

OMB Releases OPEN Government Data Act Guidance

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On January 15, 2025, the Office of Management and Budget (OMB) released [Memorandum M-25-05](#), which contains long-awaited implementation guidance for the Open, Public, Electronic, and Necessary Government Data Act ([OPEN Government Data Act](#), P.L. 115-435, Title II), which was enacted six years earlier in January 2019. Issued in the final days of the Biden Administration, M-25-05 remains in effect.

The law generally requires that agency data assets be inventoried, formatted, and presented for the public's access and use through a federal data catalogue. The law expands on the requirement in the Freedom of Information Act (FOIA, 5 U.S.C. §552) for agencies to make electronic copies of previously released records more broadly available for public inspection. Building on existing OMB roles and responsibilities for information resources management, M-25-05 rescinds and replaces [Memorandum M-13-13, Open Data Policy—Managing Information as an Asset](#). M-25-05 requires agencies, as part of their data governance process, to describe the processes and criteria they use to identify priority data assets to make available as well as information on how the public can request them.

Given the statutory requirement for OMB's guidance to "make data open by default," Congress may wish to assess whether the guidance appropriately balances the availability of information against certain privacy and security risks.

What Is Access?

In practice, the concept of information access is multidimensional. Access may mean increasing the volume of available information and the variety of formats in which the information is presented. For example, the FOIA Improvement Act of 2016 (P.L. 114-185) amended FOIA to require the proactive disclosure of information in a public and electronically accessible format and mandated the creation of an electronic portal of requested information, among other changes. To these ends, M-25-05 requires agencies to manage their data assets in specific formats and with descriptive metadata elements and provides guidance on determining their level of public availability through the federal data catalogue or upon request.

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Cataloging Data Assets

Consistent with [statute](#), M-25-05 requires agencies to develop and maintain a comprehensive data inventory (CDI) “that accounts for all data assets created by, collected by, under the control or direction of, or maintained by the agency.” Statute defines [data asset](#) as “a collection of data elements or data sets that may be grouped together.” M-25-05 stipulates that to qualify as a data asset, the information must be composed of [structured or semi-structured data](#) and be logically grouped by similar characteristics, functions, or purposes. Further, M-25-05 clarifies that the definition is [intentionally broad](#): “a database procured through a contract may be a data asset subject to the requirements of this guidance, even if the contents of the database are owned by a private party.”

Agency CDIs are generally required to be published on the [federal data catalogue](#) as well as at agency websites at the address [www.\[agency\].gov/data.json](#), but agencies may [redact portions](#) of their CDIs pursuant to FOIA. The CDIs are required to provide specific descriptive [metadata elements](#) for each data asset, including the name and description of the data asset, the names and definitions of the included variables, the date it was added to the CDI, when it was posted and/or updated, and security and privacy categorizations describing the availability, use, and levels of access to the data asset.

Levels of Access

Although CDIs are to assess and categorize all of an agency’s data assets, both law and guidance stipulate that a data asset’s itemization does not necessarily mean that the data asset can be made publicly available. OMB [explains that](#) the federal data catalogue “will be a central source for the public and other agencies to discover agency data assets that have not been and may never be disseminated.” Further, [the federal data catalogue](#) “does not host or maintain any data assets directly; rather it provides a centralized point of entry to discover government data assets.” In this way, the federal data catalogue may serve as a resource for other agencies seeking to leverage or reuse existing resources.

Statute specifies that [public data assets](#) are data assets maintained by the federal government that have been or may be released to the public—subject to FOIA’s disclosure exemptions. M-25-05 [further explains](#) how agencies are to apply FOIA in this context: Agencies should not withhold data assets “simply because a FOIA exemption *could* apply; they should only exclude them if the agency would *in fact* choose to withhold them under FOIA.” In other words, the memorandum requires agencies to assess each data asset for its potential availability under FOIA.

The memorandum provides for [two types of public data asset availability](#): those that are available through links on the federal data catalogue and those that are available upon request. M-25-05 explains that while many public data assets will be available through the federal data catalogue, “they may not be available there immediately or on a timeline that meets the needs of the requester” and that members of the public can continue to request access to agency data assets through FOIA. Public data assets may still be provided [upon request to researchers](#) or with adequate [disclosure limitation techniques](#) applied.

Issues for Congress

In the [accompanying report](#) to the OPEN Government Data Act, the House emphasized a default of openness, “meaning government data should be available to and usable by the public to the greatest extent possible.” Congress might consider the extent to which agencies balance these interests:

- **Preserve data assets for public use.** Because the federal data catalogue does not itself host agency data assets, could data assets disappear from public view as agency websites change over time or between Administrations? How will agencies balance the public’s need for up-to-date information against the utility of historical information for research

- through versioning? How does this guidance interact with existing agency [records management](#) responsibilities?
- **Appropriately disseminate data assets.** Agencies may vary in terms of their understanding of FOIA exemptions and inclusion of [purchased data](#) in the federal data catalogue. How will OMB monitor implementation of M-25-05 for consistency?

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