 “(5) shall take the necessary precautions to en-
14 sure that the agency maintains the production and
15 publication of data assets which are directly related
16 to activities that protect the safety of human life or
17 property, as identified by the open data plan of the
18 agency required by subsection (b)(6); and

19 “(6) may engage the public in using open Gov-
20 ernment data and encourage collaboration by—

21 “(A) publishing information on open Gov-
22 ernment data usage in regular, timely intervals,
23 but not less than annually;

1 “(B) receiving public input regarding pri-
2 orities for the analysis and disclosure of data as-
3 sets to be published;

4 “(C) assisting civil society groups and
5 members of the public working to expand the use
6 of open Government data; and

7 “(D) hosting challenges, competitions,
8 events, or other initiatives designed to create ad-
9 ditional value from open Government data.”;
10 and

11 (4) by adding at the end the following:

12 “(j) *COLLECTION OF INFORMATION EXCEPTION.*—Not-
13 withstanding subsection (c), an agency is not required to
14 meet the requirements of paragraphs (2) and (3) of such
15 subsection if—

16 “(1) the waiver of those requirements is approved
17 by the head of the agency;

18 “(2) the collection of information is—

19 “(A) online and electronic;

20 “(B) voluntary and there is no perceived or
21 actual tangible benefit to the provider of the in-
22 formation;

23 “(C) of an extremely low burden that is
24 typically completed in 5 minutes or less; and

1 “(D) focused on gathering input about the
2 performance of, or public satisfaction with, an
3 agency providing service; and

4 “(3) the agency publishes representative sum-
5 maries of the collection of information under sub-
6 section (c).”.

7 (d) *REPOSITORY*.—The Director of the Office of Man-
8 agement and Budget shall collaborate with the Office of
9 Government Information Services and the Administrator of
10 General Services to develop and maintain an online reposi-
11 tory of tools, best practices, and schema standards to facili-
12 tate the adoption of open data practices. The repository
13 shall—

14 (1) include definitions, regulation and policy,
15 checklists, and case studies related to open data, this
16 Act, and the amendments made by this Act; and

17 (2) facilitate collaboration and the adoption of
18 best practices across the Federal Government relating
19 to the adoption of open data practices.

20 (e) *SYSTEMATIC AGENCY REVIEW OF OPERATIONS*.—
21 Section 305 of title 5, United States Code, is amended—

22 (1) in subsection (b), by adding at the end the
23 following: “To the extent practicable, each agency
24 shall use existing data to support such reviews if the
25 data is accurate and complete.”;

1 (2) *in subsection (c)—*

2 (A) *by redesignating paragraphs (2) and*

3 (3) *as paragraphs (3) and (4), respectively; and*

4 (B) *by inserting after paragraph (1) the fol-*
5 *lowing:*

6 “(2) *determining the status of achieving the mis-*
7 *sion, goals, and objectives of the agency as described*
8 *in the strategic plan of the agency published pursuant*
9 *to section 306;”;* and

10 (3) *by adding at the end the following:*

11 “(d) *OPEN DATA COMPLIANCE REPORT.—Not later*
12 *than 1 year after the date of enactment of this subsection,*
13 *and every 2 years thereafter, the Director of the Office of*
14 *Management and Budget shall electronically publish a re-*
15 *port on agency performance and compliance with the Open,*
16 *Public, Electronic, and Necessary Government Data Act*
17 *and the amendments made by that Act.”.*

18 (f) *GAO REPORT.—Not later than 3 years after the*
19 *date of enactment of this Act, the Comptroller General of*
20 *the United States shall submit to the Committee on Home-*
21 *land Security and Governmental Affairs of the Senate and*
22 *the Committee on Oversight and Government Reform of the*
23 *House of Representatives a report that identifies—*

1 (1) *the value of information made available to*
 2 *the public as a result of this Act and the amendments*
 3 *made by this Act;*

4 (2) *whether it is valuable to expand the publicly*
 5 *available information to any other data assets; and*

6 (3) *the completeness of the Enterprise Data In-*
 7 *ventory at each agency required under section 3523 of*
 8 *title 44, United States Code, as added by this section.*

9 **SEC. 8. TECHNOLOGY PORTAL.**

10 (a) *AMENDMENT.*—*Subchapter I of chapter 35 of title*
 11 *44, United States Code, is amended by inserting after sec-*
 12 *tion 3511 the following:*

13 **“§ 3511A. Technology portal**

14 “(a) *DATA.GOV REQUIRED.*—*The Administrator of*
 15 *General Services shall maintain a single public interface*
 16 *online as a point of entry dedicated to sharing open Gov-*
 17 *ernment data with the public.*

18 “(b) *COORDINATION WITH AGENCIES.*—*The Director*
 19 *of the Office of Management and Budget shall determine,*
 20 *after consultation with the head of each agency and the Ad-*
 21 *ministrator of General Services, the method to access any*
 22 *open Government data published through the interface de-*
 23 *scribed in subsection (a).”.*

24 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*The*
 25 *table of sections for subchapter I of chapter 35 of title 44,*

1 *United States Code, as amended by this Act, is amended*
 2 *by inserting after the item relating to section 3511 the fol-*
 3 *lowing:*

“3511A. Technology portal.”.

4 *(c) DEADLINE.—Not later than 180 days after the date*
 5 *of enactment of this Act, the Administrator of General Serv-*
 6 *ices shall meet the requirements of section 3511A(a) of title*
 7 *44, United States Code, as added by subsection (a).*

8 **SEC. 9. ENHANCED RESPONSIBILITIES FOR CHIEF INFOR-**
 9 **MATION OFFICERS AND CHIEF INFORMATION**
 10 **OFFICERS COUNCIL DUTIES.**

11 *(a) AGENCY CHIEF INFORMATION OFFICER GENERAL*
 12 *RESPONSIBILITIES.—*

13 *(1) GENERAL RESPONSIBILITIES.—Section*
 14 *11315(b) of title 40, United States Code, is amend-*
 15 *ed—*

16 *(A) in paragraph (2), by striking “; and”*
 17 *and inserting a semicolon;*

18 *(B) in paragraph (3), by striking the period*
 19 *at the end and inserting a semicolon; and*

20 *(C) by adding at the end the following:*

21 *“(4) data asset management, format standard-*
 22 *ization, sharing of data assets, and publication of*
 23 *data assets;*

1 “(5) the compilation and publication of the En-
2 terprise Data Inventory for the agency required under
3 section 3523 of title 44;

4 “(6) ensuring that agency data conforms with
5 open data best practices;

6 “(7) ensuring compliance with the requirements
7 of subsections (b), (c), (d), and (f) of section 3506 of
8 title 44;

9 “(8) engaging agency employees, the public, and
10 contractors in using open Government data and en-
11 courage collaborative approaches to improving data
12 use;

13 “(9) supporting the agency Performance Im-
14 provement Officer in generating data to support the
15 function of the Performance Improvement Officer de-
16 scribed in section 1124(a)(2) of title 31;

17 “(10) reviewing the information technology in-
18 frastructure of the agency and the impact of such in-
19 frastructure on making data assets accessible to re-
20 duce barriers that inhibit data asset accessibility;

21 “(11) ensuring that, to the extent practicable, the
22 agency is maximizing its own use of data, including
23 data generated by applications, devices, networks, and
24 equipment owned by the Government and such use is
25 not otherwise prohibited, to reduce costs, improve op-

1 *erations, and strengthen security and privacy protec-*
 2 *tions; and*

3 *“(12) identifying points of contact for roles and*
 4 *responsibilities related to open data use and imple-*
 5 *mentation as required by the Director of the Office of*
 6 *Management and Budget.”.*

7 *(2) ADDITIONAL DEFINITIONS.—Section 11315 of*
 8 *title 40, United States Code, is amended by adding*
 9 *at the end the following:*

10 *“(d) ADDITIONAL DEFINITIONS.—In this section, the*
 11 *terms ‘data’, ‘data asset’, ‘Enterprise Data Inventory’, and*
 12 *‘open Government data’ have the meanings given those*
 13 *terms in section 3502 of title 44.”.*

14 *(b) AMENDMENT.—Section 3603(f) of title 44, United*
 15 *States Code, is amended by adding at the end the following:*

16 *“(8) Work with the Office of Government Infor-*
 17 *mation Services and the Director of the Office of*
 18 *Science and Technology Policy to promote data inter-*
 19 *operability and comparability of data assets across*
 20 *the Government.”.*

21 **SEC. 10. EVALUATION OF AGENCY ANALYTICAL CAPABILI-**
 22 **TIES.**

23 *(a) AGENCY REVIEW OF EVALUATION AND ANALYSIS*
 24 *CAPABILITIES; REPORT.—Not later than 3 years after the*
 25 *date of enactment of this Act, the Chief Operating Officer*

1 of each agency shall submit to the Committee on Homeland
2 Security and Governmental Affairs of the Senate, the Com-
3 mittee on Oversight and Government Reform of the House
4 of Representatives, and the Director of the Office of Manage-
5 ment and Budget a report on the review described in sub-
6 section (b).

7 (b) *REQUIREMENTS OF AGENCY REVIEW.*—The report
8 required under subsection (a) shall assess the coverage, qual-
9 ity, methods, effectiveness, and independence of the agency’s
10 evaluation research and analysis efforts, including each of
11 the following:

12 (1) A list of the activities and operations of the
13 agency that are being evaluated and analyzed and the
14 activities and operations that have been evaluated
15 and analyzed during the previous 5 years.

16 (2) The extent to which the evaluations research
17 and analysis efforts and related activities of the agen-
18 cy support the needs of various divisions within the
19 agency.

20 (3) The extent to which the evaluation research
21 and analysis efforts and related activities of the agen-
22 cy address an appropriate balance between needs re-
23 lated to organizational learning, ongoing program
24 management, performance management, strategic
25 management, interagency and private sector coordi-

1 *nation, internal and external oversight, and account-*
2 *ability.*

3 (4) *The extent to which the agency uses methods*
4 *and combinations of methods that are appropriate to*
5 *agency divisions and the corresponding research ques-*
6 *tions being addressed, including an appropriate com-*
7 *bination of formative and summative evaluation re-*
8 *search and analysis approaches.*

9 (5) *The extent to which evaluation and research*
10 *capacity is present within the agency to include per-*
11 *sonnel, agency process for planning and imple-*
12 *menting evaluation activities, disseminating best*
13 *practices and findings, and incorporating employee*
14 *views and feedback.*

15 (6) *The extent to which the agency has the ca-*
16 *capacity to assist front-line staff and program offices to*
17 *develop the capacity to use evaluation research and*
18 *analysis approaches and data in the day-to-day oper-*
19 *ations.*

20 (c) *GAO REVIEW OF AGENCY REPORTS.*—*Not later*
21 *than 4 years after the date of enactment of this Act, the*
22 *Comptroller General of the United States shall submit to*
23 *Congress a report that summarizes agency findings and*
24 *highlights trends from the reports submitted pursuant to*
25 *subsection (a) and, if appropriate, recommends actions to*

1 *further improve agency capacity to use evaluation tech-*
2 *niques and data to support evaluation efforts.*

3 **SEC. 11. EFFECTIVE DATE.**

4 *This Act, and the amendments made by this Act, shall*
5 *take effect on the date that is 180 days after the date of*
6 *enactment of this Act.*

Calendar No. 718

114TH CONGRESS
2^D SESSION

S. 2852

[Report No. 114-396]

A BILL

To expand the Government's use and administration of data to facilitate transparency, effective governance, and innovation, and for other purposes.

DECEMBER 8, 2016

Reported with an amendment