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# Data.gov: Implementation and Perspectives on Its Functions

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## Data.gov: Implementation and Perspectives on Its Functions

Over many decades, Congress has legislated policies to provide federal data to different types of users for a variety of purposes or “use cases.” From constituents seeking to learn more about the functions of their representative government to researchers seeking authoritative data for ongoing work, Data.gov is the latest effort in a series of initiatives addressing ongoing debates about how the public may access government data.

Through administrative initiatives beginning in 2009 and implementation of the Open, Public, Electronic, and Necessary Government Data Act (OPEN Government Data Act; P.L. 115-435, Title II) from 2019 to the present, Data.gov has operated primarily as a *directory* to certain kinds of government-held information. The General Services Administration administers Data.gov’s day-to-day operations, while the Office of Management and Budget (OMB) effectively exercises control over the website’s implementation and develops related guidance for agencies. Data.gov hosts the federal data catalog, which lists information about many agency data assets and provides means to access some of them. However, Data.gov does not typically serve as a repository for the underlying data assets themselves; rather, it is characterized in law as “a single public interface online as a point of entry” that directs users to data assets hosted elsewhere, such as on individual agency websites.

The OPEN Government Data Act defines *data* as “recorded information” and *data asset* as “a collection of data elements or data sets that may be grouped together.” However, OMB’s definition from implementation guidance in Memorandum M-25-05 interpreted the act’s definition of the term *data asset* more narrowly to mean data that are both *structured* (e.g., organized into columns and rows and a database of digital images) and *logically grouped* (e.g., with a shared function or purpose). These definitions and others contained in the statute may permit agencies a level of discretion in determining which data assets are included and which are excluded from Data.gov’s federal data catalog. The OPEN Government Data Act differs markedly from previous administrative and legislative efforts to make federal data available to the public in that it requires agencies to use the statutory framework for data access built by the Freedom of Information Act (FOIA) to determine which data should be included and made available on Data.gov.

In many ways, Data.gov is situated at a nexus of different perspectives and competing priorities seeking to influence policy on how to make federal data available. Policymakers and stakeholders have variously emphasized different aspects of information policy, and Congress may continue to weigh in on what aspects the federal government should value. These considerations include how long data should be kept, what types of data should be stored (and in what formats), whether and how data should be made more available or secure, who should gain access to data and when, and what type and quality of data should be applied for particular purposes.

This report provides an overview of the operations of Data.gov, including how they continue to be influenced by past administrative decisions. It also discusses six perspectives toward information availability that continue to influence Data.gov’s operations and poses questions raised by each viewpoint that policymakers might consider regarding the website’s present and future development. The report then examines several related issues that Congress may wish to consider. These include the ability of Data.gov to serve varied audiences, transparency of data asset inclusion and reporting procedures, and the persistence of data access over time. Lastly, the report discusses debates regarding whether Data.gov, as home of the federal data catalog, should function as either a registry for locating data or a repository for hosting federal data.

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Over many decades, Congress has legislated policies to provide federal data to different types of users and for a variety of purposes or “use cases.” From constituents seeking to learn more about the functions of their government to researchers seeking authoritative data for ongoing work, Data.gov is the latest in a long series of initiatives to revisit the design of government institutions and ongoing debates about how the public may access government data.

Throughout Data.gov’s development and implementation, groups of stakeholders and data users have envisioned its functions and its role in the information availability landscape differently: Should Data.gov be a registry for locating data or a repository for hosting federal data overall? Should Data.gov prioritize discoverability of data to new users, or should it emphasize providing granular data to meet needs of sophisticated researchers? In addition, should Data.gov be viewed as the primary point of entry to federal data, or should it serve as one means of accessing federal data among many others?

The General Services Administration (GSA) operates Data.gov and has characterized it as

the United States government’s open data website. It provides access to datasets published by agencies across the federal government. Data.gov is intended to provide access to government open data to the public, achieve agency missions, drive innovation, fuel economic activity, and uphold the ideals of an open and transparent government.<sup>1</sup>

Data.gov functions as the host of the federal data catalog that lists information about many agency data assets and provides means to access some of them. However, Data.gov does not typically serve as a repository for the underlying data assets themselves; rather, it is characterized in law as “a single public interface online as a point of entry” that directs users to the data assets hosted elsewhere, such as on individual agency websites.

Policymakers and stakeholders have variously emphasized different aspects of policy on how to make federal data available and related priorities. These include questions of what type of data should be stored, in what formats, and for how long; whether and how data should be made more available or secure; who should have access to data and when; and what type and quality of data should be applied to particular purposes. Arguably, Data.gov is situated at a nexus of these perspectives on information policy. These perspectives are often associated with certain disciplines, social movements, and corresponding communities of practice that may view goals of information management differently. A review of these influences and their relation to Data.gov may help clarify perspectives on what observers believe Data.gov should be doing; what the website actually does (and does not do) in practice; how the requirements of the Open, Public, Electronic, and Necessary Government Data Act (OPEN Government Data Act; P.L. 115-435, Title II) compare with other information-related statutes; and how the website may further evolve over time.

This report provides an overview of the operations of Data.gov, including how they continue to be influenced by past administrative decisions. It also discusses six perspectives toward information availability that continue to influence Data.gov’s operations and poses questions for each perspective that policymakers might consider regarding the website’s present and future development. Finally, the report examines several related issues for Congress. These include the capacity of Data.gov to serve varied audiences; transparency of data asset inclusion and reporting procedures; and the persistence of data access over time. Also, the report discusses whether Data.gov, as home of the federal data catalog, should function as either a registry for locating data or a repository for hosting federal data. An **Appendix** provides information about key milestones leading up to the website’s establishment and during its implementation.

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<sup>1</sup> General Services Administration (GSA), “Background,” <https://data.gov/user-guide/>.

## Operations of Data.gov

The Data.gov website represents the latest effort in a long series of initiatives to revisit the design of government institutions and ongoing debates about how the public may access government information in a modern society. Data.gov has operated primarily as a directory to certain kinds of government-held information and may be viewed as the product of continuing influences from three overlapping time periods.<sup>2</sup> These time periods include the website’s establishment and operation via administrative action (2009-2019), legislative consideration and eventual enactment of provisions to codify aspects of its operations into statute (2015-2019), and its operations under the new statutory framework (2019-present).

### Overview of Current Operations

GSA’s Technology Transformation Services administers Data.gov’s day-to-day operations,<sup>3</sup> although the Office of Management and Budget (OMB) effectively exercises control over the website’s implementation and develops related guidance for agencies. Data.gov functions as a publicly available web portal that lists information about many agency data assets and provides means to access some of them. However, Data.gov does not typically serve as a repository for the underlying data assets themselves; rather, it is characterized in law as “a single public interface online as a point of entry” that directs users to the data assets hosted elsewhere, such as on individual agency websites.<sup>4</sup>

The OPEN Government Data Act, as codified in the *U.S. Code*, defines the terms *data* as “recorded information” and *data asset* as “a collection of data elements or data sets that may be grouped together.”<sup>5</sup> As a directory, Data.gov provides basic descriptive information, known as *metadata*, about each of the data assets that executive branch agencies have made available at other locations. This presentation is achieved through a process whereby “agencies compile metadata such as title, description, keywords, and links for accessing their datasets, and the Data.gov catalog automatically ‘harvests’ that metadata to populate a continually updated catalog.”<sup>6</sup> Data.gov is in the process of transitioning its standard for the metadata describing data assets from Data Catalog Vocabulary-United States (DCAT-US) Schema Version 1.1 (published in 2014) to DCAT-US Schema Version 3.0 (published in May 2025).<sup>7</sup> The standard aligns with the international World Wide Web Consortium’s (W3C’s) DCAT standard.<sup>8</sup> **Figure 1** depicts how

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<sup>2</sup> Other statutes, in turn, impose some general constraints for privacy and other reasons on the kinds of information that may be disclosed. See discussion of the Freedom of Information Act (FOIA) and the Privacy Act in CRS Report R47058, *Access to Government Information: An Overview*, by Meghan M. Stuessy.

<sup>3</sup> GSA, “About Us,” <https://data.gov/about/>.

<sup>4</sup> 44 U.S.C. §3511(c)(1).

<sup>5</sup> 44 U.S.C. §3502.

<sup>6</sup> GSA, “User Guide,” <https://data.gov/user-guide/>, which notes that Data.gov includes some datasets from state and local governments that choose to make their metadata available in a similar fashion as federal agencies do. For discussion of the harvesting process, see GSA, “How to Get Your Open Data on Data.gov,” <https://resources.data.gov/resources/data-gov-open-data-howto/>. The website also includes a repository of tools for practitioners (<https://resources.data.gov/>) and information about efforts to pursue a “federal data strategy” (<https://strategy.data.gov/>), which are not within the scope of this report. The “resources.data.gov” page includes a glossary of terms that may be clicked at the top right, and each listed entry may be viewed on its own web page formatted as follows: <https://resources.data.gov/glossary/data-asset/> (e.g., for the term *data asset*).

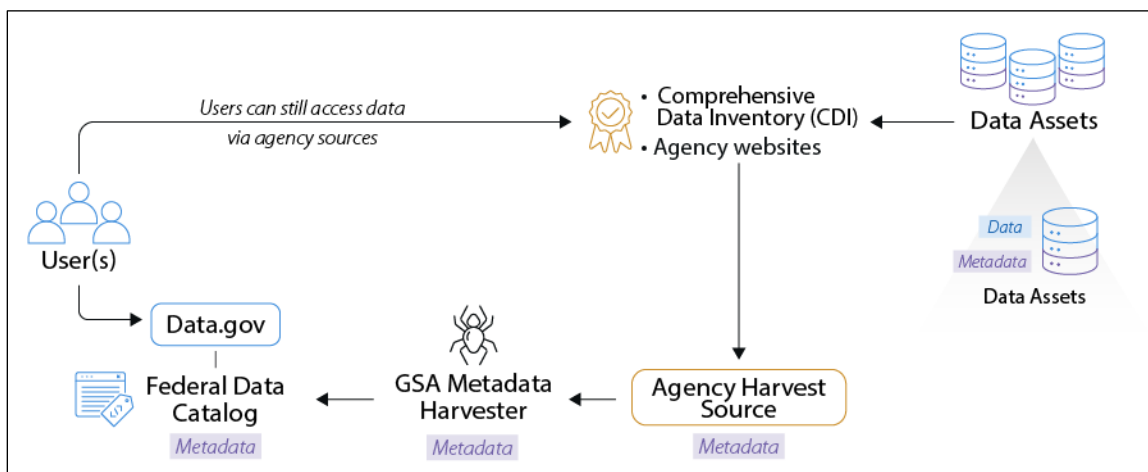
<sup>7</sup> GSA, “Changes from v1.1,” in *DCAT-US Schema v3.0*, <https://resources.data.gov/resources/dcat-us3/#changes-from-v11>. See also GSA, *DCAT-US Schema v3.0*, <https://github.com/GSA/dcat-us>.

<sup>8</sup> World Wide Web Consortium, *Data Catalog Vocabulary (DCAT) – Version 3*, August 22, 2024, <https://www.w3.org/TR/vocab-dcat-3/>.

metadata for each data asset is populated on the federal data catalog from agencies' harvest sources. The GSA metadata harvester puts the metadata into the federal data catalog but does not at present import the data from the underlying data asset.<sup>9</sup> Users can employ Data.gov as a directory to view the metadata in the federal data catalog or go directly to agency harvest sources to access the complete data asset.

**Figure 1. Populating Data.gov and the Federal Data Catalog**

Metadata movement from data assets to user view



Source: CRS.

Although, by statute, agencies are to complete “comprehensive” data inventories, in practice certain data assets are excluded from the catalog. As explained later in this report, data assets may be withheld from being listed because of statutory exemptions or due to the considerable discretion available to agencies. Furthermore, the process through which agencies decide whether and how to make information available via Data.gov appears to be influenced not only by existing law and practice surrounding the withholding of certain sensitive, individual, and business information but also by choices that were made during the website’s development prior to the passage of the OPEN Government Data Act.

## Continuing Influences of Prior Administrative Decisions and Statutory Framing

The Data.gov website has been developed and operated during three overlapping time periods with evolving, underlying frameworks for what data should be posted, how to make data available, and how agencies should make these determinations. Prior administrative decisions and framing appear to have influenced the website’s continued operation and evolution. For example, the first period set Data.gov on a path of defining units of agency data and providing access to *structured* forms of data. In turn, the second period built on these definitions and debated the value of maximally cataloging agency data for transparency and discoverability purposes. The third period considers, among other things, whether such cataloging efforts are feasible for agencies and what level of discretion should be given to agencies in determining how to catalog their data.

<sup>9</sup> GSA, “How to Get Your Open Data on Data.gov,” <https://resources.data.gov/resources/data-gov-open-data-howto/>.

## Establishment and Operation via Administrative Action (2009-2019)

On May 21, 2009, as part of its open government initiative, the Obama Administration announced the establishment of Data.gov, stating that it would be “a one-stop website for finding accessible and free government information in open formats.”<sup>10</sup> The website was launched by the Chief Information Officers Council (CIO Council) as an interagency initiative and hosted by GSA.<sup>11</sup> In characterizing the website’s contents, an FAQ page explained that Data.gov included searchable catalogs to provide instant view and download access to “raw” data and datasets.

In December 2009, OMB directed each executive agency to publish online at least three “high-value” datasets and register them on Data.gov.<sup>12</sup> The memorandum did not require agencies to inventory or publish all agency data holdings; rather, the memorandum required the creation of a plan to increase agency transparency and comply with existing information dissemination obligations.<sup>13</sup> In the same memorandum, OMB also directed agencies to publish information online “to the extent practicable” in an *open format*, whereby information “can be retrieved, downloaded, indexed, and searched by commonly used web search applications” and stored in a format that is “platform independent, machine readable, and made available to the public without restrictions that would impede the re-use of that information.”<sup>14</sup>

These resources from early implementation of the website show how usage of terms developed and sometimes differed from the definitions that were ultimately enacted in 2019. In an initial glossary in 2009, for example, the website defined *dataset* as “an organized collection of data,” such as may be found in tabular form, with columns and rows, or in a non-tabular format, such as extensible markup language (XML), which labels, categorizes, and structurally organizes different groups of information to make it human readable and machine readable.<sup>15</sup>

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<sup>10</sup> White House, Office of the Press Secretary, “White House Announces Open Government Website, Initiative,” press release, May 21, 2009, [https://web.archive.org/web/20090527121631/https://www.whitehouse.gov/the\\_press\\_office/White-House-Announces-Open-Government-Website-Initiative/](https://web.archive.org/web/20090527121631/https://www.whitehouse.gov/the_press_office/White-House-Announces-Open-Government-Website-Initiative/). For discussion, see **Appendix** entry for May 2009.

<sup>11</sup> GSA, “FAQ,” <https://web.archive.org/web/20090525092146/http://www.data.gov/faq>. For discussion of the council, see the “CIO Council” section in CRS Report R48147, *Chief Information Officers (CIOs): Agency Roles and Responsibilities*, by Meghan M. Stuessy and Dominick A. Fiorentino.

<sup>12</sup> Executive Office of the President, Office of Management and Budget (OMB), “Open Government Directive,” Memorandum M-10-06, December 8, 2009, p. 2, [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2010/m10-06.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2010/m10-06.pdf). See also December 2009 entry in the **Appendix**.

<sup>13</sup> Agency information dissemination requirements are located at 44 U.S.C. §3506(d).

<sup>14</sup> Executive Office of the President, OMB, “Open Government Directive,” Memorandum M-10-06, December 8, 2009, p. 2, [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2010/m10-06.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2010/m10-06.pdf). OMB separately issued brief Data.gov-related guidance for agencies as well as a more extensive, albeit draft, *Concept of Operations*. See also OMB, *Data.gov Concept of Operations: Draft*, Version 0.7, December 3, 2009, <https://web.archive.org/web/20100106215430/http://www.whitehouse.gov/open/> (linking to <https://web.archive.org/web/20100113061212/http://datagov.ideascale.com/>, which in turn linked to a PDF file at <https://web.archive.org/web/20100401071808/http://www.ideascale.com/userimages/sub-1/736312/ConOpsFinal.pdf>). Links to the draft *Concept of Operations* were later posted at White House, “Open Government Policy,” <https://obamawhitehouse.archives.gov/open/about/policy>, although the archived links no longer work.

<sup>15</sup> For the May 25, 2009, version of the glossary, see GSA, “Glossary of Terms,” <https://web.archive.org/web/20090525145212/http://www.data.gov/glossary>. For a 2013 version of the glossary, see GSA, “Glossary of Terms,” <https://web.archive.org/web/20130202090639/http://www.data.gov/glossary>. When looking back at this 2009-era implementation in the context of revised terms in 2019 from the OPEN Government Data Act, it should be noted that the term *dataset* is different from the now-statutory term *data asset* and that the *dataset* term makes no distinction between data that may be made publicly available or should be withheld under other statutes. See this report’s later discussion of terms associated with the OPEN Government Data Act, which identify *public data assets* as a particular subtype of *data assets*. This discrepancy may also explain some of the variability in what was made available under the administratively established Data.gov versus the statutorily conducted Data.gov.

In May 2013, OMB issued Memorandum M-13-13 to provide guidance for agencies on the concept of *open data* and the implementation of Data.gov. Among other things, the memorandum directed each agency to establish and maintain an inventory of “structured” datasets, list them on the agency website, and post descriptive information in a “harvestable” form to allow for automatic aggregation by the Data.gov website.<sup>16</sup> The memorandum also elaborated on prior efforts by providing many formal definitions of terms. For example, Memorandum M-13-13 defined the term *data* to include “all structured information,” and it explained the term *structured* information by contrasting it “with *unstructured* information (commonly referred to as ‘content’) such as press releases and fact sheets.”<sup>17</sup> In addition, the website’s features and capabilities changed on occasion. This included launching a new version of the Data.gov catalog in 2013-2014 to facilitate the harvesting process.<sup>18</sup> As of 2021, Data.gov had over 1,000 sources that were being harvested automatically.<sup>19</sup>

## Legislative Consideration and Statutory Enactment of Data.gov-Related Operations (2015-2019)

In April 2015, then-Speaker of the House Paul Ryan introduced legislation to establish an Evidence-Based Policymaking Commission, tasked with conducting a “comprehensive study of the data inventory, data infrastructure, and statistical protocols related to Federal policymaking.”<sup>20</sup> In the corresponding House report, the Committee on Oversight and Government Reform wrote that in order to ensure that policymakers have access to high-quality data to inform policymaking, the “first step” is “to determine what data is available and how to best get the data to policymakers.”<sup>21</sup> The Commission on Evidence-Based Policymaking (CEP) was established by law in March 2016.<sup>22</sup>

Concurrently, in April 2016, Representative Derek Kilmer and Senator Brian Schatz introduced the initial version of the OPEN Government Data Act.<sup>23</sup> The legislation would have enacted some aspects of Data.gov’s operations into law and, among other things, included provisions to make government-held “data”—defined as “recorded information”—accessible to the public in both an

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<sup>16</sup> OMB, “Open Data Policy—Managing Information as an Asset,” Memorandum M-13-13, May 9, 2013, [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2013/m-13-13.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2013/m-13-13.pdf).

<sup>17</sup> OMB, Memorandum M-13-13, p. 4 (italics in original). For discussion of these terms, see U.S. Department of Commerce, National Institute of Standards and Technology (NIST), *NIST Big Data Interoperability Framework: Volume 1, Definitions*, Version 3, Special Publication 1500-1r2, October 2019, p. 12, <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.1500-1r2.pdf#page=22>.

<sup>18</sup> In 2013, plans were announced to “launch a new version of Data.gov to make it even easier to discover, understand, and use open government data. The new Data.gov will index all Federal agency datasets in one easy-to-use catalog” (White House, *Second Open Government National Action Plan for the United States of America*, December 13, 2013, p. 11, <https://obamawhitehouse.archives.gov/open/about/policy>). See also GSA, “Data.gov Launches New Catalog and APIs,” May 22, 2013, <https://data.gov/datagov-launches-new-catalog-and-apis/>.

<sup>19</sup> GSA, “Launch of the New Data.gov Catalog,” February 5, 2021, <https://data.gov/meta/launch-of-the-new-data-gov-catalog/>. For further discussion of the authoritative nature of Data.gov’s reported number of data holdings, see CRS Report R48889, *Availability of Federal Data: Policy Considerations for Disclosure, Preservation, and Governance*, by Meghan M. Stuessy and Taylor R. Knoedl.

<sup>20</sup> H.R. 1831 §4(a) (114<sup>th</sup> Congress). This text also was included in the final version of the bill, which became law in March 2016 (P.L. 114-140, 130 Stat. 318; see **Appendix** entry for September 2017 for more information about the commission).

<sup>21</sup> U.S. Congress, House Committee on Oversight and Government Reform, *Evidence-Based Policymaking Commission Act of 2015*, report to accompany H.R. 1831, 114<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 114-211, July 16, 2015, p. 5, <https://www.congress.gov/114/crpt/hrpt211/CRPT-114hrpt211.pdf>.

<sup>22</sup> P.L. 114-140 (March 30, 2016; 130 Stat. 317; for discussion, see **Appendix** entry for September 2017).

<sup>23</sup> H.R. 5051 and S. 2852; 114<sup>th</sup> Congress.

open format (e.g., without restrictions that impede use or reuse) and machine-readable format, when not prohibited by law. The bill also included provisions to require agencies to establish inventories of their data assets and to make them available on the Data.gov website.<sup>24</sup>

CEP published its report concerning the availability of data and obstacles and restrictions to data use in September 2017.<sup>25</sup> The report addressed some topics that were later included in the OPEN Government Data Act. CEP recommended, in part, that the federal government “increase efforts to make information available about the government’s current data inventories,” that more information on datasets be made available, and that OMB be directed to “facilitate cross-government coordination, and consider how a greater commitment to foundational information policy responsibilities can be achieved.”<sup>26</sup>

### ***Enactment of the OPEN Government Data Act***

In January 2019, a version of the OPEN Government Data Act was enacted as Title II of the Foundations for Evidence-Based Policymaking Act of 2018 (FEBPA; P.L. 115-435). FEBPA contained three distinct yet interrelated titles with provisions concerning a variety of topics, including agency evaluation capacity, data use, availability of agency data assets, sharing and confidentiality of statistical information, and governance of federal data.<sup>27</sup> Unlike the introduced version of the OPEN Government Data Act from 2016, FEBPA’s Title II did not contain an explicit reference to Data.gov. Instead, it codified several aspects of Data.gov’s operation, including new statutory requirements for agency-level inventories of data assets and for an online interface to serve as an overall “federal data catalogue.”<sup>28</sup> The law also required OMB to issue implementation guidance for agencies on multiple topics, including making data assets “open by default”—that is, proactively available to the public without necessarily requiring users to request the information.<sup>29</sup>

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<sup>24</sup> The proposed legislation was revised and reintroduced in the next Congress, in 2017 (H.R. 1770; 115<sup>th</sup> Cong.) See **Appendix** entry for April 2016.

<sup>25</sup> Commission on Evidence-Based Policymaking (CEP), *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking*, September 7, 2017, <https://www2.census.gov/adrm/fesac/2017-12-15/Abraham-CEP-final-report.pdf>. See also **Appendix** entry for September 2017.

<sup>26</sup> CEP, *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking*, p. 3.

<sup>27</sup> Foundations for Evidence-Based Policymaking Act of 2018 (FEBPA) provisions that are not directly related to Data.gov’s operations are generally out of the scope of this report.

<sup>28</sup> 44 U.S.C. §3511; replacing statutory provisions relating to a Government Information Locator Service (GILS; see **Appendix** entry for May 1995). In practice, OMB and GSA use the alternative spelling *catalog* when referring to Data.gov, which this CRS report adopts for consistency with common usage among practitioners.

<sup>29</sup> Executive Order 13642 of May 9, 2013, “Making Open and Machine Readable the New Default for Government Information,” 78 *Federal Register* 28111, May 14, 2013, and House Committee on Oversight and Government Reform, *Evidence-Based Policymaking Commission Act of 2015*, H.Rept. 114-211, p. 11. See also Section 202(b) of P.L. 115-435 and 44 U.S.C. §3504(b)(6)), planning for open data (44 U.S.C. §3506(b)(2)), and maintaining comprehensive data inventories (44 U.S.C. §3511(a)(2)).

### Perspectives on How to Define Data and Data Asset

Scholars have long debated the contours of *data* and *information* and whether they are discrete or overlapping concepts, leading to variations in how they are defined.<sup>30</sup> Although the terms *data* and *information* can be used interchangeably in practice, the OPEN Government Data Act establishes for the act's purposes that *data* "means recorded information, regardless of form or the media on which the data is recorded," nesting its definition of *data* as a subtype of the broader concept of *information*.<sup>31</sup> The act further concerns itself with agency treatment of *data assets*, defined to mean "a collection of data elements or data sets that may be grouped together."<sup>32</sup> In the corresponding House report on the OPEN Government Data Act, the Committee on Oversight and Government Reform wrote "To be of maximum utility, agency data inventories need to include the maximum amount of metadata about the maximum number of data assets. In practical terms, that means the agencies should account for every data asset owned, used, maintained, or accessed by the agency."<sup>33</sup>

In its implementing guidance, OMB further defines *data asset* by its form of grouping or level of structure.<sup>34</sup> *Structured data*, for example, may be found in a database that clearly indicates what type of information each field contains, or rectangular or tabular data organized into rows and columns.<sup>35</sup> On the other hand, information that is considered to be *unstructured*—such as documents, pictures, audio, or video—does not follow a specific format and could be nearly any type of information. *Data assets* must also be logically grouped "based on similar characteristics, a shared function or purpose, or some other logical method."<sup>36</sup> Although these definitions remain broad, they still permit agency interpretation of what groupings of data meet the threshold criteria for a *data asset*, which may impact the completeness of data assets provided for inclusion in the federal data catalog.

### A New Statutory Framework Building from FOIA

The OPEN Government Data Act differs markedly from previous administrative and legislative efforts to make federal data available to the public,<sup>37</sup> in that it requires agencies to use the statutory framework for data access built by the Freedom of Information Act (FOIA) to determine which data should be included and made available on Data.gov. In brief, FOIA requires agencies to proactively make available certain types of information, permits the public to request information from agencies, and provides nine exemptions agencies can invoke to protect information from disclosure and public release.<sup>38</sup>

<sup>30</sup> Michael K. Buckland, "Information as Thing," *Journal of the American Society for Information Science*, vol. 42, no. 5 (June 1991), pp. 311-388.

<sup>31</sup> 44 U.S.C. §3502(16). For further discussion of these terms, see CRS Report R48889, *Availability of Federal Data: Policy Considerations for Disclosure, Preservation, and Governance*, by Meghan M. Stuessy and Taylor R. Knoedl.

<sup>32</sup> 44 U.S.C. §3502(17).

<sup>33</sup> House Committee on Oversight and Government Reform, *Foundations for Evidence-Based Policymaking Act of 2017*, H.Rept. 115-411, p. 13.

<sup>34</sup> William Newhouse et al., *Data Classification Concepts and Considerations for Improving Data Protection*, NIST Internal Report 8496 (initial public draft), November 2023, p. 3, <https://nvlpubs.nist.gov/nistpubs/ir/2023/NIST.IR.8496.ipd.pdf>; and OMB, "Phase 2 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Open Government Data Access and Management Guidance," Memorandum M-25-05, January 15, 2025, p. 6, <https://bidenwhitehouse.archives.gov/wp-content/uploads/2025/01/M-25-05-Phase-2-Implementation-of-the-Foundations-for-Evidence-Based-Policymaking-Act-of-2018-Open-Government-Data-Access-and-Management-Guidance.pdf>. For more discussion, see CRS Report R48889, *Availability of Federal Data: Policy Considerations for Disclosure, Preservation, and Governance*, by Meghan M. Stuessy and Taylor R. Knoedl.

<sup>35</sup> OMB, "Phase 2 Implementation," p. 6.

<sup>36</sup> OMB, "Phase 2 Implementation," p. 6.

<sup>37</sup> For example, see **Appendix** entries for December 1980 (relating to a Federal Information Locator System), May 1995 (relating to a GILS); December 2002 (relating to the USA.gov portal), May 2009 (relating to administrative creation of Data.gov), and January 2019 (relating to the OPEN Government Data Act).

<sup>38</sup> These nine exemptions allow agencies to withhold information for reasons related to national security, certain personal information, and trade secrets, among others. For further discussion on FOIA, see **Appendix** entry for July (continued...)

The OPEN Government Data Act provides definitions of three types of *data assets* for agencies to assess and manage. First and most broadly, a *data asset* is “a collection of data elements or data sets that may be grouped together.”<sup>39</sup> In turn, a *public data asset* is a data asset or part thereof that an agency has previously released to the public or may prospectively release to the public in the future, subject to potential nondisclosure under certain FOIA exemptions.<sup>40</sup> Lastly, an *open Government data asset* is a public data asset that is furthermore machine readable, is available (or potentially made available) in an open format, is unencumbered by restrictions that would impede use of the data, and uses standardized data formatting.<sup>41</sup>

The act requires each covered agency 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.”<sup>42</sup> The OPEN Government Data Act required OMB to issue implementation guidance for agencies on multiple topics, including making data assets “open by default,” planning for open data, and maintaining comprehensive data inventories.<sup>43</sup> Furthermore, the statute directs OMB to issue guidance to agencies on how they are to provide metadata on each data asset in their CDI, including, for example,

- a description and name of the data asset;
- whether the agency has determined or can determine if the data asset is a public data asset;
- whether parts of it can be disclosed or must be withheld under FOIA;
- whether the data asset is formatted as an open Government data asset; and
- the sensitivity level of data assets containing individually identifiable data, per Title 44, *U.S. Code*, Section 3582.<sup>44</sup>

Agencies are to submit public data assets or links to them to GSA for inclusion in the federal data catalog as open Government data assets.

After agencies conduct and submit their inventories, GSA is required to maintain a “single public interface online as a point of entry dedicated to sharing agency data assets with the public” in the form of a “federal data catalogue.”<sup>45</sup> GSA has specified that Data.gov is the home for the required catalog.<sup>46</sup> The law mandates that the GSA administrator and OMB director ensure that agencies can submit either public data assets or links to them “for publication and public availability on the interface.”<sup>47</sup> Because both of these options are available, an agency could provide links directing users to their data while leaving their data hosted on agency websites.

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1966, June 1967. See also this report’s next section relating to Data.gov’s antecedents and influences under the sub-headings “Proactive Disclosure and Public Dissemination” and “Reactive, Request-Based Public Disclosure.”

<sup>39</sup> 44 U.S.C. §3502(17).

<sup>40</sup> 44 U.S.C. §3502(22).

<sup>41</sup> 44 U.S.C. §3502(20).

<sup>42</sup> 44 U.S.C. §3511(a)(1).

<sup>43</sup> See Section 202(b) of P.L. 115-435 and 44 U.S.C. §3504(b)(6) for making data assets “open by default,” 44 U.S.C. §3506(b)(2) for planning for open data, and 44 U.S.C. §3511(a)(2) for maintaining comprehensive data inventories.

<sup>44</sup> 44 U.S.C. §3511(a)(2).

<sup>45</sup> 44 U.S.C. §3511(c)(1).

<sup>46</sup> GSA, Technology Transformation Services, “Open Government,” <https://data.gov/open-gov/>, which says “Data.gov implements The OPEN Government Data Act (Title II of the Foundations for Evidence-Based Policymaking Act of 2018, P.L. 115-435). The OPEN Government Data Act makes Data.gov a requirement in statute, rather than a policy.”

<sup>47</sup> 44 U.S.C. §3511(c)(1).

## Implementation of the Law and Subsequent Operations (2019-Present)

Some uncertainty remained in 2019 regarding implementation of the OPEN Government Data Act in light of discretion that could be used to determine whether and how to make federal information available and in terms of identifying roles and responsibilities within agencies. The act directed OMB to issue implementation guidance, including on procedural topics where agencies might use discretion to decide whether and how to make federal information available.

### *January 2025 OMB Implementation Guidance*

In January 2025, six years after the 2019 enactment of the OPEN Government Data Act, OMB issued the required guidance at the conclusion of the Biden Administration via OMB Memorandum M-25-05 (hereinafter M-25-05).<sup>48</sup> As discussed below, some aspects of the law are complex and also may allow for discretion when interpreting and implementing its provisions. Efforts to grapple with some of the law’s ambiguities may help explain the time it took after enactment for M-25-05’s release. In addition, given the recency of the guidance being issued, implementation of the new statutory framework may continue to evolve.

Before January 2025, a working group of agency chief data officers had reported on the topic of agency data inventories, indicating that OMB had circulated draft guidance to agencies in September 2020.<sup>49</sup> Separately, the Government Accountability Office (GAO) reported that OMB guidance was pending for some time,<sup>50</sup> and there was concern from within Congress regarding the pace of implementation.<sup>51</sup> In issuing M-25-05, OMB rescinded and replaced Memorandum M-13-13 but reminded agencies of the continuing applicability of OMB Circular A-130.<sup>52</sup>

Of particular relevance to Data.gov’s implementation, M-25-05 provides the statutorily required OMB guidance and discusses, among other things, (1) what types of data are to be included in CDIs, (2) how agency data are to be formatted, and (3) what data are to be vetted for inclusion in the federal data catalog via Data.gov. For each of these three topics, some uncertainties may nevertheless remain during implementation, as discussed below.

### *What Data Assets Are Subject to Inclusion in Agency CDIs?*

In contrast to statutory text from the OPEN Government Data Act, which defines *data asset* as “a collection of data elements or data sets that may be grouped together,” M-25-05 interpreted the

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<sup>48</sup> OMB, Memorandum M-25-05. See also **Appendix** entry for January 2025.

<sup>49</sup> Chief Data Officer Council (CDO Council), *Enterprise Data Inventories*, April 2022, p. 3, [https://resources.data.gov/resources/CDOC\\_Data\\_Inventory\\_Report/](https://resources.data.gov/resources/CDOC_Data_Inventory_Report/).

<sup>50</sup> The statute required GAO to assess several aspects of the act’s implementation. See GAO, *Open Data: Agencies Need Guidance to Establish Comprehensive Data Inventories; Information on Their Progress Is Limited*, GAO-21-29, October 8, 2020, <https://www.gao.gov/products/gao-21-29>; and GAO, *Open Data: Additional Action Required for Full Public Access*, GAO-22-104574, December 2021, <https://www.gao.gov/products/gao-22-104574>. With regard to roles and responsibilities, many agency officials are involved in information resources management.

<sup>51</sup> Letter from Sen. Charles E. Grassley to Shalanda Young, OMB director, September 15, 2023, [https://www.grassley.senate.gov/imo/media/doc/grassley\\_to\\_omb\\_-\\_open\\_government\\_data\\_act\\_implementation.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley_to_omb_-_open_government_data_act_implementation.pdf). For related media coverage, see Caroline Nihill, “With Its Expiration Date Looming, the CDO Council Waits on Missing White House Guidance,” *FedScoop*, June 28, 2024, <https://fedscoop.com/cdo-council-missing-omb-guidance/>.

<sup>52</sup> OMB, Memorandum M-25-05, p. 2. See OMB, “Open Data Policy—Managing Information as an Asset,” Memorandum M-13-13, May 19, 2013, and OMB, *Managing Information as a Strategic Resource*, Circular A-130, July 28, 2016, <https://bidenwhitehouse.archives.gov/omb/information-for-agencies/circulars/>. The circular is not currently posted on the OMB website of the second Trump Administration. For more information on Circular A-130, see CRS Report R48147, *Chief Information Officers (CIOs): Agency Roles and Responsibilities*, by Meghan M. Stuessy and Dominick A. Fiorentino.

act's definition of the term *data asset* more narrowly to mean data that is both *structured* (e.g., data organized into columns and rows and a database of digital images) and *logically grouped* (e.g., data with a shared function or purpose).<sup>53</sup> Although this interpretation appears to be more aligned with National Institute of Standards and Technology (NIST) data classification concepts, this narrower language may permit certain information to be excluded from CDIs (e.g., information that does not meet the definition of *structured data* but that is nevertheless subject to disclosure under FOIA).<sup>54</sup>

M-25-05 also states that its definition of *data asset* is intentionally broad in other respects. For example, the guidance states that “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,” and that “agencies may not use other criteria to limit the definition of the term ‘data asset.’”<sup>55</sup> Later in the guidance, OMB added that “agencies may exercise reasonable discretion in determining whether any particular collection of data is sufficiently structured to be considered a data asset.”<sup>56</sup> Because M-25-05 attempts to balance a broad but qualified definition of *data asset* against agency discretion to determine whether its data are structured enough for inclusion in the CDI, the resulting ambiguity arguably prevents clarity in advance regarding what data might be included in the agency CDI, and agency determinations might also change over time.

Statute requires agency heads to include certain information on data assets in each agency's CDI. This includes identifying the name, title, and description of the data asset; whether the data asset is subject to certain license, national security, or sensitivity disclosure restrictions; and whether the data asset is an open Government data asset or a public data asset.<sup>57</sup>

Further, agency heads are required to “submit public data assets, or links to public data assets available online, as open Government data assets for inclusion in the Federal data catalogue.” Both statute and OMB's guidance appear to be permissive on the meaning of “inclusion.” For example, one reading could be that both public data assets, and properly formatted open Government data assets, are to be listed as entries in the federal data catalog. Another reading could be that links to public data assets are considered sufficient as inclusion in the catalog but that where open Government data assets are available, they should be hosted by the federal data catalog. In practice, however, Data.gov generally does not serve as a repository for the underlying data assets, possibly suggesting some other meaning of “inclusion.”<sup>58</sup>

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<sup>53</sup> OMB, Memorandum M-25-05, pp. 6-7.

<sup>54</sup> In an effort to further organize the concept of data, both NIST and OMB define data by its structure. Structured data, for example, may be found in a database that clearly indicates what type of information each field contains or in rectangular or tabular data organized into rows and columns. On the other hand, information that is considered to be unstructured, such as documents, pictures, audio, or video, does not follow a specific format and could contain nearly any type of data. See William Newhouse et al., *Data Classification Concepts and Considerations for Improving Data Protection*, NIST Internal Report 8496 (initial public draft), November 2023, p. 3, <https://nvlpubs.nist.gov/nistpubs/ir/2023/NIST.IR.8496.ipd.pdf>, and OMB, Memorandum M-25-05, p. 6.

<sup>55</sup> OMB, Memorandum M-25-05, p. 7.

<sup>56</sup> The Data.gov website's glossary characterizes data asset to mean “[a] collection of data elements or datasets that make sense to group together. Each community of interest identifies the Data Assets specific to supporting the needs of their respective mission or business functions. Notably, a Data Asset is a deliberately abstract concept. A given Data Asset may represent an entire database consisting of multiple distinct entity classes, or may represent a single entity class.” See GSA, “Glossary: Data Asset,” <https://resources.data.gov/glossary/data-asset/>.

<sup>57</sup> 44 U.S.C. §3511(a)(2)(A).

<sup>58</sup> 44 U.S.C. §3511(c)(1).

### ***How Are Data Assets to Be Formatted?***

The OPEN Government Data Act requires the OMB director to issue guidance to agencies on how to make all agency data assets available in an open format and how to make an agency's public data assets available as open Government data assets under an open license.<sup>59</sup> M-25-05 stipulates that "agencies must maintain each data asset of the agency in an open format to the greatest extent practicable; this requirement applies to all agency data assets regardless of whether they are public data assets." Using the term "format" in another sense, the guidance also says that "agencies are permitted and strongly encouraged to provide data assets in different formats to increase and facilitate access and use."<sup>60</sup> The guidance then suggests that agencies should make data assets available in open file formats such as CSV, JSON, and XML, outside of proprietary formats such as Excel or Access databases. Although the guidance indicates that all data assets are to be formatted in this way, not all of these data assets will be publicly available.

M-25-05 also appears to truncate the distinction between public data assets (i.e., data assets that have been or prospectively may be released under FOIA but that might not be "open") and open Government data assets (public data assets that are machine readable, available in an open format, unencumbered by restrictions that would impede data use, and use standardized data formatting). Under the guidance, public data assets are to be maintained as open Government data assets and also under an open license indicating that the data are in the public domain. M-25-05 reflects the statute's apparent aspiration to make public data assets and open Government data assets converge in terms of their attributes. Specifically, the statutory language requires agencies (via OMB guidance) to "make each data asset of the agency available in an open format," blurring the distinction between public data assets (which by definition might not always be open) and open Government data assets (which by definition are open) to both prioritize open formatting.<sup>61</sup>

The overlapping definition of *public data assets* and *open Government data assets* for purposes of formatting appears to require, as a matter of practice, that both types be unencumbered by restrictions and maintained in standardized data formats. M-25-05 suggests that agencies use standards such as those issued by NIST, W3C, or International Organization for Standardization (ISO) whenever practicable but does not prioritize one format over another. Because the guidance does not select a specific format, data may continue to vary from one agency to another, and agencies may retain the flexibility of choosing among standardized data formats. However, in the future, if government data coalesce around a specific standard, agencies might encounter costs to convert the data to that standard. With respect to metadata that describe a data asset, OMB is more prescriptive: Agencies are to use the DCAT-US 3.0 metadata schema that aligns with W3C standards.<sup>62</sup> Though these choices may not have an immediate effect on data asset availability, these decisions will affect data interoperability in future applications.

### ***What Data Assets Are Excluded from Data.gov?***

The OPEN Government Data Act and M-25-05 suggest that agencies may broadly include their data assets in CDIs and the federal data catalog on Data.gov. Agencies have substantial discretion in deciding what to include, however, and face various decision points in determining whether and how to make such data available through Data.gov. These determinations include, for example,

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<sup>59</sup> 44 U.S.C. §3506(b)(6).

<sup>60</sup> OMB, Memorandum M-25-05, p. 16.

<sup>61</sup> 44 U.S.C. §3506(b)(6).

<sup>62</sup> OMB, Memorandum M-25-05, p 8.

- deciding what counts as a data asset under the act—“a collection of data elements or data sets that *may* be grouped together” (emphasis added)—for inclusion in an agency’s comprehensive data inventory and posting of metadata on Data.gov, and that is structured or semi-structured, and logically grouped, per M-25-05;<sup>63</sup>
- assessing whether a data asset could be released, but not necessarily whether it will be released, through FOIA disclosure (i.e., a public data asset for purposes of the act);
- assessing the costs and benefits of converting a data asset into a machine-readable format that is accessible and useful to the public and, in addition, whether the data asset may be made available in an open format (two attributes of an open Government data asset); and
- determining whether certain data are restricted from disclosure and thus prevented from being made available in an open format, because of intellectual property rights or contractual terms, or if making the data assets available would implicate privacy, confidentiality, national security, legal liability, or other agency interests.<sup>64</sup>

OMB’s guidance also states that agencies “may exercise reasonable discretion in determining whether any particular collection of data is sufficiently structured to be considered a data asset.”<sup>65</sup> Relatedly, agencies may exercise discretion in determining whether data elements are logically grouped enough to qualify as a data asset, but OMB’s guidance also directs agencies to avoid using additional criteria to limit the scope of agency data assets.<sup>66</sup>

With respect to determining whether a data asset could be publicly released, statute stipulates that a public data asset is “a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under [FOIA].”<sup>67</sup> Therefore, agencies have the ability to contemplate whether some of the data should be withheld under FOIA and thus excluded from Data.gov. However, M-25-05 states that to qualify as a public data asset, the agency must decide whether it would, in fact, release the data pursuant to a FOIA request, essentially requiring agencies to individually and prospectively evaluate whether a data asset would be offered to the public on request. As a matter of practice and a likely scarcity of analytical resources, if agencies were to forego this exercise, they would be limiting their amount of public data assets.

Agencies are further permitted to limit the scope of which data assets should be maintained in open formats, but OMB encourages agencies “to convert all data assets into an open format, as appropriate,” which could facilitate their inclusion in the federal data catalog.<sup>68</sup> Agencies may consider factors such as cost and benefits to determine which data assets to prioritize for conversion. M-25-05 explains that this analysis could assess the “costs, resource availability, and

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<sup>63</sup> As noted earlier, after enactment of the OPEN Government Data Act, the glossary for Data.gov has explained the term *data asset* as “[a] collection of data elements or datasets that make sense to group together. Each community of interest identifies the Data Assets specific to supporting the needs of their respective mission or business functions. Notably, a Data Asset is a deliberately abstract concept. A given Data Asset may represent an entire database consisting of multiple distinct entity classes, or may represent a single entity class.” See GSA, “Glossary: Data Asset,” <https://resources.data.gov/glossary/data-asset/>.

<sup>64</sup> OMB, Memorandum M-25-05, p. 12.

<sup>65</sup> OMB, Memorandum M-25-05, p. 7.

<sup>66</sup> OMB, Memorandum M-25-05, p. 7.

<sup>67</sup> OMB, Memorandum M-25-05, p. 13.

<sup>68</sup> OMB, Memorandum M-25-05, pp. 13-14.

other burdens associated with converting and maintaining the data asset in an open format”; the “benefits and advantages to the agency from converting and maintaining the data asset”; and the “benefits to the public and other data users, such as other agencies or researchers, from converting and maintaining the data asset in an open format.”<sup>69</sup> Neither the statute nor M-25-05 require agencies to document how such a decision would be made.

Similarly, agencies also are required to assess whether releasing the data asset could infringe on various rights or create risks to privacy, national security, or “other agency interests.”<sup>70</sup> OMB encourages agencies to make data assets available “to the maximum extent practicable” and to note the reason for exempting a data asset from the open format requirement in the agency CDI.<sup>71</sup>

## Continuing Perspectives on Data.gov’s Functions

Across numerous contexts and over time, policymakers and stakeholders have emphasized different aspects of information policy and related priorities. These include questions of how long and what type of information should be stored (and in what formats), whether and how information should be made more available or secure, who should gain access to information and when, and what type and quality of information should be applied for particular purposes, among others. Notably, the OPEN Government Data Act’s statutory provisions that require some of Data.gov’s functions, located at Section 3511 of Title 44, *U.S. Code*, replaced prior statutory frameworks that embraced some of these perspectives but with different emphases and underlying motivations.<sup>72</sup>

Arguably, the Data.gov website is situated at a nexus of many of these perspectives to, and potential priorities for, federal information policy. The perspectives are often associated with certain disciplines, social movements, and corresponding communities of practice that may view goals of information management differently.<sup>73</sup> A review of these influences and their relation to Data.gov may help clarify perspectives on what observers believe Data.gov should be doing, what the website actually does (and does not do) in practice, how the OPEN Government Data Act’s requirements compare with other information-related statutes, and how Data.gov might further evolve over time. These perspectives include, but are not limited to, efforts related to the following:

1. **Archiving and recordkeeping:** identifying, archiving, and preserving evidence of federal government activity and decisionmaking, often associated with the Federal Records Act and similar efforts to provide for persistent availability.
2. **Proactive disclosure and public dissemination:** routinely and proactively disclosing government-held operational and organizational information to the public.

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<sup>69</sup> OMB, Memorandum M-25-05, p. 12.

<sup>70</sup> OMB, Memorandum M-25-05, p. 12.

<sup>71</sup> OMB, Memorandum M-25-05, pp. 12-13.

<sup>72</sup> See **Appendix** entries for December 1980 (relating to a Federal Information Locator System), May 1995 (relating to a GILS); May 2009 (relating to administrative creation of Data.gov), and January 2019 (relating to enactment of the OPEN Government Data Act).

<sup>73</sup> For illustrative discussions of the potential interplay between social movements and emergence of professional and organizational fields, see Neil Fligstein and Douglas McAdam, *A Theory of Fields* (Oxford University Press, 2012), and Dirk M. Zorn, “Here a Chief, There a Chief: The Rise of the CFO in the American Firm,” *American Sociological Review*, vol. 69 (June 2004), pp. 345-364.

3. **Request-based disclosure and transparency:** making government-held information available to the public reactively, on request, often associated with FOIA and the public’s “right to know” about their government.
4. **Discoverability of information:** making government information more easily findable by potential users.
5. **“Open data” and information reusability:** making scientific and other datasets (also referred to as data sets and data assets) more widely available to users in various formats, without restrictions on further dissemination and use.
6. **Use of information for learning and policymaking:** facilitating the use of information to inform learning, improvement, and policymaking among many stakeholders in a democratic system of governance.

Each of these perspectives appears to be of continuing relevance to stakeholder conceptions of what Data.gov could or should become. Furthermore, the tendrils of these perspectives are also present in the creation of Data.gov, including via the website’s precursors. Each of these six perspectives is discussed below, along with citations to key influences and other efforts that help to differentiate the kinds of information that Data.gov might provide.<sup>74</sup> Each subsection concludes with potential questions that could be considered from the viewpoint of each perspective and their potential applications in the Data.gov context.

## Archiving and Recordkeeping

Some stakeholders have advocated for Data.gov and its predecessor initiatives to include a focus on preservation of data and documentation of federal activity.<sup>75</sup> Parts of this perspective may be traced to federal efforts that focused on archiving and recordkeeping. The emergence of archival professions (e.g., archivists, librarians, historians) and related institutions along with perceptions of their importance have arguably provided sustained impetus to activities of cataloging and curating federal information. The predecessor agency to today’s National Archives and Records Administration (NARA) was established in 1934 to preserve and care for the permanent records of the federal government.<sup>76</sup> Subsequent enactment of the Federal Records Act in 1950 (44 U.S.C. Chapters 21, 29, 31, and 33) recognized the importance of maintaining records as government property and as evidence of federal government activity and decisionmaking.<sup>77</sup> These and other

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<sup>74</sup> Events and developments that are cited in this section are also discussed in relevant **Appendix** entries.

<sup>75</sup> For example, see discussion regarding the “Open Data” perspective and, in this report’s identification of potential issues, discussion of “persistence of access.”

<sup>76</sup> See National Archives and Records Administration (NARA), “National Archives History,” <https://www.archives.gov/about/history>, and James Worsham, “How the National Archives Evolved Over 75 Years of Change and Challenges,” *Prologue Magazine*, vol. 41, no. 2 (Summer 2009), <https://www.archives.gov/publications/prologue/2009/summer/history>.

<sup>77</sup> Federal Records Act of 1950, Title V of Amendment to the Federal Property and Administrative Services Act of 1949, P.L. 81-754 (September 5, 1950; 64 Stat. 578, at 583), <https://tile.loc.gov/storage-services/service/l1/l1s1/l1s1-c81s2/l1s1-c81s2.pdf#page=611>. For historical discussion, see “C. Federal Records Act and Related Chapters of Title 44,” in CRS Report RL30795, *General Management Laws: A Compendium*, May 19, 2004, p. 16 (archived; available to congressional clients on request). The act consolidated and expanded NARA’s roles in the management of federal records, established the position of the Archivist of the United States, and also brought more formalization to agencies’ record management responsibilities and activities. For discussion of the term *records* and the distinction between temporary and permanent records, see CRS In Focus IF11119, *Federal Records: Types and Treatments*, by Meghan M. Stuessy. For discussion of separate statutory provisions related to presidential records, see CRS Report R46129, *The Presidential Records Act: An Overview*, by Meghan M. Stuessy.

developments have been characterized as manifestations of a “federal archives movement” and related professions, institutions, and laws.<sup>78</sup>

Though the original federal records statute was developed in a time before widespread computing and digital technologies, the preservation principles relating to government information remain today. The Presidential and Federal Records Act Amendments of 2014, for example, formally updated the definition of federal records to include digital materials and physical materials. Through this update, records to be assessed for preservation value now include “all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business.”<sup>79</sup> However, the definition excludes library and museum exhibition material and, importantly, duplicate copies of records created for convenience. Some information and data that agencies post on the internet may be considered to be convenience copies.

In the context of Data.gov, the preservation perspective considers what types of information should be preserved and for what lengths of time. Protocols related to records management require agencies to determine the value of records and whether the information should be preserved for a period of months, years, or permanently; 1%-3% of records meet the “permanent” designation.<sup>80</sup> Additionally, there is some ambiguity surrounding what information constitutes a record copy of information versus a convenience copy, which may impact the availability of information on Data.gov should those materials be deemed duplicate copies rather than records copies. Although members of the public may in practice rely on an assumption that information will be provided online, the record copy is likely to be within agency custody and control. Therefore, agencies may remove access to convenience copies so long as the record copy of the information is preserved according to the Federal Records Act.

The OPEN Government Data Act foresees the cataloging of data assets but does not amend existing records management statutes, nor does it require the permanent archiving or continued web availability of data assets.<sup>81</sup> Conversely, the Federal Records Act itself does not require posting of information online or proactive, contemporaneous disclosure of information to the public but rather focuses on the storage and preservation of materials. Some of these topics are discussed below.

#### **Potential Questions Related to Data.gov**

- What data are preserved and for how long? Are agencies equipped to determine what data elements must be preserved together to support long-term record integrity and to serve stakeholder needs?

<sup>78</sup> NARA, “Milestones of the U.S. Archival Profession and the National Archives,” <https://www.archives.gov/about/history/milestones.html>. See also Department of the Interior, National Park Service, “Creating a Legacy: The Development of the National Archives,” <https://www.nps.gov/articles/000/creating-a-legacy-the-development-of-the-national-archives.htm>.

<sup>79</sup> 44 U.S.C. §3301(a).

<sup>80</sup> For more information about federal records management, see CRS In Focus IF11119, *Federal Records: Types and Treatments*, by Meghan M. Stuessy.

<sup>81</sup> In 2017, legislation was introduced in Congress to address this topic by requiring certain types of data assets that were made publicly available to remain that way unless an agency provided advance public notice of removal with justifications, but the legislation did not receive further action. See S. 960, 115<sup>th</sup> Cong., Preserving Data in Government Act of 2017, and Sen. Gary Peters, “Peters, Gardner Introduce Bill to Keep Government Research Data Publicly Available,” press release, April 27, 2017, <https://www.peters.senate.gov/newsroom/press-releases/peters-gardner-introduce-bill-to-keep-government-research-data-publicly-available>. The legislation used terms that were common with early versions of the OPEN Government Data Act, including *open Government data* and *public data asset*.

- How do policymakers determine the perceived value of information? From whose perspectives and for what uses?
- Does information on Data.gov warrant preservation, or is it located on the site for convenience? Should NARA promote continued online access to permanent data records?
- How should policymakers treat data that are less current? When or how should they be removed from view? To what degree should agencies allocate staff time and financial resources to retrieve older information for researchers and the public?

## Proactive Disclosure and Public Dissemination

The administrative creation of Data.gov in 2009 and enactment of the OPEN Government Data Act both prioritize a perspective to proactively make certain kinds of federal information available. Data.gov appears in the context of continued conversations regarding how the federal government might proactively disclose and publicly disseminate government-related information, which has developed and formalized over time in response to diverse stakeholder needs. For example, as the size and scope of government expanded during the New Deal era, the House Committee on the Judiciary lamented in 1935 that “administrative rules and pronouncements oftentimes cannot be found. As to their publication and distribution, there is utter chaos. These rules and regulations frequently appear in separate paper pamphlets, some printed on single sheets of paper and easily lost.”<sup>82</sup> To remedy this, Congress passed the Federal Register Act (44 U.S.C. Chapter 15), which required the Archivist of the United States to publish and distribute several kinds of federal documents in a printed periodical that eventually also became available electronically.<sup>83</sup>

The 1946 enactment of the Administrative Procedure Act (APA; 5 U.S.C. §§551 et seq.) continued to promote proactive disclosure by requiring the publication of certain “public information” regarding an agency’s organization and processes.<sup>84</sup> Noting that Congress makes bills available for viewing to proponents, opponents, and the public in the form of hearings before enactment, an accompanying Senate Committee on the Judiciary report suggested that the APA would promote uniformity and public notice of agency regulations and procedures.<sup>85</sup> Originally enacted as a 1966 amendment to the APA, statutory text that would later be separated and become known as FOIA (5 U.S.C. §552) required an agency to publish in the *Federal Register* descriptions of its central and field organization and its rules of procedure, and to make available for public inspection all final opinions and orders made in the adjudication of cases, among other information about government operations.

Other efforts that are reflected in current law to proactively disclose and disseminate information began administratively. After access to the internet became more widely available in the 1990s, GSA began to operate a web portal in 2000 to provide information to the public; this portal was

<sup>82</sup> U.S. Congress, House Judiciary Committee, *Publication of Governmental Rules and Regulations*, 74<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 280, March 4, 1935, p. 2.

<sup>83</sup> Federal Register Act, P.L. 74-220 (July 26, 1935; 49 Stat. 500), <https://tile.loc.gov/storage-services/service/l1/l1//l1sl-c74/l1sl-c74.pdf#page=546> (currently codified at 44 U.S.C. Chapter 15). For discussion of the act, see **Appendix** and “Congress Evolving in the Face of Complexity: Legislative Efforts to Embed Transparency, Participation, and Representation in Agency Operations,” by Clinton T. Brass and Wendy Ginsberg, in CRS Committee Print CP10000, *The Evolving Congress: A Committee Print Prepared for the Senate Committee on Rules and Administration*, coordinated by Walter J. Oleszek, Michael L. Koempel, and Robert Jay Dilger.

<sup>84</sup> Among other things, regulations that provide for the *U.S. Government Manual* cite the associated statutory provisions as authority. See 1 C.F.R. Part 9.

<sup>85</sup> U.S. Congress, Senate Committee on the Judiciary, *Providing for the More Expeditious Settlement of Disputes with the United States, and for Other Purposes*, 76<sup>th</sup> Cong., 1<sup>st</sup> sess., S.Rept. 442, May 17, 1939, pp. 9-12.

eventually branded as USA.gov.<sup>86</sup> Requirements were soon enacted for these kinds of activities. Notably, the E-Government Act of 2002 (P.L. 107-347) requires the maintenance and promotion of “an integrated Internet-based system of providing the public with access to Government information and services” and codified some features of USA.gov. In 2009, the Data.gov website arrived as the latest in a succession of administrative and legislative efforts to proactively make certain federal information visible and accessible inside and outside of government.

For purposes of Data.gov’s implementation, questions remain with respect to how data changes may be documented over time, because data assets are not considered to be descriptions or substantive rules subject to publication and notice in the *Federal Register*. Furthermore, agencies may exercise considerable discretion regarding whether and how to make data assets available under the OPEN Government Data Act.

#### **Potential Questions Related to Data.gov**

- How does government distribute different kinds of information, and how might stakeholder needs be best addressed through different or complementary modes of dissemination? What is Data.gov’s role?
- Does Data.gov offer information consistently and predictably? For example, the *Federal Register* receives submissions from agencies and publishes documents on a known schedule. Should Data.gov operate on a similar public schedule? How should Data.gov track when an underlying data asset is added or removed?
- Does Data.gov inform the public about government activity and operations? Does it help individuals and entities become informed about policy, economic, and social conditions that are of interest?

## **Reactive, Request-Based Public Disclosure**

Under the OPEN Government Data Act, disclosure of data assets on Data.gov is built on the decades-old foundation of disclosure under FOIA. By formally incorporating FOIA into the architecture of Data.gov, the statute represented a considerable change in emphasis from prior administrative efforts. After FOIA became effective in 1967, in the face of frequent resistance from entities in the executive branch to disclosing government information, then-President Lyndon Johnson said FOIA made plain that “a democracy works best when the people have all the information that the security of the Nation permits.”<sup>87</sup> FOIA establishes a presumption that the public should have access to information in the possession of executive branch agencies and departments of the federal government. Prior to FOIA, a requester had the burden of proof to show a “need to know” to gain access to government information. FOIA assumes a “right to know” and shifts the burden to the federal government to establish a need to keep the information secret.<sup>88</sup>

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<sup>86</sup> See “USAGov,” <https://www.usa.gov/>; GSA, “USAGov: Always Evolving, Always Connecting People with Their Government,” July 10, 2019, <https://blog.usa.gov/usagov-always-evolving-always-connecting-people-with-their-government/>; and GSA, “USAGov’s Mission and History,” <https://www.usa.gov/mission-history>. Decades before the advent of the publicly available internet, agencies frequently disseminated paper pamphlets and booklets to the public with information about consumer topics and federal services. Availability of the publications was frequently advertised through other media, including public service announcements on television. A federal government distribution center in Pueblo, CO, was associated with the dissemination effort, and this branding continues with availability of many documents at <https://pueblo.gpo.gov/Publications/PuebloPubs.php?NavCode=M>. For discussion of the administrative and statutory history behind these efforts, see GSA, “Change Comes to USAGov’s Historic Publication Program,” October 18, 2016, <https://blog.usa.gov/change-comes-to-usagovs-historic-publication-program/>; and GSA, “A Brief History of TTS Solutions,” <https://handbook.tts.gsa.gov/office-of-solutions/history/>.

<sup>87</sup> U.S. President (Johnson), “Statement by the President Upon Signing the ‘Freedom of Information Act,’” *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1966*, vol. 2 (GPO, 1967), p. 316.

<sup>88</sup> U.S. Congress, House Committee on Oversight and Government Reform, *A Citizen’s Guide to Using the Freedom of* (continued...)

FOIA also contains provisions granting members of the public the explicit ability to request information from federal agencies.<sup>89</sup> FOIA does not require requests be made using a specific form but rather that the request simply must be made in writing and reasonably describe the records sought. In the present day, FOIA requests may be sent to agencies electronically via web form, e-mail, or fax.<sup>90</sup> However, FOIA balances the public’s “right to know” against nine exemptions under which agencies may withhold information to protect national security interests, preserve agency deliberations, and protect individual privacy, among others.<sup>91</sup> These exemptions have become integral in determining whether certain information can be provided publicly and are incorporated by reference throughout the OPEN Government Data Act.

In the context of Data.gov and the OPEN Government Data Act, FOIA’s statutory framework for request-based disclosure is statutorily integrated with other perspectives to federal information, including proactive disclosure (discussed in the previous section) and, as discussed further in this report, a focus on reusability of information. However, the development of Data.gov has focused on structured data assets, while many requests for release of information under FOIA historically have focused on unstructured data.

The OPEN Government Data Act was not the first statute to prioritize user needs when releasing data in particular software formats. The Electronic Freedom of Information Act Amendments of 1996, for example, requires agencies to make “reasonable efforts” to provide information to individuals in requested electronic formats.<sup>92</sup> In the FOIA Improvement Act of 2016, agencies were required to publicly post frequently requested documents, subject to FOIA exemptions, and documents that because of the nature of their subject matter “have become or are likely to become the subject of subsequent requests for substantially the same records.”<sup>93</sup> Although agencies maintain physical and electronic reading rooms for members of the public to review agency information, Data.gov may serve as an additional directory for released agency data.

#### **Potential Questions Related to Data.gov**

- When should information be redacted or withheld from Data.gov? Under FOIA, agencies mark redactions with the exemption the agency invokes to withhold the information. How might a similar process be developed for agency data assets?
- Are such processes transparent and explainable?
- How should government keep information confidential or private, and what level of risk to confidentiality and privacy is acceptable?

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*Information Act and the Privacy Act to Request Government Records*, committee print, 112<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 112-689, September 21, 2012, p. 2, <https://www.congress.gov/112/crpt/hrpt689/CRPT-112hrpt689.pdf>.

<sup>89</sup> See CRS Report R47058, *Access to Government Information: An Overview*, by Meghan M. Stuessy, and CRS Report R46238, *The Freedom of Information Act (FOIA): A Legal Overview*, by Benjamin M. Barczewski.

<sup>90</sup> For more information on how to submit a FOIA request, see Department of Justice, “How Do I Make a FOIA Request?” <https://www.foia.gov/how-to.html>.

<sup>91</sup> For discussion of what constitutes an agency *record* subject to disclosure under FOIA, see CRS Report R46238, *The Freedom of Information Act (FOIA): A Legal Overview*, by Benjamin M. Barczewski.

<sup>92</sup> 5 U.S.C. §552(a)(3)(B) and U.S. Congress, Senate Committee on the Judiciary, *Electronic Freedom of Information Improvement Act of 1995*, report to accompany S. 1090, 104<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 104-272, p. 8, May 15, 1996.

<sup>93</sup> 5 U.S.C. §552(a)(2)(D), P.L. 114-185, 130 Stat. 538.

## Discoverability of Information

Multiple administrative and legislative efforts have been undertaken to make government information more findable and discoverable to potential federal and public users.<sup>94</sup> Data.gov and the federal data catalog may be viewed as the latest in a series of efforts to expand the discoverability of information, and Data.gov has deep roots in some of these precursors. Building on the Federal Reports Act of 1942 (P.L. 77-831), the Paperwork Reduction Act in 1980 (44 U.S.C. Chapter 35) sought to, among other things, minimize burden on entities and individuals who were required to furnish information to agencies, including by authorizing processes to coordinate agency information collections.<sup>95</sup> However, the Paperwork Reduction Act also enacted certain information discoverability policies, including the establishment of a Federal Information Locator System (FILS) to serve as an authoritative register of federal collections of information from the public.<sup>96</sup> In order for OMB to be able to identify duplication of information collections, Congress created the FILS to enable OMB to locate and discover existing information that may meet various government and public needs without undergoing duplicative information collections.<sup>97</sup> The law authorized OMB to use FILS to compare the content of proposed collections with existing information and make the results available to agencies and, on request, to the public.

With an explicit goal to assist agencies and the public in locating information, the reauthorization of the Paperwork Reduction Act in May 1995 replaced the FILS provision with requirements for an agency-based, electronic Government Information Locator Service (GILS) to identify the “major” information systems, holdings, and dissemination products of each agency.<sup>98</sup> The Clinton Administration described GILS as “a decentralized collection of agency-based information locators using network technology and international standards to direct users to relevant information resources.”<sup>99</sup> A later evaluation of GILS found that

the original vision of a *government-wide* information locator service has not yet been achieved. Rather, there exists a collection of disparate agency GILS that are uneven in their implementation, coverage, and utility. The U.S. GILS implementation has not achieved the vision of a “virtual card catalogue” of government information nor has the majority of

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<sup>94</sup> For discussion of discoverability in the context of digital service, see OMB, “Delivering a Digital-First Public Experience,” Memorandum M-23-22, September 22, 2023, pp. 11-12, <https://www.whitehouse.gov/wp-content/uploads/2023/09/M-23-22-Delivering-a-Digital-First-Public-Experience.pdf>.

<sup>95</sup> For discussion of information collections under current law, see CRS In Focus IF11837, *The Paperwork Reduction Act and Federal Collections of Information: A Brief Overview*, by Maeve P. Carey and Natalie R. Ortiz.

<sup>96</sup> These statutory provisions, which were located at 44 U.S.C. §3511, were later replaced by provisions establishing a GILS (see **Appendix** entry for May 1995), which in turn were replaced by provisions for the federal data catalog in the OPEN Government Data Act (see **Appendix** entry for January 2019).

<sup>97</sup> U.S. Congress, Senate Committee on Finance, *Paperwork Reduction Act of 1980*, report to accompany S. 1411, 96<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 96-930, September 8, 1980, p. 2.

<sup>98</sup> OMB and several agencies had formally established the GILS administratively several months earlier. For discussion, see Eliot J. Christian, “Helping the Public Find Information: The U.S. Government Information Locator Service (GILS),” *Journal of Government Information*, vol. 21, no. 4 (July-August 1994), pp. 305-314; and William H. Moen, “The Metadata Approach to Accessing Government Information,” *Government Information Quarterly*, vol. 18, no. 3 (Autumn 2001), pp. 155-165. See also **Appendix** entry for May 1995.

<sup>99</sup> Executive Office of the President, Office of Administration, “Government Information Locator Service (GILS),” <https://clintonwhitehouse4.archives.gov/WH/EOP/html/other/foia/gilsinfo.html>, which linked to a web portal (Government Printing Office, “Government Information Locator Service,” [https://web.archive.org/web/20000302011553/http://www.access.gpo.gov/su\\_docs/gils/gils.html](https://web.archive.org/web/20000302011553/http://www.access.gpo.gov/su_docs/gils/gils.html)). A contemporary article described GILS as “made up of what are essentially bibliographic records for government information resources.” See Julie Johnson, “GILS: Government Information Locator Service, A Brief Description,” *Australian Library Journal*, vol. 44, no. 4 (November 1995), pp. 214-224.

agency GILS implementations matured into a coherent and usable government information locator service.<sup>100</sup>

Administrative efforts to establish Data.gov in May 2009 may be viewed as a successor initiative to addressing the discoverability of information, albeit with an added dimension of seeking to make data “open” as well. In 2019, the newly enacted OPEN Government Data Act struck the GILS-related statutory provisions. In their place, the law requires (1) agencies to develop and maintain comprehensive data inventories (comprising metadata for each agency-identified data asset) and (2) GSA to maintain a “Federal data catalogue” as a “single public interface online as a point of entry” for sharing agency data assets with the public.<sup>101</sup> GSA indicates that Data.gov became the home for the required federal data catalog.<sup>102</sup> Potential issues of comprehensiveness of these inventories, persistence and stability of availability, and usefulness to users of a given data asset and its accompanying documentation or explanation appear to remain.

#### Potential Questions Related to Data.gov

- Does Data.gov enable users to locate data of interest and easily discover related resources?
- Can Data.gov be used as a tool to determine whether there are duplicate collections of data? Some publications and information collections have assigned identifiers indicating the provenance or authority for which the data were created. How should that information be incorporated?
- Should Data.gov be the primary interface for accessing federal data, or should it serve as one option among many?

## “Open Data” and Reusability of Information

Data.gov published a blog entry in 2013 that characterized the website as part of a history of “open data”<sup>103</sup> and referred readers to a 2013 online article that described a corresponding “open data movement.”<sup>104</sup> Historically, the origins of the term *open* have not been monolithic, and interpretations of its meaning have evolved over time and varied across contexts.

Some of Data.gov’s open data historical roots may be traced to discussions about a particular kind of data: scientific data. Among other things, the 2013 article referred to writing in 1942 by sociologist Robert K. Merton, who advocated several norms in science, including that findings be in the public domain, commonly owned by the scientific community rather than just by an

<sup>100</sup> William E. Moen and Charles R. McClure, *An Evaluation of the Federal Government’s Implementation of the Government Information Locator Service (GILS), Final Report*, June 30, 1997, p. iv, <https://eric.ed.gov/?q=ED410965&id=ED410965>.

<sup>101</sup> The provisions were codified at 44 U.S.C. §3511, the same location as the Federal Information Locator System and GILS provisions until their repeals.

<sup>102</sup> See GSA, Technology Transformation Services, “Open Government,” <https://data.gov/open-gov/>, which says “Data.gov implements The OPEN Government Data Act (Title II of the Foundations for Evidence-Based Policymaking Act of 2018, P.L. 115-435). The OPEN Government Data Act makes Data.gov a requirement in statute, rather than a policy.”

<sup>103</sup> GSA, “Open Data: A History,” Data.gov, April 4, 2013, <https://data.gov/blog/open-data-history/>. Some observers note that distinguishing between “open government” and “open data” may be clarifying. See Harlan Yu and David G. Robinson, “The New Ambiguity of ‘Open Government,’” *UCLA Law Review Discourse*, vol. 59 (February 28, 2012), pp. 178-208, <https://www.uclalawreview.org/the-new-ambiguity-of-open-government/>, which distinguishes between disclosures aimed at making government more publicly accountable in areas of significant policy importance, on one hand (which the authors label as “open government”), and, on the other hand, disclosures that through technical means make government information easier to access and reuse, independently of the information’s importance for policy and accountability (which the authors refer to as “open data”).

<sup>104</sup> Simon Chignard, “A Brief History of Open Data,” *ParisTech Review*, March 29, 2013, <https://www.paristechreview.com/2013/03/29/brief-history-open-data/>.

individual researcher, and communicated and shared.<sup>105</sup> The 2013 online article also cited a 1995 National Academies report that called for “full and open” exchange, access, sharing, communication, availability, and access to information and data.<sup>106</sup> More recently, conversations about scientific data have addressed the concept of “open science”—including the availability and usability of (1) scholarly publications (“open publication”), (2) data from research (“open data”), and (3) related code and algorithms that were used (“open code”).<sup>107</sup> These conversations also promote more specific guidelines to facilitate the capacity of machines to automatically find and reuse scholarly data (i.e., making metadata and data findable, accessible, interoperable, and reusable).<sup>108</sup>

As part of this conversation, in 2000, Congress passed a brief statute that is popularly known as the Information Quality Act (IQA; 44 U.S.C. §3516 note), which required the OMB director to issue guidelines to agencies to ensure and maximize “the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.”<sup>109</sup> The corresponding OMB guidelines regarding the IQA direct agencies to ensure and maximize the quality of their disseminated information, establish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency, and report the number and nature of such complaints to the OMB director.<sup>110</sup>

Of particular relevance to the open data conversation, the guidelines require agencies, as part of their data dissemination processes, to “make their methods transparent by providing documentation, ensure quality by reviewing the underlying methods used in developing the data and consulting (as appropriate) with experts and users, and keep users informed about corrections and revisions.”<sup>111</sup> Availability and replicability of the underlying data, especially in scientific and statistical applications, underlies OMB and agency assessments of their information quality. OMB states that if an agency “is responsible for disseminating influential scientific, financial, or statistical information, agency guidelines shall include a high degree of transparency about data

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<sup>105</sup> The 2013 article likely was referring to Robert K. Merton, “A Note on Science and Technology in a Democratic Order” (title as listed in the table of contents), *Journal of Legal and Political Sociology*, vol. 1, nos. 1-2 (October 1942), pp. 115-126. The essay was subsequently reprinted under other titles, including “The Normative Structure of Science,” in Robert K. Merton, ed., *The Sociology of Science* (University of Chicago Press, 1973), pp. 267-278.

<sup>106</sup> Simon Chignard, “A Brief History of Open Data,” *ParisTech Review*, March 29, 2013, referring to National Research Council, Committee on Geophysical and Environmental Data, *On the Full and Open Exchange of Scientific Data* (National Academies Press, 1995), p. 2, <https://nap.nationalacademies.org/catalog/18769/on-the-full-and-open-exchange-of-scientific-data>.

<sup>107</sup> National Academies of Sciences, Engineering, and Medicine, *Open Science by Design: Realizing a Vision for 21<sup>st</sup> Century Research* (National Academies Press, 2018), pp. 23-24, <https://nap.nationalacademies.org/catalog/25116/open-science-by-design-realizing-a-vision-for-21st-century>. See also National Academies of Sciences, Engineering, and Medicine, *Developing a Toolkit for Fostering Open Science Practices: Proceedings of a Workshop* (National Academies Press, 2021), <https://nap.nationalacademies.org/catalog/26308/developing-a-toolkit-for-fostering-open-science-practices-proceedings-of>.

<sup>108</sup> Mark D. Wilkinson et al., “The FAIR Guiding Principles for Scientific Data Management and Stewardship,” *Scientific Data*, vol. 3 (March 2016), article 160018, <https://www.nature.com/articles/sdata201618>; and GO FAIR Initiative, “FAIR Principles,” <https://www.go-fair.org/fair-principles/>.

<sup>109</sup> 44 U.S.C. §3516 note, P.L. 106-554 §515, 114 Stat. 2763, 2763A-72.

<sup>110</sup> OMB, “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication,” 67 *Federal Register* 8452, February 22, 2002, <https://www.federalregister.gov/d/R2-59/p-67>.

<sup>111</sup> OMB, “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication,” 67 *Federal Register* 8452, February 22, 2002, <https://www.federalregister.gov/d/R2-59/p-22>.

and methods to facilitate the reproducibility of such information by qualified third parties.”<sup>112</sup> Data.gov participates in this discussion by providing agencies with a means of distributing the underlying data that may inform research findings and decisions.<sup>113</sup>

In 2013, OMB continued to encourage agencies to provide open data in subsequent guidance, notably in Memorandum M-13-13. In that memorandum, OMB formally described open data as being consistent with a list of several principles, including accessibility and reusability. OMB defined *accessibility* with respect to open data as stating that data “should be made available to the widest range of users for the widest range of purposes, often by providing the data in multiple formats” and that the formats should be nonproprietary, publicly available, and not restricted to the extent permitted by law.<sup>114</sup> *Reusable data* was similarly defined as open data that are “made available under an open license that places no restriction on their use.”<sup>115</sup>

M-25-05 superseded Memorandum M-13-13 in January 2025 and ceased describing “principles” for open data, instead employing terms from the OPEN Government Data Act.<sup>116</sup> To the extent that data assets are not already available in open format, questions about feasibility of conversions may remain relevant over time.

### Potential Questions Related to Data.gov

- What information formats should Data.gov and agencies use for information that is available through the website? Are the data unrestricted and usable across software and purposes?
- For information to be perceived as useful by potential users, how important is formatting in contrast with other attributes, including the quality of metadata and explanation of key capabilities and limitations of what the information represents?
- To what extent should Data.gov help users assess whether certain data are fit for a given use case or purpose?

<sup>112</sup> OMB, “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication,” 67 *Federal Register* 8452, February 22, 2002, <https://www.federalregister.gov/d/R2-59/p-89>. With respect to academic and scientific publishing, certain publications are considered to be closed or toll access, where access to the publications is possible only with payment of a fee. In contrast, subsequent conversations regarding “principles” of open data have given rise to the prioritization of open access publications, where contributors are encouraged to use publications that do not charge for access to articles and data in the interest of promoting replicable and high-quality research. See also Open Access Network, *Open Access Publishing*, October 20, 2025, <https://open-access.network/en/information/publishing/open-access-publishing>.

<sup>113</sup> In 2007, a meeting of advocates further identified eight “open government data principles,” including commonly owned or open standards (who owns the format in which the data are stored), licensing (labeling public information as available without restrictions or usable as part of the public domain), and machine readability (information should be stored in widely used formats for ease of machine processing). See Simon Chignard, “A Brief History of Open Data,” *ParisTech Review*, March 29, 2013; Sunlight Foundation, “Ten Principles for Opening Up Government Information,” November 17, 2017, <https://sunlightfoundation.com/policy/documents/ten-open-data-principles/>, linking to the 2007 meeting agenda (“Open Government Working Group,” [https://public.resource.org/open\\_government\\_meeting.html](https://public.resource.org/open_government_meeting.html)) and output (“Request for Comments” on eight “Open Government Data Principles,” [https://public.resource.org/8\\_principles.html](https://public.resource.org/8_principles.html)); and Harlan Yu and David G. Robinson, “The New Ambiguity of ‘Open Government,’” *UCLA Law Review Discourse*, vol. 59 (February 28, 2012), pp. 195-196.

Data.gov points to another website that focuses on the 2007 meeting’s principles and compares that list with other views on how to define the term *open*: see GSA, “Data Management & Governance,” link titled “Annotated 8 Principles of Open Government Data,” <https://resources.data.gov/categories/data-management-governance/>.

<sup>114</sup> OMB, Memorandum M-13-13, p. 5, and OMB, Circular A-130, p. 33.

<sup>115</sup> OMB, Memorandum M-13-13, p. 5, and OMB, Circular A-130, p. 33.

<sup>116</sup> OMB, Memorandum M-25-05, pp. 13-17.

## Use of Information to Inform Learning, Improvement, and Policy

Data.gov and the OPEN Government Data Act also may be viewed in the context of historical efforts to broadly facilitate learning by agencies and outside researchers, improvement of government performance, and related policymaking. In practice, agencies and policymakers may draw on many kinds of information and analytical approaches in efforts to learn, improve, and deliberate on policy options.<sup>117</sup> Along with federal agencies, Congress may intend for these efforts to enable and include participation of many other stakeholders in a democratic system of governance, including state and local government entities, nongovernmental researchers, and the public. In addition, many communities of practice among analysts, evaluators, and researchers, both inside and outside government, may help support these efforts. Each community of practice may focus on certain kinds of information while using its preferred analytical approaches and methods. The history that led to Data.gov has been a significant part of this conversation.

The administrative and legislative establishment of a GILS in 1994 and 1995, for example, sought to take advantage of technology and the internet to make certain government information more available to the public, including for use by agencies and nongovernmental researchers.<sup>118</sup> Over two decades later, Congress considered and ultimately passed the OPEN Government Data Act to replace those statutory provisions with requirements for agency-level comprehensive data inventories and a federal data catalog, and thereby to enact into law aspects of Data.gov's operations. In this time period, many of the act's provisions were characterized by advocates as supporting "evidence-based policymaking."<sup>119</sup>

Several streams of policy conversation appeared to converge in the 2019 act. In the mid-2010s, for example, interest was evident in what some advocates called the "evidence-based policy" movement.<sup>120</sup> The social movement became active at the federal level in the early 2000s and emphasized a view that researchers and the federal government should prioritize a particular method of evaluation of programs and policies, randomized controlled trials (RCTs). RCTs provide for random assignment of subjects to treatment and control groups, to quantitatively estimate the impact of interventions.<sup>121</sup> OMB sought to embrace this view as a priority and, in the mid-2010s, sought to help make these kinds of evaluations less expensive and shorter in duration through increased access to existing administrative data within agencies instead of relying on

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<sup>117</sup> Clinton T. Brass and Kathryn E. Newcomer, "Evidence-Informed Policy and Management? Disparate Communities of Practice Providing Information to Government," in Kathryn E. Newcomer and Steven W. Mumford, eds., *Research Handbook on Program Evaluation* (Edward Elgar, 2024), pp. 374-396.

<sup>118</sup> Separate efforts in the early 1990s sought to make information about government performance and results more prominent and public, including through goal setting and performance measurement. See CRS Report R42379, *Changes to the Government Performance and Results Act (GPRA): Overview of the New Framework of Products and Processes*, by Clinton T. Brass. See also **Appendix** entry for May 1995.

<sup>119</sup> More specifically, an initial, stand-alone version of the OPEN Government Data Act was introduced in April 2016. Other versions were considered in 2017 but not enacted until January 2019, when the act was included as one part of legislation relating to "evidence-based policymaking" (see **Appendix**).

<sup>120</sup> For example, see Ron Haskins, "Evidence-Based Policy: The Movement, the Goals, the Issues, the Promise," *Annals of the American Academy of Political and Social Science*, vol. 678, no. 1 (July 2018), pp. 8-37.

<sup>121</sup> See CRS Report RL33301, *Congress and Program Evaluation: An Overview of Randomized Controlled Trials (RCTs) and Related Issues*, by Clinton T. Brass, Erin D. Williams, and Blas Nuñez-Neto. See also CRS Congressional Distribution Memorandum, *Obama Administration Agenda for Government Performance: Evolution and Related Issues for Congress*, January 19, 2011, by Clinton T. Brass (available to congressional clients on request). For discussion of other movements and communities of practice, see Clinton T. Brass and Kathryn E. Newcomer, "Evidence-Informed Policy and Management? Disparate Communities of Practice Providing Information to Government."

more expensive and time-consuming efforts to collect primarily new data.<sup>122</sup> Under this logic, with access to already existing administrative data that identify individual people or entities, researchers would be able to assess whether government-held data assets that had been collected for another purpose could be repurposed, including for evaluation by RCTs. Unique identifiers in the data could enable datasets to be “linked” and combined for each subject of an intervention, thereby avoiding the need to collect new data. These and related conversations eventually culminated in a statutorily established CEP, which recommended that agencies be required to compile searchable inventories of metadata for their data assets (see **Appendix** entry for September 2017). In 2019, these topics were included in the enacted version of the OPEN Government Data Act.

Alongside the OPEN Government Data Act, another part of FEBPA, Title I, focuses on building an agency’s capacity for evaluation, analysis, and research through new institutions (e.g., an evaluation officer) and processes (e.g., evidence-building plans, which are referred to in OMB guidance as a “learning agenda,” and also capacity assessments).<sup>123</sup> The ability of diverse stakeholders and communities of practice to access and use large, structured data assets that identify individuals or that, alternatively, contain “de-identified data”—facilitated by FEBPA’s Title II and Data.gov—might help provide insights in any of these activities.<sup>124</sup> Looking ahead, it remains to be seen whether and how agency and nonfederal parties’ access to data assets via Data.gov may help facilitate these efforts.

#### Potential Questions Related to Data.gov

- To what extent do stakeholders internal and external to the federal government use Data.gov, as opposed to other modes of access, to help them locate and use information to inform their efforts to learn from data?
- Should Data.gov be viewed as the main way to provide this information or a complementary way to provide it?
- How do agencies engage with potential users to learn what modes of dissemination would be most helpful to them, including not only formatting but also frequency of updating, detail of metadata, and other explanatory information that may be involved in how data assets are explained and curated?

## Potential Issues and Options for Congress

Many categories of topics related to Data.gov and access to federal information may provide a basis for congressional deliberation, oversight, or legislation, including but not limited to those posed as questions above. Some of these topics are further elaborated and discussed below. Related issues for Congress generally relate to whether and how Congress might require federal

<sup>122</sup> OMB, “Next Steps in the Evidence and Innovation Agenda,” Memorandum M-13-17, July 26, 2013, and OMB, “Guidance for Providing and Using Administrative Data for Statistical Purposes,” Memorandum M-14-06, February 14, 2014, <https://bidenwhitehouse.archives.gov/omb/information-for-agencies/memoranda/>.

<sup>123</sup> FEBPA, Title I, including provisions relating to evaluation officers (codified at 5 U.S.C. §313), learning agendas (codified at 5 U.S.C. §312), and capacity assessment (codified at 5 U.S.C. §306(a)(9)). OMB issued related guidance in OMB, “Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance,” Memorandum M-19-23, July 10, 2019, <https://bidenwhitehouse.archives.gov/omb/information-for-agencies/memoranda/>.

<sup>124</sup> For discussion of multiple communities of practice that might draw on data using diverse analytical approaches, see Clinton T. Brass and Kathryn E. Newcomer, “Evidence-Informed Policy and Management? Disparate Communities of Practice Providing Information to Government.”

entities to disclose information about particular data assets online—on Data.gov or in their data inventories—as well as maintain, update, explain, and archive the data assets.<sup>125</sup>

## Serving Varied Audiences

The previously identified perspectives toward Data.gov and corresponding communities of practice frequently have overlapping or complementary goals. However, the existence of these separate communities indicates that different audiences may prioritize certain features of Data.gov over others. Furthermore, they may bring their own disciplinary perspectives and historical priorities to issues before Congress and situations confronting an agency. When Data.gov was established administratively in 2009, its implementation represented a conscious choice to focus on certain audiences and needs. The website would emphasize providing “raw data” to enable these audiences to “transform it in innovative ways.”<sup>126</sup> In that view, making large and diverse datasets available to the public would enable developers of computer applications to create helpful tools.<sup>127</sup> An Obama Administration report from 2011 discussed this rationale and implications for users of differing levels of sophistication or subject matter expertise, explaining that

Raw data are flexible, and upon making such data available to the public, agencies have explicitly invited the public to put that information to new uses, tailored however users of that information desire. It would therefore not be preferable to specify the form agency data available through Data.gov should take. Better for agencies to provide their own data, in the form agencies already maintain it, as they see fit.<sup>128</sup>

This choice to focus on developers and their needs did not necessarily align with a broader public audience. Providing raw data may help users to customize and manipulate the data, but the absence of context and metadata meant that the site’s utility was likely limited for understanding government operations or for transparency purposes. Reacting to the website’s initial implementation, some observers called for improved metadata to aid with understanding the nature of data assets (e.g., how the data are curated, frequency of updating) and also for making data available in proprietary file formats that they viewed as more user friendly (e.g., XLS for Microsoft software).<sup>129</sup>

Both of these use cases benefitted from improved metadata and data asset context. A 2017 CIO Council report, for example, identified what it characterized as strengths of the website (e.g.,

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<sup>125</sup> More comprehensive topics regarding the federal government’s stewardship and management of information—including creation, acquisition, modification, curation, sharing, integration, protection, accessibility, use, and destruction of recorded information, along with roles and responsibilities of many federal entities—also may be of interest but are not the focus of this report.

<sup>126</sup> OMB, “Data.gov to Bring Unprecedented Access to Government Information,” press release, May 21, 2009, [https://web.archive.org/web/20090610101537/http://www.whitehouse.gov/omb/news\\_052109\\_data/](https://web.archive.org/web/20090610101537/http://www.whitehouse.gov/omb/news_052109_data/).

<sup>127</sup> See JD Kathuria, “Exclusive Interview with Vivek Kundra, Federal CIO,” *ExecutiveBiz*, December 22, 2009, <https://web.archive.org/web/20100207133226/http://blog.executivebiz.com/exclusive-interview-with-vivek-kundra-federal-cio/6190>; White House, “Data.gov: Pretty Advanced for a One-Year-Old,” May 21, 2010, <https://web.archive.org/web/20110128105329/http://www.whitehouse.gov/blog/2010/05/21/datagov-pretty-advanced-a-one-year-old>; and White House, “From Data to Apps: Putting Government Information to Work for You,” May 20, 2011, <https://obamawhitehouse.archives.gov/blog/2011/05/20/data-apps-putting-government-information-work-you>.

<sup>128</sup> White House, *The Obama Administration’s Commitment to Open Government: A Status Report*, September 2011, p. 26, [https://obamawhitehouse.archives.gov/sites/default/files/opengov\\_report.pdf](https://obamawhitehouse.archives.gov/sites/default/files/opengov_report.pdf). The report was originally linked as one of a number of resources on the Obama Administration’s “Open Government Policy” page, located at <https://obamawhitehouse.archives.gov/open/about/policy>.

<sup>129</sup> Gabriel Debenedetti, “One Year Later, Data.gov Site Bigger but Needs to Get Better,” Center for Public Integrity, June 25, 2010, <https://publicintegrity.org/accountability/one-year-later-data-gov-site-bigger-but-needs-to-get-better/>.

making data more easily discoverable) and key challenges (e.g., costs to agencies of curating data inventories in the absence of additional support, as well as assessing usefulness).<sup>130</sup> With a particular focus on the needs of more sophisticated users and researchers, congressionally directed studies highlighted the importance of robust data documentation including metadata to facilitate use and, in addition, challenges and costs of curation in the face of scarce resources.<sup>131</sup>

In enacting the OPEN Government Data Act in 2019, Congress prioritized the function of the Data.gov website as a true catalog of agency data, where data asset inventories “must include information about the data assets that will help the public better understand the data” that would enable a broader audience to use the data for evidence building and access it without requiring individual FOIA requests.<sup>132</sup> Nonetheless, the CEP warned that a data inventory is not self-executing once established and requires continued resources and support:

Once [a data] inventory is created, potential data users still need to understand the contents, characteristics, and quality of individual datasets. . . . Especially when administrative data are initially provided and used for statistical activities, information about their meaning and intent can be lost. Making appropriate use of administrative data for evidence building requires the development of data documentation, which can be time intensive and require a deep knowledge of the administrative data collected.<sup>133</sup>

Although Data.gov is at the intersection of many communities of practice, Congress may consider prioritizing operational elements that support multiple communities and prepare for future information perspectives. As discussed, for example, users prioritizing transparency or evidence-building both benefit from metadata and context for agency data assets.

Looking forward, a congressionally directed task force on artificial intelligence research similarly highlighted the needs of researchers and the costs of data curation. Among other things, the task force found that “data curation is a substantial challenge for researchers in all domains” and that “labeling, tagging, and annotation are difficult to automate and require significant hours of expert analysis.”<sup>134</sup> If Congress were to decide whether and how to direct agencies to provide or standardize data asset metadata, this might affect existing communities and future agency adoption of emerging technologies. All of these different perspectives may present challenges for Congress when legislating and conducting oversight and for agencies when implementing statutory provisions in pursuit of their diverse missions.

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<sup>130</sup> CIO Council, *State of Federal Information Technology*, January 2017, pp. C-5, C-11, and C-14, <https://www.cio.gov/resources/sofit/>.

<sup>131</sup> CEP, *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking*, pp. 78-79.

<sup>132</sup> House Committee on Oversight and Government Reform, *Foundations for Evidence-Based Policymaking Act of 2017*, H.Rept. 115-411, p. 13.

<sup>133</sup> CEP, *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking*, pp. 78-79.

<sup>134</sup> National AI Research Resource (NAIRR) Task Force, *Envisioning a National Artificial Intelligence Research Resource (NAIRR): Preliminary Findings and Recommendations*, May 2022, p. 4-2, [https://web.archive.org/web/20221113224346/https://www.ai.gov/nairrtf/#INTERIM\\_REPORT\\_AND\\_REQUEST\\_FOR\\_PUBLIC\\_INFORMATION](https://web.archive.org/web/20221113224346/https://www.ai.gov/nairrtf/#INTERIM_REPORT_AND_REQUEST_FOR_PUBLIC_INFORMATION). The task force identified FEBPA implementation efforts as a potential complement to AI-research-related data access. For discussion of NAIRR, see CRS Report R48555, *Regulating Artificial Intelligence: U.S. and International Approaches and Considerations for Congress*, by Laurie Harris.

## Transparency of Data Asset Inclusion and Reporting

Congress has established multiple statutory frameworks for both providing access to federal information and protecting sensitive information. The federal government may face trade-offs when attempting to reconcile these objectives, which may lead to agencies choosing to withhold data rather than risk privacy and security harms that data publication could enable. In 2017, the CIO Council issued a report with this point as a primary finding, when it reviewed federal open data efforts.

Existing statutes and policies such as the Paperwork Reduction Act (PRA) of 1995, the Freedom of Information Act (FOIA) of 1966, the Privacy Act of 1974, and various records management policies and requirements were established prior to the advent of modern technologies and did not necessarily account for the ease of collecting, sharing, and connecting data sources in a digital government. This tension can complicate agency implementation of open data initiatives. For instance, agency CIOs expressed concern that the release of datasets could inadvertently create vulnerabilities or expose confidential information. Furthermore, as more datasets are released, new challenges can emerge—such as the “mosaic effect”, which allows sensitive information to be derived from the combination of multiple public datasets, despite the fact that each individual piece of data does not contain sensitive information. Ultimately, CIOs are struggling to balance adherence to legacy policies and laws in the context of open government and open data efforts.<sup>135</sup>

As discussed earlier, agencies may exercise broad discretion in deciding when data are included on Data.gov by

- determining whether data constitute a data asset;
- assessing whether data could be released through FOIA or if they are otherwise restricted due to sensitive content, intellectual property rights, or contractual terms; or
- deciding whether the costs of converting the data into a machine-readable format outweigh the public benefits.

Through statute and guidance in M-25-05, agencies are required to report their progress on implementing the OPEN Government Data Act in an open data plan, as part of an overall agency information resources management plan.<sup>136</sup> In addition, agencies are to implement various data asset assessments by September 30, 2026.<sup>137</sup> Although these plans exist on individual agency websites, some are built into common development and coding platforms.<sup>138</sup> Congress could consider whether access to the corresponding agency open data plans should be provided as a part of Data.gov.

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<sup>135</sup> CIO Council, *State of Federal Information Technology*, January 2017, p. C-14, <https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/1151/2017/05/CIO-Council-State-of-Federal-IT-Report-January-2017-1.pdf>. The report was originally included on the CIO Council’s “State of Federal IT Report” page, which may be viewed at <https://web.archive.org/web/20250222011613/https://www.cio.gov/resources/sofit/>.

<sup>136</sup> 44 U.S.C. §3506(b)(2).

<sup>137</sup> OMB, Memorandum M-25-05, p. 32.

<sup>138</sup> See, for example, Department of Health and Human Services, *Living HHS Open Data Plan*, July 22, 2025, <https://github.com/HHS/living-hhs-open-data-plan>.

As of the date of this report, OMB has apparently not complied with a corresponding requirement for the OMB director to issue a biennial report on agency performance and compliance with the OPEN Government Data Act.<sup>139</sup> In an October 2020 report, GAO stated that

without OMB’s report on agency performance and compliance with the OPEN Government Data Act, Congress and the public lack key information about the extent to which agencies are meeting their requirements under the act, including whether agencies have made all required data assets open and available to the public.<sup>140</sup>

GAO also reported that as of March 2025, it had not received any further updates on OMB compliance with this statutory requirement. Given OMB’s time frame in issuing Title II guidance in the form of M-25-05 and its accompanying delay in producing the required implementation report, Congress could consider conducting oversight to investigate and understand the institutional and technical challenges OMB might be facing in complying with the statute as it relates to information management.

## **Persistence of Access and Impacts on Future Use and Replicability**

Observers have raised questions about the persistence of access over time to federal datasets, which may include information on Data.gov and the possibility of data disappearing altogether from the website and from underlying agency inventories.<sup>141</sup> Uncertainty about persistent availability may complicate the ability of users to draw on prior federal efforts that may be relevant to their intended or potential uses of data. Furthermore, a lack of persistent access to certain data assets may hinder the ability of prospective users to replicate and build on prior analyses.

Concerns such as these pre-date establishment of Data.gov. As discussed earlier, the Federal Records Act focused on maintaining records as government property and as evidence of federal government activity and decisionmaking, and it also empowered NARA to work with agencies to assess the preservation value of the document. However, because not all materials can be preserved indefinitely because of resource constraints and a need to prioritize some records over others, most records are considered to be temporary records, that is, records materials that may be destroyed after a period of months, years, or decades in accordance with an approved records control schedule.<sup>142</sup> In addition, the act does not provide for making the information persistently available online. Generally speaking, unless a particular statute requires that a specific data asset or other information be retained, archived, and made available on the internet, agencies in practice may exercise considerable discretion regarding whether, how, and how long to make information available to the public.

In contrast, advocates from other communities of practice prioritized the assumption that all data may yield future insights and therefore should be indefinitely preserved. In the 1990s, a federal official who was central to efforts to administratively establish the GILS prior to its enactment

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<sup>139</sup> P.L. 115-435 §202(g)(2), 132 Stat. 5544, 44 U.S.C. §3502 note.

<sup>140</sup> GAO, *Open Data: Agencies Need Guidance to Establish Comprehensive Data Inventories; Information on Their Progress Is Limited*, GAO-21-29, October 8, 2020, p. 15, <https://www.gao.gov/assets/gao-21-29.pdf>.

<sup>141</sup> National Press Club, “National Press Club Statement on the Elimination of Data from Federal Agency Websites,” press release, March 16, 2026, <https://www.press.org/newsroom/national-press-club-statement-elimination-data-federal-agency-websites>. Throughout 2025, media reports have suggested that the availability of federal data has been reduced. Some observers are also tracking the removal of specific datasets, variables, and tools. For discussion of these events and issues related to the availability of federal data, see CRS Report R48889, *Availability of Federal Data: Policy Considerations for Disclosure, Preservation, and Governance*, by Meghan M. Stuessy and Taylor R. Knoedl.

<sup>142</sup> See also CRS In Focus IF11119, *Federal Records: Types and Treatments*, by Meghan M. Stuessy.

characterized the efforts as arising in part from needs of researchers and entities focused on climate change and other areas relating to science and policy.

One of the fundamental realities in this arena is that researchers and policy-makers today and in the future will need access to long baseline data. ... Current and future records must also be managed appropriately, but it is fundamentally not possible to fully anticipate what data and information will be needed. In some areas of basic research today, it may be 40 years until societies know the right questions to ask and what crucial data and information should have been maintained. Given this context, a reasonable question to ask is this: What should we do today to influence the global information infrastructure so as to maximize the accessibility of relevant data and information worldwide for decades to come?<sup>143</sup>

Similarly, when advocates were formulating “principles” for what should constitute *open data*, some of them called for *permanence* to be added to such a list.<sup>144</sup> When OMB issued its Memorandum M-13-13 in May 2013, however, permanence was not included among its list of principles. In 2017, legislation was introduced in Congress to address this topic by requiring certain types of data assets that were made publicly available to remain that way unless an agency provided advance public notice of removal with justifications,<sup>145</sup> but the legislation did not receive further action.

Efforts to archive data may furthermore encounter practical challenges. For any given data asset that captures the complexity of government operations or events in the real world, for example, new data may be added periodically, or old data may be relabeled, replaced, or dropped. That is, a data asset may be iterative and frequently changing. Agencies and stakeholders may face trade-offs in desiring persistent access to data, on one hand, while working within limitations on capacity and scarce storage, personnel, and financial resources. Separate efforts to archive data for different disciplines may mitigate possible data loss and could supplement government practices. For example, the Association of Health Care Journalists has created a health data preservation project focused on providing access to health data that are no longer available through government sites, and the Data Rescue Project seeks to monitor data removals.<sup>146</sup> Congress might consider how to balance government-wide needs to preserve information, stakeholder community interests in preserving certain types of information, and where to marshal resources to preserve data for different user types.

## A Registry or a Repository

Congress may also weigh options concerning Data.gov’s functions: Should Data.gov be a registry of federal data, or should Data.gov serve as a repository of data? Data.gov is characterized as the home of the federal data catalog, which consists of a single public interface and a collection of

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<sup>143</sup> Eliot J. Christian, “GILS: What Is It? Where’s It Going?,” *D-Lib Magazine*, vol. 2, no. 12 (December 1996), <https://www.dlib.org/dlib/december96/12christian.html>.

<sup>144</sup> Sunlight Foundation, “Ten Principles for Opening Up Government Information,” November 17, 2017, <https://sunlightfoundation.com/policy/documents/ten-open-data-principles/>, indicating that they had included *permanence* as a principle on a 2010 version of their list.

<sup>145</sup> See S. 960, 115<sup>th</sup> Cong., “Preserving Data in Government Act of 2017,” and Sen. Gary Peters, “Peters, Gardner Introduce Bill to Keep Government Research Data Publicly Available,” press release, April 27, 2017, <https://www.peters.senate.gov/newsroom/press-releases/peters-gardner-introduce-bill-to-keep-government-research-data-publicly-available>. The legislation used terms that were common with early versions of the OPEN Government Data Act, including *open Government data* and *public data asset*.

<sup>146</sup> See Association of Health Care Journalists, “Health Data Preservation Project,” <https://healthjournalism.org/resources/health-data-preservation-project/>, and Data Rescue Project, “FAQ,” <https://www.datarescueproject.org/faq/>.

tools, best practices, and data standards for the catalog.<sup>147</sup> Statute permits agencies to submit either public data assets themselves or links to them for inclusion in the catalog, but the catalog is not necessarily required to perform a validating function on the data assets available. Functioning as a catalog, Data.gov's reported data asset availability is best construed as a general guideline of what data might be available from agencies. However, Congress may wish to further consider if the federal data catalog should function as a *registry*, where available data assets are checked for reliable and verifiable access but stored on agency websites, or if the federal data catalog should instead function as a *repository*, where agencies submit authentic data assets to Data.gov for provisioning to users and continued preservation.

Observers have sought to use Data.gov and the federal data catalog as a means to quantify the scale of federal data access and loss, and also as a tool to document data disruptions and potential manipulation.<sup>148</sup> However, because the federal data catalog behaves as a reflection of activity at various agency stages and through various software applications, Data.gov's accounting for numbers of data assets may appear less reliable than the public would understand.<sup>149</sup>

Attempts to use Data.gov as an authoritative source of available federal data can encounter various issues, both because the overall count of available data assets can be misleading because of human and software errors and because Data.gov is not structured to be primarily a data tracking mechanism. As one reporter noted, the site is not "a perfect reflection of whether a dataset actually exists at the agency level." Rather, the federal data catalog "may indicate that a dataset is available, but the link provided to the agency's website could show an error message either for a technical problem or because an agency has removed it from their site. At the same time, some agency datasets are available, but don't show up on Data.gov because they lack the proper metadata documentation."<sup>150</sup>

**Figure 2** illustrates several types of disruption that could affect the federal data catalog's authoritativeness at various stages of the harvesting process for data assets. For example, these disruptions can affect the federal data catalog's

- currency and its ability to provide timely updates to available data assets,
- validity and its ability to preference more correct data or de-duplicated data assets when pulling from multiple harvest sources, and
- completeness and ability to document data additions and subtractions.

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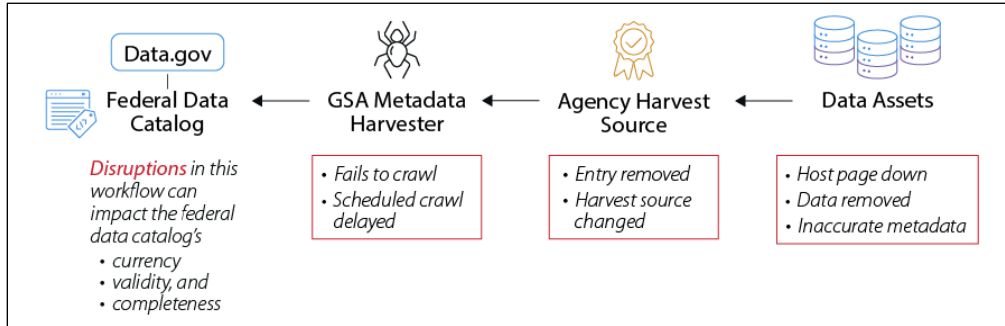
<sup>147</sup> 44 U.S.C. §3511(c).

<sup>148</sup> For discussion, see CRS Report R48889, *Availability of Federal Data: Policy Considerations for Disclosure, Preservation, and Governance*, by Meghan M. Stuessy and Taylor R. Knoedl.

<sup>149</sup> Christopher S. Marcum, *The Integrity of Public Access to Federal Data: Evaluating Disruptions to Open Government Data, 2025-2026*, Funders for the Future of Public Data, April 2026, p. 7, <https://www.doi.org/10.5281/zenodo.19556076>.

<sup>150</sup> J. B. Wogan, "Taking Stock of Federal Open Data in 2025," Data Foundation (blog), October 16, 2025, <https://datafoundation.org/news/blogs/707/707-Taking-Stock-of-Federal-Open-Data-in->.

**Figure 2. Potential Data.gov Disruptions**



**Source:** CRS.

Nonetheless, users still maintain the ability to go directly to agency sources to access federal data, and Congress may determine that issues related to Data.gov’s functions are acceptable so long as users have multiple avenues available for data access. Congress may also require Data.gov to provide more transparent methodology on how the federal data catalog’s top-line number is populated to promote better understanding of the number’s limitations. Finally, Congress could require Data.gov to perform more of an oversight function and serve as an official accounting of available data assets as either a registry or a repository going forward.

## Appendix. Data.gov: Statutory and Policy Precedents

The creation and operation of Data.gov built on a multi-decade foundation of prior legislative and administrative efforts to provide the public with access to certain federal information. Many aspects of the website’s operations are cumulative with or influenced by these prior developments. The timeline provides an overview on information policy developments in chronological order, leading up to establishment and operation of the Data.gov website and subsequent legislation that enacted key aspects of its operations.<sup>151</sup> Notably, some terms of art may have different meanings across statutory and administrative contexts (e.g., *agency*, *record*, *data*). Entries in the list typically include citations to original enacting statutes or current-law statutory provisions, where relevant.

### Timeline

**June 1934—Establishment of National Archives.** The precursor to today’s National Archives and Records Administration (NARA) was established by law in 1934 as the National Archives Establishment, with responsibility for “all archives or records belonging to the Government of the United States (legislative, executive, judicial, and other).”<sup>152</sup>

**July 1935—Federal Register Act.** Enacted in the wake of legislative and administrative efforts to combat the Great Depression, the Federal Register Act became law as one of the most prominent statutes calling for proactive disclosure of information to the public.<sup>153</sup> The act established a uniform system for handling agency regulations by requiring, among other things, publication of documents in a new government periodical, the *Federal Register*. Often referred to as “the daily journal of the Federal government,”<sup>154</sup> the *Federal Register* is published each business day by NARA and contains federal agency regulations, proposed rules and notices of interest to the public, presidential documents, and any documents that Congress or the President require to be published.

**December 1942—Federal Reports Act of 1942.** Enacted during the Second World War, the Federal Reports Act sought to minimize burden on businesses, other entities, and individuals who were required to furnish information to agencies (P.L. 77-831).<sup>155</sup> The act authorized the Bureau

<sup>151</sup> The Data.gov website identifies a narrower set of several milestones in the website’s evolution along with other “open government” developments. See GSA, Data.gov Program Age, <https://data.gov/timeline/>. The Obama Administration listed another set of milestones as of 2016; see White House, “FACT SHEET: Data by the People, for the People—Eight Years of Progress Opening Government Data to Spur Innovation, Opportunity, & Economic Growth,” press release, September 28, 2016, <https://obamawhitehouse.archives.gov/the-press-office/2016/09/28/fact-sheet-data-people-people-eight-years-progress-opening-government>.

<sup>152</sup> National Archives Act of 1934, P.L. 73-432 (June 19, 1934; 48 Stat. 1122), <https://tile.loc.gov/storage-services/service/l1/l1sl/l1sl-c73/l1sl-c73.pdf#page=1147>. For discussion of NARA’s history, see NARA, Office of the Federal Register, *The United States Government Manual, 2025 Edition*, January 2025, [https://www.govinfo.gov/app/collection/govman/2025\\_United%20States%20Government%20Manual](https://www.govinfo.gov/app/collection/govman/2025_United%20States%20Government%20Manual); and Rodney A. Ross, “Creating the National Archives,” *Prologue Magazine*, vol. 36, no. 2 (Summer 2004), <https://www.archives.gov/publications/prologue/2004/summer/nat-archives-70.html>.

<sup>153</sup> Federal Register Act, P.L. 74-220 (July 26, 1935; 49 Stat. 500), <https://tile.loc.gov/storage-services/service/l1/l1sl/l1sl-c74/l1sl-c74.pdf#page=546> (currently codified at 44 U.S.C. Chapter 15).

<sup>154</sup> NARA, “About the Federal Register,” <https://www.archives.gov/federal-register/the-federal-register/about.html>.

<sup>155</sup> Federal Reports Act of 1942, P.L. 77-831 (December 24, 1942; 56 Stat. 1078), <https://tile.loc.gov/storage-services/service/l1/l1sl/l1sl-c77s2/l1sl-c77s2.pdf#page=1106>. For historical discussion, see CRS Report RL30590, *Paperwork* (continued...)

of the Budget, which decades later was renamed the Office of Management and Budget (OMB), to employ processes to coordinate agency information collections and avoid duplication of effort. The act also established a framework for interagency information sharing and regulating further use and disclosure of shared information, including concepts of confidentiality, consent, and release in the form of statistical totals and summaries.

**June 1946—Administrative Procedure Act (APA).** The APA became law in 1946 and is best known for establishing minimum procedural requirements for certain types of agency decisionmaking, including rulemaking (P.L. 79-404;<sup>156</sup> subsequently amended and currently codified at 5 U.S.C. §§551 et seq.). However, the statute also imposed requirements for transparency and proactive disclosure relating to “public information.” Among other things, agencies were directed to publish how the public may secure information or make requests. In addition, agencies were directed to publish how official records could be made available to persons directly concerned. The public-information-related provisions were replaced in 1966 with enactment of the Freedom of Information Act (FOIA; see entry for July 1966, June 1967).

**September 1950—Federal Records Act.** The Federal Records Act of 1950 establishes a framework for management of agency records and related oversight (P.L. 81-754;<sup>157</sup> subsequently amended and currently codified at 44 U.S.C. Chapters 21, 29, 31, and 33). Among other things, the act establishes agency responsibilities to make and preserve records that have value for future preservation, in order to document an agency’s functions, decisions, procedures, and transactions and also protect the rights of the government and persons directly affected by the agency’s activities. The act identifies agency responsibilities, including creation, maintenance, use, security, storage, retention, preservation, and disposal of records.

**July 1966, June 1967—Freedom of Information Act (FOIA).** Statutory provisions popularly known as FOIA were enacted in 1966 and 1967 and became effective in 1967 (P.L. 90-23;<sup>158</sup> subsequently amended and currently codified at 5 U.S.C. §552). FOIA established a presumption that the public should have access, by request, to information in the possession of executive agencies, with certain statutory exemptions to disclosure. FOIA replaced the public information section of the APA, which many observers found to be ineffective in providing the public with means to access unpublished records of executive branch agencies. In addition to the request-based framework for disclosure, FOIA continued to include provisions that were originally

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*Reduction Act Reauthorization and Government Information Management Issues*, January 4, 2007 (archived; available to congressional clients on request).

<sup>156</sup> Administrative Procedure Act (APA), P.L. 79-404 (June 11, 1946; 60 Stat. 237), <https://tile.loc.gov/storage-services/service/l1/l1sl/l1sl-c79s2/l1sl-c79s2.pdf#page=264>. In particular, see Section 3 of the original act, titled “Public Information” (60 Stat. 238) and current statutory text at 5 U.S.C. §552.

<sup>157</sup> Federal Records Act of 1950, Title V of Amendment to the Federal Property and Administrative Services Act of 1949, P.L. 81-754 (September 5, 1950; 64 Stat. 578, at 583), <https://tile.loc.gov/storage-services/service/l1/l1sl/l1sl-c81s2/l1sl-c81s2.pdf#page=611>. For historical discussion, see “C. Federal Records Act and Related Chapters of Title 44,” in CRS Report RL30795, *General Management Laws: A Compendium*, May 19, 2004, p. 16 (archived; available to congressional clients on request).

<sup>158</sup> P.L. 89-487 (July 4, 1966; 80 Stat. 250) (amending the APA, to become effective July 4, 1967), <https://www.govinfo.gov/content/pkg/STATUTE-80/pdf/STATUTE-80-Pg250.pdf>; and P.L. 90-23 (June 5, 1967; 81 Stat. 54) (repealing P.L. 89-487, enacting a revised version and amending 5 U.S.C. §552 to become effective on July 4, 1967), <https://www.govinfo.gov/content/pkg/STATUTE-81/pdf/STATUTE-81-Pg54.pdf>. For an overview of FOIA and related history, see CRS Report R47058, *Access to Government Information: An Overview*; and “E. Freedom of Information Act,” in CRS Report RL30795, *General Management Laws: A Compendium*, May 19, 2004, p. 26 (archived; available to congressional clients on request). For legal discussion, see CRS Report R46238, *The Freedom of Information Act (FOIA): A Legal Overview*, and Department of Justice, *United States Department of Justice Guide to the Freedom of Information Act*, <https://www.justice.gov/oip/doj-guide-freedom-information-act-0>.

included in the APA, in amended form, that provide for proactive disclosure of certain agency information (currently codified at 5 U.S.C. §§552(a)(1) and (a)(2)).<sup>159</sup>

**December 1974—Privacy Act.** The Privacy Act of 1974 prescribes how records with individually identifying information are to be stored, who may access the information, and when the government may use or share an individual’s information (P.L. 93-579;<sup>160</sup> subsequently amended and currently codified at 5 U.S.C. §552a). In addressing these topics, the act balances a government need to maintain and share information on individuals with the rights of individuals to be protected against invasion of their privacy. The Privacy Act provides that individuals may access records about themselves but generally prohibits disclosure of individually identified information to third parties without written consent.

**December 1980—Paperwork Reduction Act.** The Paperwork Reduction Act of 1980 was enacted to regulate the extent to which executive agencies are able to require individuals, businesses, and other entities to fill out paperwork and provide this information at the agencies’ behest (P.L. 96-511).<sup>161</sup> Among other things, the law also established a Federal Information Locator System to serve as an authoritative register of all such information requests.<sup>162</sup> Through other statutory provisions, the law also established a more general statutory framework for coordination of information policy and resources (subsequently amended and currently codified at 44 U.S.C. Chapter 35).<sup>163</sup> Notably, each executive agency was to designate a *senior official* to review how the agency carried out *information management* activities.<sup>164</sup> The statute did not define the term *information management*. The statute was substantially amended in 1986,<sup>165</sup> much

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<sup>159</sup> For discussion of the current version of these proactive disclosure provisions, see the section titled “Affirmative Disclosure” in CRS Report R46238, *The Freedom of Information Act (FOIA): A Legal Overview*, by Benjamin M. Barczewski.

<sup>160</sup> Privacy Act of 1974, P.L. 93-579 (December 31, 1974; 88 Stat. 1896), <https://www.congress.gov/93/statute/STATUTE-88/STATUTE-88-Pg1896.pdf>. For discussion and brief history, see CRS Report R47863, *The Privacy Act of 1974: Overview and Issues for Congress*, by Meghan M. Stuessy. See also CRS Report R47058, *Access to Government Information: An Overview*, by Meghan M. Stuessy.

<sup>161</sup> Paperwork Reduction Act of 1980, P.L. 96-511 (December 11, 1980; 94 Stat. 2812), <https://www.congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg2812.pdf>. For discussion of related history before and after enactment, see CRS Report RL30590, *Paperwork Reduction Act Reauthorization and Government Information Management Issues*, January 4, 2007 (archived; available to congressional clients on request). For discussion of information collections under the current version of the law, see CRS In Focus IF11837, *The Paperwork Reduction Act and Federal Collections of Information: A Brief Overview*, by Maeve P. Carey and Natalie R. Ortiz.

<sup>162</sup> 94 Stat. 2812, at 2822, <https://www.congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg2812.pdf#page=11> (at the time, codified at 44 U.S.C. §3511). With eventual enactment of the Paperwork Reduction Act of 1995 (see entry for May 1995), the provision’s scope expanded beyond information collections to include more general information holdings of agencies. In 2019, the OPEN Government Data Act was rewritten, and the provision’s scope substantially expanded to require agency-level comprehensive data inventories and establishment of a “federal data catalogue” (see entry for January 2019).

<sup>163</sup> In 1985, OMB issued a circular to heads of executive agencies to guide implementation of the law, describing the document as a “general policy framework for management of Federal information resources.” See OMB, Circular A-130, in OMB, “Management of Federal Information Resources,” 50 *Federal Register* 52730, at 52735, December 24, 1985, [https://archives.federalregister.gov/issue\\_slice/1985/12/24/52707-52735.pdf#page=7](https://archives.federalregister.gov/issue_slice/1985/12/24/52707-52735.pdf#page=7). The circular was most recently revised in 2016, albeit with a title different from its 1985 version. For the 2016 version, see OMB, Circular A-130, <https://bidenwhitehouse.archives.gov/omb/information-for-agencies/circulars/>. The circular is not currently posted on the OMB website of the second Trump Administration.

<sup>164</sup> See 94 Stat. 2812, at 2819 (at the time, codified at 44 U.S.C. §3506). The *senior official* term would be replaced in 1996 with an agency-level *chief information officer* (see entry for February 1996).

<sup>165</sup> Paperwork Reduction Reauthorization Act of 1986, included in P.L. 99-591, Section 101(m), Title VIII (October 30, 1986; 100 Stat. 3341, at 3341-335), <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg3341.pdf#page=336>. Among other things, the amendments employed a broader term, *information resources* (continued...)

of which was incorporated into a full rewrite of the law in a 1995 reauthorization (see entry for May 1995).

**November 1990—Identification in law of “CFO Act agencies.”** The Chief Financial Officers Act of 1990 (CFO Act) became law, establishing statutory CFO positions in certain, large executive agencies (P.L. 101-576;<sup>166</sup> subsequently amended and currently codified at 31 U.S.C. §901). These agencies, listed at Section 901(b) of Title 31, *U.S. Code*, are often referred to as the “CFO Act agencies.” The act’s list of these agencies would later become significant in other contexts, because the list was used in other statutes to identify agencies where senior officials—sometimes referred to generically as CXOs—would be appointed or designated to be responsible for agency mission-support functions. (See the entry for December 2002 regarding the Chief Information Officers Council [CIO Council].)

**April 1995—Publication of National Academies report on “full and open exchange” of scientific data.** The National Research Council of the National Academy of Sciences, National Academy of Engineering, and Institute of Medicine (now known as the Program Divisions of the National Academies of Sciences, Engineering, and Medicine) issued a report in response to concerns of the scientific community and also a request for analysis from the Department of State. The report called for the “full and open exchange” of scientific data to be maintained and expanded rather than restricted, whereby “data and information are made available without restriction, on a nondiscriminatory basis, for no more than the cost of reproduction and distribution.”<sup>167</sup> The report, which focused on weather and climate information, would subsequently be cited by some practitioners and officials associated with the “open data” social movement and who sought to describe the historical roots of the Data.gov website.<sup>168</sup>

**May 1995—Reauthorization of the Paperwork Reduction Act.** In May 1995, the Paperwork Reduction Act of 1980 was rewritten and reauthorized as the Paperwork Reduction Act of 1995 (P.L. 104-13;<sup>169</sup> subsequently amended and currently codified at 44 U.S.C. Chapter 35). Compared with the act’s contents in its earlier version, the revised version’s provisions include an increased emphasis on *public information*, defined as “any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public” (currently

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*management* (100 Stat. 3341-336), that would continue in the act’s 1995 reauthorization. See discussion in CRS Report RL30590, *Paperwork Reduction Act Reauthorization and Government Information Management Issues*, January 4, 2007 (archived; available to congressional clients on request).

<sup>166</sup> Chief Financial Officers Act of 1990, P.L. 101-576 (November 15, 1990; 104 Stat. 2838), <https://www.congress.gov/101/statute/STATUTE-104/STATUTE-104-Pg2838.pdf#page=5>.

<sup>167</sup> National Research Council, Committee on Geophysical and Environmental Data, *On the Full and Open Exchange of Scientific Data* (National Academies Press, 1995), p. 2, <https://nap.nationalacademies.org/catalog/18769/on-the-full-and-open-exchange-of-scientific-data>; and “Summary,” April 3, 1995, <https://nap.nationalacademies.org/readingroom.php?book=exch&page=summary.html>.

<sup>168</sup> In a 2013 blog, the Data.gov website characterized itself as part of the history of “open data,” referring to an online article for more information. See GSA, “Open Data: A History,” Data.gov, April 4, 2013, <https://data.gov/blog/open-data-history/>; and Simon Chignard, “A Brief History of Open Data,” *ParisTech Review*, March 29, 2013. The latter article cited the 1995 National Research Council (NRC) report as the first time in which the term *open data* appeared. The term *open data* did not actually appear in the NRC report in that form, and the 1995 report cites multiple older publications that called variously for “full and open” exchange, access, sharing, communication, availability, or access to information and data. Nevertheless, the 1995 report and subsequent conversations regarding “open” access to scientific data appeared to influence conversations in the federal government when Data.gov was established and with potential implications beyond scientific data.

<sup>169</sup> Paperwork Reduction Act of 1995, P.L. 104-13 (May 22, 1995; 109 Stat. 163), <https://www.congress.gov/104/plaws/publ13/PLAW-104publ13.pdf>.

codified at 44 U.S.C. §3502(12)).<sup>170</sup> The Federal Information Locator System that had been established by the 1980 version of the act—which focused on agency requests for information from the public—was replaced with provisions that instead established an agency-based, electronic Government Information Locator Service (GILS) to identify the “major” information systems, holdings, and dissemination products of each agency, which enacted an earlier administrative initiative.<sup>171</sup> The statute also changed the duties of the agency’s designated *senior official* to focus on *information resources management* activities (instead of *information management* in the 1980 version).<sup>172</sup> The statutory provisions define *information resources* expansively, to mean “information and related resources, such as personnel, equipment, funds, and information technology” (currently codified at 44 U.S.C. §3502(6)).

**February 1996—Establishment of agency CIO positions.** The Information Technology Management Reform Act of 1996 established statutory CIO positions in executive agencies (P.L. 104-106,<sup>173</sup> currently codified at 44 U.S.C. §3506(a)(2)). Several months later, that act was renamed to be part of the Clinger-Cohen Act of 1996 (P.L. 104-208).<sup>174</sup> The position title of *CIO* replaced the *senior official* term that had been included in the Paperwork Reduction Act of 1980 and its 1995 reauthorization. As modified by the Clinger-Cohen Act, the statutory text vests responsibilities in the agency CIO position for ensuring effective management of information policies and information resources (currently codified at 44 U.S.C. §3506(a)(3)). The act also included text that vests responsibilities in the CIO for supporting the agency’s head and senior management in acquisition and management of information technology (currently codified at 40 U.S.C. §11315).<sup>175</sup>

<sup>170</sup> P.L. 104-13, 109 Stat. 166. The term *public information* appeared two times in the 1980 version of the Paperwork Reduction Act compared with 18 times in the law’s 1995 reauthorization, which likely reflects technological developments and increased availability of information via the internet.

<sup>171</sup> 109 Stat. 180, <https://www.congress.gov/104/plaws/publ13/PLAW-104publ13.pdf#page=18> (at the time, codified at 44 U.S.C. §3511). OMB and several agencies had formally established the GILS administratively several months earlier. OMB cited an interagency task force’s intention to establish a “virtual card catalogue” of government information holdings (see OMB, “Establishment of Government Information Locator Service,” Bulletin 95-01, Attachment A, December 7, 1994, <https://georgewbush-whitehouse.archives.gov/omb/bulletins/95-01.html>, citing U.S. Department of Commerce, Information Infrastructure Task Force, *The National Information Infrastructure: Agenda for Action*, September 15, 1993, p. 14, <https://eric.ed.gov/?id=ED364215>). A federal official who was involved in the administrative establishment of the GILS characterized these efforts as originating in part from climate change research and the U.S. Global Change Research Program; see Eliot Christian, “Experiences with Information Locator Services,” paper presented at Query Languages 1998 conference, Boston, MA, December 1998, <https://www.w3.org/TandS/QL/QL98/pp.html>. NIST separately published a software standard for GILS that identified a paper by that official as “the authoritative document providing an overview of GILS, its objectives, service requirements, and core requirements.” See U.S. Department of Commerce, NIST, “Application Profile for the Government Information Locator Service (GILS),” FIPS PUB 192, December 7, 1994, p. 6, <https://www.govinfo.gov/app/details/GOVPUB-C13-44af4439c1845796de25a5ad30b83ec8>, citing Eliot Christian, “The Government Information Locator Service (GILS),” report to the Information Infrastructure Task Force, May 2, 1994, <https://web.archive.org/web/20101217071727/http://www.gils.net/policy.html>.

<sup>172</sup> 101 Stat. 171 (at the time codified at 44 U.S.C. §3506(a)(3)).

<sup>173</sup> Information Technology Management Reform Act of 1996, Division E of P.L. 104-106 (February 10, 1996; 110 Stat. 679, at 684), <https://www.congress.gov/104/plaws/publ106/PLAW-104publ106.pdf#page=500>.

<sup>174</sup> P.L. 104-208, Division A, Title I, Section 101(f) (Treasury, Postal Service, and General Government Appropriations Act, 1997), Title VIII (Federal Financial Management Improvement Act of 1996), Section 808 (September 30, 1996; 110 Stat. 3009-393), <https://www.congress.gov/104/plaws/publ208/PLAW-104publ208.pdf#page=394>.

<sup>175</sup> This statutory language gives an agency CIO the responsibility to advise and otherwise assist the agency head and other senior management personnel to ensure that information technology is acquired and information resources are managed to implement statutory policies and procedures relating to acquisition and management of information technology in Subtitle III of Title 40, *U.S. Code* (relating to information technology management) and in a manner (continued...)

**October 1996—Electronic Freedom of Information Act Amendments of 1996.** Passed as part of an effort to enhance the usefulness of agency records and federal information, the act amended FOIA to require agencies to provide relevant records “in any form or format requested by the person” if the record is readily reproducible in such a format.<sup>176</sup> The act also requires agencies to make “reasonable efforts” to maintain records in reproducible formats,<sup>177</sup> as well as to make publicly available electronic copies of records that agencies determine “have become or are likely to become the subject of subsequent requests” for similar records.<sup>178</sup>

**December 2000—Information Quality Act.** Brief statutory provisions popularly known as the IQA were enacted in 2000, after having been added to an appropriations bill (P.L. 106-554; 44 U.S.C. §3516 note). The act required the OMB director to issue guidelines for “ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated” by agencies. The law also provided that applicable agencies issue guidelines and establish administrative mechanisms for correction of information. In subsequent guidance,<sup>179</sup> OMB required agencies to “make their methods transparent by providing documentation, ensure quality by reviewing the underlying methods used in developing the data and consulting (as appropriate) with experts and users, and keep users informed about corrections and revisions” of information. The guidance also directed specifically that agencies are “responsible for disseminating influential scientific, financial, or statistical information” with “a high degree of transparency about data and methods to facilitate the reproducibility of such information by qualified third parties.”

**December 2002—E-Government Act of 2002.** The E-Government Act of 2002 addresses ways in which government information and services are presented and delivered to members of the public, federal employees, and agencies (P.L. 107-347).<sup>180</sup> Among other things, the statute requires that “an integrated Internet-based system of providing the public with access to Government information and services” be operated, which currently is known as USA.gov and USAgov.<sup>181</sup> This provision enacted aspects of a 2000 administrative initiative that established a federal government internet portal as FirstGov.gov.<sup>182</sup> In 2007, the website changed its web

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consistent with Chapter 35 of Title 44, *U.S. Code* (relating to coordination of federal information policy) and the agency head’s priorities.

<sup>176</sup> Electronic Freedom of Information Act Amendments of 1996, P.L. 104-231 (October 2, 1996; 110 Stat. 3048). <https://www.congress.gov/104/statute/STATUTE-110/STATUTE-110-Pg3048.pdf>.

<sup>177</sup> 5 U.S.C. §552(a)(3)(B).

<sup>178</sup> 5 U.S.C. §552(a)(2)(D)(ii)(I).

<sup>179</sup> OMB, “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication,” 67 *Federal Register* 8452, February 22, 2002, <https://www.federalregister.gov/documents/2002/02/22/R2-59/guidelines-for-ensuring-and-maximizing-the-quality-objectivity-utility-and-integrity-of-information>.

<sup>180</sup> E-Government Act of 2002, P.L. 107-347 (December 17, 2002; 116 Stat. 2899), <https://www.govinfo.gov/content/pkg/PLAW-107publ347/pdf/PLAW-107publ347.pdf>.

<sup>181</sup> P.L. 107-347 §204, “Federal Internet Portal” (116 Stat. 2899, at 2913; see 44 U.S.C. §3501 note), <https://www.govinfo.gov/content/pkg/PLAW-107publ347/pdf/PLAW-107publ347.pdf#page=15>. The provision directs OMB to work with GSA and “other agencies” to “maintain and promote” the system, and the USA.gov website is operated by GSA. See also GSA, “About USA.gov,” <https://www.usa.gov/about>. GSA has described USA.gov as taking an “omnichannel” approach with English and Spanish versions of the website, a toll-free telephone contact center, and digital outreach channels including email and social media (GSA, *FY2024 Congressional Justification*, March 13, 2023, p. FCSF-12, <https://www.gsa.gov/reference/reports/budget-and-performance/annual-budget-requests>).

<sup>182</sup> Relating to FirstGov.gov, see White House, “President Clinton Launches FirstGov: A Single, Easy-To-Use Website for Government Services and Information,” press release, September 22, 2000, [https://clintonwhitehouse4.archives.gov/textonly/WH/new/html/Fri\\_Sep\\_22\\_124445\\_2000.html](https://clintonwhitehouse4.archives.gov/textonly/WH/new/html/Fri_Sep_22_124445_2000.html); and GSA, “About (continued...)”

address and branding to USA.gov and became more widely known as USA.gov.<sup>183</sup> The E-Government Act also established the CIO Council (116 Stat. 2899, at 2905; currently codified at 44 U.S.C. §3603), a body that eventually established the Data.gov website and includes CIOs from the CFO Act agencies as members.

**January 2009—Issuance of presidential memoranda on “open government.”** President Obama issued two memoranda to the heads of executive agencies related to information disclosure. Referring to “open government,” one memorandum called on agencies to adopt a “presumption in favor of disclosure” when responding to FOIA requests and directed the U.S. Attorney General to issue new guidelines governing FOIA.<sup>184</sup> The second memorandum stated that government should be transparent, participatory, and collaborative and directed OMB to issue a subsequent Open Government Directive to pursue related efforts.<sup>185</sup> The directive was issued in December 2009.

**May 2009—Establishment of Data.gov as part of “Open Government Initiative.”** In May 2009, the Obama Administration announced an Open Government Initiative. The initiative encompassed multiple elements, including the CIO Council’s establishment of the Data.gov website, “a one-stop website for finding accessible and free government information in open formats.”<sup>186</sup> As developed by participating agencies and hosted by GSA, the website explained that it included searchable catalogs to provide access to “raw” data and datasets, and elaborated that “data become ‘information’ when analyzed and possibly combined with other data in order to extract meaning.”<sup>187</sup>

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FirstGov.gov,” <https://webharvest.gov/peth04/20041015105221/http://www.firstgov.gov/About.shtml>. The website was an evolution of prior administrative initiatives that pre-date the publicly available internet era, including as a printed *Consumer Information Catalog* from 1971 to 2016. The catalog was a quarterly listing of over 200 free or low-cost publications that federal agencies developed for the public on topics, including health, federal benefits, and consumer scams. The catalog was advertised in public service announcements on television and ultimately ceased publication in 2016. See GSA, “USAGov: Always Evolving, Always Connecting People with Their Government,” *Our Blog* (blog), July 10, 2019, <https://blog.usa.gov/usagov-always-evolving-always-connecting-people-with-their-government>; U.S. White House, “The Consumer Information Catalog,” <https://clintonwhitehouse4.archives.gov/WH/Services/Agency/gsa.html>; and “Change Comes to USA.gov’s Historic Publication Program,” October 18, 2016, <https://blog.usa.gov/change-comes-to-usagovs-historic-publication-program>.

<sup>183</sup> GSA, “USAGov’s Mission and History,” <https://www.usa.gov/mission-history>.

<sup>184</sup> White House, “Freedom of Information Act,” presidential memorandum of January 21, 2009, 74 *Federal Register* 4683, January 26, 2009, <https://www.federalregister.gov/documents/2009/01/26/E9-1773/freedom-of-information-act>. (Both of the memoranda are posted on the website at <https://www.federalregister.gov/documents/2009/01/26/>.)

<sup>185</sup> White House, “Transparency and Open Government,” presidential memorandum of January 21, 2009, 74 *Federal Register* 4685, January 26, 2009, <https://www.federalregister.gov/documents/2009/01/26/E9-1777/transparency-and-open-government>.

<sup>186</sup> White House, Office of the Press Secretary, “White House Announces Open Government Website, Initiative,” press release, May 21, 2009, [https://web.archive.org/web/20090527121631/https://www.whitehouse.gov/the\\_press\\_office/White-House-Announces-Open-Government-Website-Initiative/](https://web.archive.org/web/20090527121631/https://www.whitehouse.gov/the_press_office/White-House-Announces-Open-Government-Website-Initiative/), which linked to the initial version of the website (see Data.gov, <https://web.archive.org/web/20090530020348/http://www.data.gov/>). On Data.gov’s “About” page, the website elaborated on its objectives, saying “A primary goal of Data.gov is to improve access to Federal data and expand creative use of those data beyond the walls of government by encouraging innovative ideas (e.g., web applications)” (see GSA, “About,” <https://web.archive.org/web/20090525091851/http://www.data.gov/about>). See also OMB, “Data.gov to Bring Unprecedented Access to Government Information,” press release, May 21, 2009, [https://web.archive.org/web/20090610101537/http://www.whitehouse.gov/omb/news\\_052109\\_data/](https://web.archive.org/web/20090610101537/http://www.whitehouse.gov/omb/news_052109_data/); and White House, “Data.gov,” <https://obamawhitehouse.archives.gov/node/4401> (linking to video release of May 20, 2009, in which then-OMB official Vivek Kundra described the website’s objectives, at <https://www.youtube.com/watch?v=fullrZqRikk>).

<sup>187</sup> GSA, “FAQ,” archived on May 25, 2009, <https://web.archive.org/web/20090525092146/http://www.data.gov/faq>. The website also provided a glossary: GSA, “Glossary of Terms,” archived on May 25, 2009, <https://web.archive.org/web/20090525145212/http://www.data.gov/glossary>.

**December 2009—Issuance of OMB “Open Government Directive.”** Following up on a January 2009 presidential memorandum (see entry above), OMB issued a memorandum (“Open Government Directive”) that included an emphasis on Data.gov.<sup>188</sup> Among other things, the memorandum instructed agencies to publish information online—in addition to any other required medium—and to preserve electronic information consistent with the Federal Records Act. In addition, OMB directed agencies to publish information online “to the extent practicable” in an *open format*, where information “can be retrieved, downloaded, indexed, and searched by commonly used web search applications” and in a format that is “platform independent, machine readable, and made available to the public without restrictions that would impede the re-use of that information.” OMB’s memorandum further directed each agency to identify and publish online and in an open format “at least three high-value data sets ... and register those data sets via Data.gov.” OMB separately issued Data.gov guidance for agencies and a draft “Data.gov Concept of Operations.”<sup>189</sup>

**May 2013—Issuance of “open data” executive order and policy.** President Obama issued Executive Order (E.O.) 13642, which said, among other things, “the default state of new and modernized Government information resources shall be open and machine readable” and that agencies shall pursue this while “safeguard[ing] individual privacy, confidentiality, and national security.”<sup>190</sup> The E.O. also directed OMB to issue an “Open Data Policy” to advance this effort and the management of information as an asset throughout its life cycle. OMB issued the policy with more detailed instructions in the form of a memorandum to agencies (Memorandum M-13-13, including separate “supplemental guidance”).<sup>191</sup> Among other things, the memorandum directed agencies to establish and maintain inventories of structured datasets, list them on their websites, and post them to allow for automatic aggregation onto the Data.gov website.

**November 2014—Presidential and Federal Records Act Amendments of 2014.** Through this act,<sup>192</sup> Congress updated the definition of *federal records* to be media neutral and for such

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<sup>188</sup> OMB, “Open Government Directive,” Memorandum M-10-06, December 8, 2009, p. 2, [https://www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2010/m10-06.pdf#page=2](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2010/m10-06.pdf#page=2).

<sup>189</sup> See OMB, “Open Government Directive – Data.Gov: Frequently Asked Questions for Agencies,” December 23, 2009, <https://web.archive.org/web/20101202132211/http://www.archives.gov/ogis/guidance/>, which linked to the guidance at <https://web.archive.org/web/20101202194314/http://www.archives.gov/ogis/news/agency-faqs.pdf>; and OMB, *Data.gov Concept of Operations: Draft*, Version 0.7, December 3, 2009, <https://web.archive.org/web/20100106215430/http://www.whitehouse.gov/open/> (linking to <https://web.archive.org/web/20100113061212/http://datagov.ideascale.com/>, which in turn linked to a PDF file at <https://web.archive.org/web/20100401071808/http://www.ideascale.com/userimages/sub-1/736312/ConOpsFinal.pdf>). Links to the draft *Concept of Operations* were later posted at White House, “Open Government Policy,” <https://obamawhitehouse.archives.gov/open/about/policy>, although the archived links no longer work.

<sup>190</sup> Executive Order 13642 of May 9, 2013, “Making Open and Machine Readable the New Default for Government Information,” 78 *Federal Register* 28111, May 14, 2013, <https://www.federalregister.gov/documents/2013/05/14/2013-11533/making-open-and-machine-readable-the-new-default-for-government-information>.

<sup>191</sup> See OMB, Memorandum M-13-13; and OMB, “Supplemental Guidance on the Implementation of M-13-13 “Open Data Policy – Managing Information as an Asset,” n.d., <https://resources.data.gov/resources/m-13-13-guidance/>. As a “complementary action” to the executive order and memorandum, the Obama Administration also announced that it would launch several new services on Data.gov. See White House, “Obama Administration Releases Historic Open Data Rules to Enhance Government Efficiency and Fuel Economic Growth,” press release, May 9, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/05/09/obama-administration-releases-historic-open-data-rules-enhance-government>. The CIO Council also established a page on its website dedicated to the topic of open data with a link to M-13-13 as representing “policy” and providing links to other guidance; see CIO Council, “Project Open Data,” <https://web.archive.org/web/20141220032605/https://project-open-data.cio.gov/>. Navigating to that location now brings visitors to the resources.data.gov page on Data.gov.

<sup>192</sup> Presidential and Federal Records Acts Amendments of 2014, P.L. 113-187 (November 26, 2014; 128 Stat. 2003), <https://www.congress.gov/bill/113th-congress/house-bill/1233/text>.

decisions to be made depending on whether the material provides evidence of government decisionmaking or activity. Per the accompanying Senate Committee on Homeland Security and Governmental Affairs report, the law updates “the definition of what constitutes a ‘record’ to shift the emphasis away from the physical media used to store information to the actual information being stored, regardless of form or characteristic.”<sup>193</sup> Furthermore, the act integrates considerations and procedures for recordkeeping of information transferred by electronic messaging accounts.<sup>194</sup> The act represents another iteration in Congress’s updating of laws written for analog media to account for digital and electronic media.

**April 2016—Introduction of proposed OPEN Government Data Act.** Representative Derek Kilmer and Senator Brian Schatz introduced an initial version of the OPEN Government Data Act in both chambers that would have enacted some aspects of Data.gov’s operations into law (H.R. 5051/S. 2852; 114<sup>th</sup> Congress).<sup>195</sup> Among other things, the legislation included provisions to make government-held *data*—defined as “recorded information”—accessible to the public in an “open format” (e.g., without restrictions that impede use or reuse) and machine readable, when not prohibited by law. The bill also included provisions to require agencies to establish inventories of their data assets and to make them available on the Data.gov website.<sup>196</sup> The proposed legislation was revised and reintroduced in the next Congress, in 2017 (H.R. 1770/S. 760; 115<sup>th</sup> Congress).<sup>197</sup> In the 115<sup>th</sup> Congress, provisions from the measure were incorporated into Titles I and II of the proposed Foundations for Evidence-Based Policymaking Act of 2018 (FEBPA), which became law in January 2019.

**September 2017—Issuance of Commission on Evidence-Based Policymaking (CEP) final report.** The statutorily established CEP made recommendations for how the federal government could maintain, share, integrate, use, and secure its administrative and statistical data to facilitate

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<sup>193</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Presidential and Federal Records Act Amendments of 2014*, report to accompany H.R. 1233, 113<sup>th</sup> Cong., 2<sup>nd</sup> sess., July 23, 2014, S.Rept. 113-218 (GPO, 2014), p. 5.

<sup>194</sup> 44 U.S.C. §2209 and §2911.

<sup>195</sup> See Rep. Blake Farenthold et al., “Introducing the OPEN Government Data Act,” press release, April 28, 2016, <https://kilmer.house.gov/news/in-the-news/introducing-the-open-government-data-act>. During the 114<sup>th</sup> Congress, no further action took place on the House version. After the legislation was ordered to be reported in the Senate, the Congressional Budget Office (CBO) estimated that it would not increase net direct spending. See CBO, *S. 2852, OPEN Government Data Act*, December 5, 2016, <https://www.cbo.gov/publication/52316>. The legislation was reported in December 2016 with an amendment in the nature of a substitute with a written report. See U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *OPEN Government Data Act*, report to accompany S. 2852, 114<sup>th</sup> Cong., 2<sup>nd</sup> sess., December 8, 2016, S.Rept. 114-396 (GPO, 2016), <https://www.congress.gov/congressional-report/114th-congress/senate-report/396>. It passed the chamber two days later but did not become law.

<sup>196</sup> During the 114<sup>th</sup> and 115<sup>th</sup> Congresses, advocacy organizations and the sponsors characterized the legislation’s opening of increased access to government data as facilitating better informed policy, improved services, saved funds, and innovation by third parties. See “Legislation one-pager” and “Section-by-section” posted at Scholarly Publishing and Academic Resources Coalition (SPARC), “The OPEN Government Data Act (S. 760/H.R. 1770),” <https://web.archive.org/web/20170823052052/https://sparcopen.org/our-work/open-government-data-act/>; and Alliance for Taxpayer Access, “The OPEN Government Data Act,” <https://www.taxpayeraccess.org/policy/the-open-government-data-act/>.

<sup>197</sup> The House version did not receive further consideration, while the Senate version was reported with amendments. See U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *OPEN Government Data Act*, report to accompany S. 760, 115<sup>th</sup> Cong., 1<sup>st</sup> sess., July 24, 2017, S.Rept. 115-134 (GPO, 2017), <https://www.congress.gov/congressional-report/115th-congress/senate-report/134>. In September 2017, the legislation was included as Section 6012 of the Senate-passed version of the National Defense Authorization Act for Fiscal Year 2018 (NDAA) (H.R. 2810, 115<sup>th</sup> Cong.). The conference and public law versions of the FY2018 NDAA did not include the measure.

evaluation, analysis, learning, and improvement.<sup>198</sup> The commission’s statutory duties included studying the federal government’s data infrastructure to ascertain how data might be better integrated across organizational and programmatic boundaries while protecting privacy, whether a “clearinghouse” for government-held program and survey data should be established, and whether and how to emphasize certain evaluation methods.<sup>199</sup> The focus of the commission’s report overlapped with some topics in early versions of the proposed OPEN Government Data Act and helped to influence a subsequent version that was enacted in 2019.<sup>200</sup> Among other things, the commission advocated for making more information available on existing federal datasets including data inventories, metadata, and data documentation in a searchable format. At the same time, the commission rejected a clearinghouse model, citing concerns about potential harm for privacy.<sup>201</sup>

**January 2019—OPEN Government Data Act (Title II of the Foundations for Evidence-Based Policymaking Act of 2018 [FEBPA]).** The OPEN Government Data Act became law in early 2019 with differences from prior versions of the proposed legislation.<sup>202</sup> The act was included as Title II of FEBPA (P.L. 115-435, 115<sup>th</sup> Congress).<sup>203</sup> Compared with the introduced

<sup>198</sup> CEP, “Commission on Evidence-Based Policymaking Releases Final Report September 7, 2017,” press release, September 6, 2017, <https://web.archive.org/web/20181204010329/https://www.cep.gov/news/sept6neH.R.4174ws.html>; CEP, *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking* (report and appendices A-D), <https://web.archive.org/web/20171205205612/https://www.cep.gov/cep-final-report.html>; and CEP, *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking*, Appendices E-H, <https://web.archive.org/web/20210301094212/https://bipartisanpolicy.org/wp-content/uploads/2019/03/Appendices-e-h-The-Promise-of-Evidence-Based-Policymaking-Report-of-the-Commission-on-Evidence-based-Policymaking.pdf> (the PDF version of Appendices E-H on the archived version of the commission’s website appears to be damaged).

<sup>199</sup> The commission was established by the Evidence-Based Policymaking Commission Act of 2016, P.L. 114-140 (March 30, 2016; 130 Stat. 317), <https://www.congress.gov/114/plaws/publ140/PLAW-114publ140.pdf>. For discussion of OMB’s reported interactions with Congress prior to enactment of this statute, see Charles S. Clark, “Could Obama’s Push for Evidence-Based Program Evaluations Cross Party Lines?,” *Govexec.com*, October 8, 2014, <https://www.govexec.com/management/2014/10/could-obamas-push-evidence-based-program-evaluations-cross-party-lines/96122/>. On the same day CEP’s 2017 report was published, the co-chairs and some staff of the commission moved their affiliation to the Bipartisan Policy Center to “support the implementation of the recommendations of the Commission in the months and years ahead.” See Bipartisan Policy Center, “Commission on Evidence-Based Policymaking,” <https://web.archive.org/web/20171018155732/https://bipartisanpolicy.org/evidence/>, and “Ryan-Murray Evidence-Based Commission Efforts Moving to BPC,” September 7, 2017, <https://web.archive.org/web/20170913001034/https://bipartisanpolicy.org/press-release/ryan-murray-evidence-based-commission-efforts-moving-to-bpc/>.

<sup>200</sup> To assist and perhaps influence the commission, OMB developed several papers in 2016 for the commission’s use. One focused on activities of Data.gov, including maintaining an agency’s “enterprise data inventory” and the harvesting of that information to populate a “public data listing” on Data.gov. See OMB, “Comprehensive Data Inventory,” July 25, 2016, [https://obamawhitehouse.archives.gov/omb/management/commission\\_evidence](https://obamawhitehouse.archives.gov/omb/management/commission_evidence). The commission discussed OMB’s paper in its final report, which recommended that OMB increase efforts regarding data inventories and related documentation; see CEP, *The Promise of Evidence-Based Policymaking: Report of the Commission on Evidence-Based Policymaking*, p. 78.

<sup>201</sup> The commission interpreted *clearinghouse* to mean “a data storage facility that permanently stores records from multiple databases from multiple agencies and, therefore, grows with each new data linkage.” The commission rejected a centralized clearinghouse model, citing “well-founded concerns about the potential privacy harm such a clearinghouse could raise.” Instead, the commission recommended continued support for data inventories and, in addition, a framework for authorizing certain temporary data linkages of data that identifies individuals, but only for statistical purposes (i.e., analysis of the characteristics of groups without identifying the individuals or organizations that comprise the groups). For citations and discussion, see CRS Insight IN11717, *Proposals for a National Secure Data Service, in Context*, by Meghan M. Stuessy and Clinton T. Brass.

<sup>202</sup> See CRS In Focus IF12299, *The OPEN Government Data Act: A Primer*, by Meghan M. Stuessy.

<sup>203</sup> FEBPA, P.L. 115-435, Title II (January 14, 2019; 132 Stat. 5529, at 5534), <https://www.congress.gov/115/plaws/> (continued...)

version from 2016, the revised measure did not include any explicit reference to Data.gov. Instead, it enacted several aspects of Data.gov’s operation, including new statutory requirements for agency-level inventories of data assets and for an online interface to serve as an overall “federal data catalogue” (44 U.S.C. §3511; replacing statutory provisions relating to a GILS [see this **Appendix**’s entry for May 1995]). The act also included aspects of prior OMB initiatives’ emphasis on “open data,” including that data assets be machine readable and without restrictions on use or reuse (44 U.S.C. §3502). Earlier implementation of the Data.gov website tended to emphasize posting of structured data assets (e.g., tabular data with columns and rows, extensible markup language files). In contrast, the new act expanded the potential coverage of Data.gov to publicly disclose data assets if they would otherwise be disclosed under a FOIA request. The act’s language and legislative history thus referred to an objective of agencies making data assets “open by default.” An agency would post metadata for these data assets after taking into account considerations such as risks of disclosure of personally identifiable information and the costs and benefits of converting a data asset into a machine-readable format that is viewed as accessible and useful to the public. The law required OMB to issue implementation guidance for agencies on multiple topics, including but not limited to making data assets “open by default” (Section 202(b) of P.L. 115-435 and 44 U.S.C. §3504(b)(6)), planning for open data (44 U.S.C. §3506(b)(2)), and maintaining comprehensive data inventories (44 U.S.C. §3511(a)(2)).

**January 2025—Issuance of OMB guidance (Memorandum M-25-05) for implementation of OPEN Government Data Act.** Six years after enactment of the OPEN Government Data Act, OMB issued related guidance for agencies at the end of the Biden Administration.<sup>204</sup> Arriving via OMB memorandum, the guidance rescinded and replaced OMB Memorandum M-13-13 from 2013 (see earlier entry). The new guidance addressed several topics, including instructions for how an agency is to make data assets “open by default,” maintain a comprehensive data inventory, include information about data assets in a “Federal Data Catalog,” maintain an open data plan, and engage with the public regarding data assets that have been released to the public or that are subject to disclosure under FOIA.<sup>205</sup>

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publ435/PLAW-115publ435.pdf#page=6. Certain evaluation-related provisions that had been included in prior versions of the OPEN Government Data Act were instead separately included in an evaluation-focused Title I of FEBPA (i.e., Section 10 of H.R. 5051/S. 2852 (114<sup>th</sup> Cong.), Section 5 of H.R. 1770/S. 760 (115<sup>th</sup> Cong.), and Section 6012(d) of Senate-passed S. 2810 (115<sup>th</sup> Cong.)).

<sup>204</sup> OMB, Memorandum M-25-05.

<sup>205</sup> See CRS Insight IN12502, *OMB Releases OPEN Government Data Act Guidance*, by Meghan M. Stuessy.

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