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OFFICE OF MANAGEMENT AND BUDGET  
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M-25-05

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Shalanda Young  
Director 

SUBJECT: Phase 2 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Open Government Data Access and Management Guidance

**1. INTRODUCTION**

This Memorandum provides guidance on data management and dissemination under the Foundations for Evidence-Based Policymaking Act of 2018 (“Evidence Act”).<sup>1</sup> It outlines a systematic approach to open data that will better facilitate data access for evidence-building and will foster innovation in artificial intelligence and beyond, inform research, and promote government transparency and accountability, subject to appropriate safeguards for privacy, confidentiality, and security.

The Evidence Act sets forth statutory requirements regarding Federal evidence-building activities, open government data, and confidential information protection and statistical efficiency. Title II of the Evidence Act, also referred to as the Open, Public, Electronic, and Necessary (OPEN) Government Data Act (“OPEN Government Data Act” or “Act”), builds on long-running efforts to support the quality, accessibility, protection, and use of Federal information,<sup>2</sup> and codifies many of the key aspects of the Executive Branch’s 2013 open data policy.<sup>3</sup> The OPEN Government Data Act established new requirements relating to data

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<sup>1</sup> Pub. L. No. 115-435 (2019). OMB M-19-23 describes four “phases” of Evidence Act guidance. Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-19-23, *Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance* 4 (July 10, 2019), available at [www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf](http://www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf). This Memorandum represents Phase 2.

<sup>2</sup> See, e.g., Exec. Order No. 13,642, *Making Open and Machine Readable the New Default for Government Information*, 78 Fed. Reg. 28,111 (May 14, 2013); Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-19-15, *Improving Implementation of the Information Quality Act* (Apr. 24, 2019), available at [www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf](http://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf); Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-19-18, *Federal Data Strategy—A Framework for Consistency* (June 4, 2019), available at [www.whitehouse.gov/wp-content/uploads/2019/06/M-19-18.pdf](http://www.whitehouse.gov/wp-content/uploads/2019/06/M-19-18.pdf).

<sup>3</sup> See Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-13-13, *Open Data Policy—Managing Information as an Asset* (May 9, 2013), available at [www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2013/m-13-13.pdf](http://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2013/m-13-13.pdf).

governance (e.g., establishing Chief Data Officers (CDOs) and a CDO Council),<sup>4</sup> data management (e.g., metadata and open formats for all data assets), and transparent processes (e.g., open data plans).

Federal data is a valuable national resource and a strategic asset. Expanding access and usability of Federal data and strengthening Federal agencies' plans for data management and sharing can have a positive effect on the Federal Government and the public. Public access to open Government data assets can help facilitate transparency and accountability, build trust and credibility, increase civic participation and community engagement, promote innovation and collaboration with the private sector and academia, improve the efficiency and effectiveness of government operations, and inform evidence-building activities and data-driven decision making.

This Memorandum provides guidance to agencies regarding the requirements of the OPEN Government Data Act. This Memorandum rescinds and replaces OMB Memorandum M-13-13, *Open Data Policy—Managing Information as an Asset*. Agencies should apply this guidance consistent with applicable laws<sup>5</sup> and existing OMB guidance, including OMB Circular No. A-130.<sup>6</sup>

## 2. SCOPE AND APPLICABILITY

This Memorandum provides guidance concerning the following requirements from the Act:

- ***Open by default.*** Except as provided by this guidance, each agency is required to:
  - Maintain each agency data asset in an open format;<sup>7</sup> and
  - Maintain each public data asset as an open Government data asset and under an open license.<sup>8</sup>
- ***Comprehensive data inventory.*** Each agency is required to develop and maintain a comprehensive data inventory of all data assets maintained by the agency.<sup>9</sup>

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<sup>4</sup> Requirements related to the designation of CDOs and the establishment of the CDO Council were addressed in OMB M-19-23. OMB M-19-23, at 21–25.

<sup>5</sup> E.g., Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. §§ 3501–3520; E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (2002) (codified at 44 U.S.C. § 3501 note); Privacy Act of 1974, 5 U.S.C. § 552a; Federal Information Security Modernization Act of 2014 (FISMA), 44 U.S.C. §§ 3551–3558; Confidential Information Protection and Statistical Efficiency Act of 2018 (CIPSEA 2018), 44 U.S.C. §§ 3561–3583; Freedom of Information Act, 5 U.S.C. § 552; Information Quality Act, Pub. L. No. 106-554, tit. V, § 515(a), 114 Stat. 2763A-153 (2000) (codified at 44 U.S.C. § 3516 note); *see also* Federal Records Act of 1950, 44 U.S.C. §§ 3101–3107; Rehabilitation Act of 1973, 29 U.S.C. § 701–796*l*; 36 CFR parts 1220–1249.

<sup>6</sup> Off. of Mgmt. & Budget, Exec. Off. of the President, OMB Circular No. A-130, *Managing Information as a Strategic Resource* (July 28, 2016), available at [www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/circulars/A130/a130revised.pdf](http://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A130/a130revised.pdf).

<sup>7</sup> 44 U.S.C. § 3506(b)(6)(A).

<sup>8</sup> *Id.* § 3506(b)(6)(B).

<sup>9</sup> *Id.* § 3511(a).

- **Federal Data Catalog.**<sup>10</sup> Each agency is required to list all data assets<sup>11</sup> and submit certain public data assets as open Government data assets, or links to such public data assets, to the Federal Data Catalog.<sup>12</sup>
- **Open data plan.** Each agency is required to develop and maintain an open data plan, to be included in the agency’s strategic information resources management plan.<sup>13</sup>
- **Public engagement.** Each agency is required to engage with the public in using public data assets and encourage public collaboration.<sup>14</sup>

Notably, the Act distinguishes between three categories of information<sup>15</sup> for scoping the applicability of these requirements: “data,” “data assets,” and “public data assets.” These terms are specifically defined in Section 3 of this Memorandum and described more fully in subsequent sections. The Act also defines a fourth category, an “open Government data asset,” which is a subset of public data assets to which, in accordance with the requirements of the Act and this Memorandum, agencies have applied certain attributes that improve the assets’ usability.

To provide clarity regarding the scope of each requirement, this Memorandum organizes the requirements by the category of data to which each group of requirements applies. Each section will discuss its applicability. In applying the requirements of this Memorandum and the Act, agencies must conduct an analysis to determine the applicability of specific information management laws and policies to data and data assets under the relevant circumstances. For example, some “data assets” under the Act may also constitute, or be maintained in, “records” under the Privacy Act,<sup>16</sup> and others may not.

a. Clarifying the Meaning of “Make Available”

The Act uses the phrase “make available” and “made available” to denote a variety of activities. For example, the Act uses “made available” to refer to public data assets that will be submitted to the Federal Data Catalog,<sup>17</sup> “made publicly available,”<sup>18</sup> or “made public”<sup>19</sup> to refer to dissemination requirements, and “made available under [FOIA]” to refer to the standard for disclosure under FOIA.<sup>20</sup> In these examples, the concept of making something available is used to describe disclosure or dissemination to the public.

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<sup>10</sup> For the purposes of this Memorandum, this is the same term as described in 44 U.S.C. § 3511(c)(1).

<sup>11</sup> Data assets contained on national security systems, as defined 40 U.S.C. § 11103, are exempt from inclusion in the comprehensive inventory and the Federal Data Catalog.

<sup>12</sup> 44 U.S.C. § 3511(b), (c)(3).

<sup>13</sup> *Id.* § 3506(b)(2).

<sup>14</sup> *Id.* § 3506(d)(6).

<sup>15</sup> Unless otherwise specified, the terms used in this Memorandum have the meanings defined in 44 U.S.C. § 3502.

<sup>16</sup> *See* 5 U.S.C. § 552a(a)(4) (defining “record” under the Privacy Act).

<sup>17</sup> *See* 44 U.S.C. § 3511(a)(2)(D) (requiring each agency to submit to the Federal Data Catalog certain data assets “made available” in accordance with § 3511(a)(2)(E)).

<sup>18</sup> *See, e.g., id.* § 3511(a)(2)(E).

<sup>19</sup> *See, e.g., id.* § 3511(a)(2)(C).

<sup>20</sup> *See, e.g., id.* § 3511(a)(2)(E)(vii).

The Act also uses the phrase “make available” to require agencies to make data assets available with a certain attribute.<sup>21</sup> In that context, the phrase means the data asset in question exists within an agency with that attribute; the data asset, however, need not be released to the public in order to be “made available” in that sense of the term. For example, an agency’s data asset may be available in an open format even if it is only accessible by that agency’s employees.

For clarity, this Memorandum uses the phrase “maintain within the agency” or a similar phrase when referring to requirements to “make available” *within* the agency and will use “make publicly available,” “disclose,” or “disseminate” when referring to requirements requiring public disclosure or public dissemination.

#### b. Implementation

Agency CDOs, in coordination with the agency Data Governance Body established under OMB M-19-23 (“Phase I Guidance”), have the responsibility for implementing the provisions of this Memorandum. Per the Phase I Guidance, agency Data Governance Bodies must include appropriate senior-level staff and technical experts needed to discuss and set policy on a range of data and data-related topics.<sup>22</sup> As provided in the Phase I Guidance, the agency CDO is required to delegate CDO responsibilities to the head of a recognized statistical agency or unit as necessary to comply with statistical laws, as determined by the head of the recognized statistical agency or unit.<sup>23</sup> Therefore, throughout this guidance, references to the agency CDO shall include the heads of statistical agencies and units where responsibilities have been so delegated.

Agencies must take appropriate steps to account for the requirements of this Memorandum when initiating new information collections or IT investments. As a general matter, to facilitate machine readability, open formats, and open standards, agencies should, to the greatest extent practicable, collect, curate, or create data in an open format and should maintain such format throughout the information life cycle. When implementing this Memorandum, agencies should consider the full life cycle of data and how the requirements of this guidance can be best met for different stages. New collections and acquisitions of data should be designed with an open format for its structure and metadata and a plan should be developed by agencies to convert established data sets, and data sets currently being collected, that are not already in an open format to open formats as soon as practicable.

Additionally, to maximize benefits, agencies should work with their data users and stakeholders to determine how best to implement the requirements of this section. Additionally, for data concerning Tribal Nations or people, agencies should engage in regular, meaningful, and robust consultation with tribal officials.

Agencies should refer to the Appendix for the relevant deadlines for implementation of this Memorandum.

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<sup>21</sup> *Id.* § 3506(b)(6).

<sup>22</sup> OMB M-19-23, at 20.

<sup>23</sup> 44 U.S.C. § 3520(d); *see also* OMB M-19-23, at 24–25.

### 3. DEFINITIONS

**Agency** means “any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include the Government Accountability Office; Federal Election Commission; the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.”<sup>24</sup>

**Data** means “recorded information, regardless of form or the media on which the data is recorded.”<sup>25</sup>

**Data asset** means “a collection of data elements or data sets that may be grouped together.”<sup>26</sup>

**Dissemination** means “the government-initiated distribution of information to a non-government entity, including the public. The term ‘dissemination’ does not include distribution limited to Federal Government employees, intra- or interagency use or sharing of Federal information, or responses to requests for agency records under the Freedom of Information Act (5 U.S.C. § 552) or the Privacy Act (5 U.S.C. § 552a).”<sup>27</sup>

**Machine-readable** means, when used with respect to data, “data in a format that can be easily processed by a computer without human intervention while ensuring no semantic meaning is lost.”<sup>28</sup>

**Metadata** means “structural or descriptive information about data such as content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection, and other descriptions.”<sup>29</sup>

**Mosaic effect** means the particular risk that a data asset will allow for the compromise of a protected interest (such as privacy, national security, or law enforcement interests) when the data asset is combined with other available information. The mosaic effect occurs when the information in an individual data asset, in isolation, may not pose a risk of, for example, identifying an individual, but when combined with other available information, could pose such risk. Before disclosing potential personally identifiable information (PII) or other potentially sensitive information, agencies must consider other publicly available data – in any medium and from any source – to determine whether some combination of existing data and the data intended

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<sup>24</sup> 44 U.S.C. § 3502(1).

<sup>25</sup> *Id.* § 3502(16).

<sup>26</sup> *Id.* § 3502(17).

<sup>27</sup> OMB Circular No. A-130, § 10(a)(18).

<sup>28</sup> *Id.* § 3502(18).

<sup>29</sup> *Id.* § 3502(19).

to be publicly released could allow for the identification of an individual or pose a security concern.

**Open format** means a file format for storing digital data where that format is platform independent and machine readable, and is maintained (A) at no cost to the public; and (B) with no restrictions on copying, publishing, distributing, transmitting, citing, or adapting such format.

**Open Government data asset** means “a public data asset that is—(A) machine-readable; (B) available (or could be made available) in an open format; (C) not encumbered by restrictions, other than intellectual property rights, including under titles 17 and 35 [of the U.S. Code], that would impede the use or reuse of such asset; and (D) based on an underlying open standard that is maintained by a standards organization.”<sup>30</sup>

**Open license** means “a legal guarantee that a data asset is made available (A) at no cost to the public; and (B) with no restrictions on copying, publishing, distributing, transmitting, citing, or adapting such asset.”<sup>31</sup>

**Open standard** means a standard that is freely available to the public to access, use, and share.

**Personally identifiable information (PII)** means “information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other information that is linked or linkable to a specific individual.”<sup>32</sup>

**Public data asset** means “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 [5 U.S.C. § 552].”<sup>33</sup>

#### 4. **AGENCY REQUIREMENTS THAT APPLY TO ALL DATA ASSETS**

Understanding the Act’s definition of a “data asset”—*i.e.*, “a collection of data elements or data sets that may be grouped together”<sup>34</sup>—is central to implementing the requirements of the Act and this Memorandum. In order to qualify as a data asset under the Act, the data must meet the criteria below:

- *Structured*: Data assets must be composed of structured or semi-structured data.<sup>35</sup> Examples of data assets composed of structured data include rectangular or tabular data

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<sup>30</sup> 44 U.S.C. § 3502(20). For the purposes of this guidance, the term “standards organization” includes the National Institute of Standards and Technology.

<sup>31</sup> *Id.* § 3502(21).

<sup>32</sup> OMB Circular No. A-130, § 10(57).

<sup>33</sup> 44 U.S.C. § 3502(22).

<sup>34</sup> *Id.* § 3502(17).

<sup>35</sup> For descriptions of structured, semi-structured, and unstructured data, see William Newhouse et al., Nat’l Inst. of Standards & Tech., NIST Internal Report (IR) 8496, *Data Classification Concepts and Considerations for Improving Data Protection* (Nov. 2023), available at [doi.org/10.6028/NIST.IR.8496.ipd](https://doi.org/10.6028/NIST.IR.8496.ipd).

organized into rows and columns, a database of digital images, and a set of files containing geospatial polygons in the same coordinate system. Examples of data assets composed of semi-structured data include data in formats like the Extensible Markup Language (XML) and JavaScript Object Notation (JSON).<sup>36</sup> Agencies may exercise reasonable discretion in determining whether any particular collection of data is sufficiently structured to be considered a data asset.

- *Logically grouped*: To qualify as a “data asset,” data must be composed of a logical grouping of data elements or data sets. This may consist of data grouped together based on similar characteristics, a shared function or purpose, or some other logical method. A simple collection of unrelated data elements or data sets does not constitute a data asset. Similarly, a collection of many data sets that do not share a reasonably discernible common characteristic or theme does not constitute a data asset.

Agencies may not use other criteria to limit the definition of the term “data asset.” For example, 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.

a. Comprehensive Data Inventories

Agencies must, to the maximum extent practicable, develop and maintain a comprehensive data inventory that accounts for all data assets created by, collected by, under the control or direction of, or maintained by the agency (hereinafter “in the possession of the agency”), with the exception of data assets contained on a national security system.<sup>37</sup> Data assets that are in the possession of, or shared by, more than one agency are required to be listed independently by each agency possessing those assets on the agency’s comprehensive data inventory. Agencies must ensure that the comprehensive data inventory is clear and allows the public to understand all data assets in the possession of the agency.

Agencies must update the comprehensive data inventory no later than 90 days after the date on which the agency creates or identifies a data asset. In addition, agencies must update the comprehensive data inventory on an ongoing basis, and not less than once per year, as existing data assets are updated. Agencies may direct sub-agencies, operational divisions, offices, and bureaus to develop and maintain their own individual inventories and merge<sup>38</sup> these individual inventories into a single, agency-wide comprehensive data inventory. Each sub-agency, operational division, office, or bureau maintaining its own inventory must comply with the requirements of this section.

The following requirements apply to comprehensive data inventories:

- i. **Interoperable with the Federal Data Catalog.** GSA is responsible for developing and maintaining the Federal Data Catalog, a centralized public online interface dedicated to

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<sup>36</sup> See NIST SP 1500-18r2 Research Data Framework (RDaF), available at [doi.org/10.6028/NIST.SP.1500-18r2](https://doi.org/10.6028/NIST.SP.1500-18r2).

<sup>37</sup> 44 U.S.C. § 3511(a)(1), (2)(B). The term “national security system” is defined in 40 U.S.C. § 11103.

<sup>38</sup> Agencies may utilize inventory merging tools available on [resources.data.gov](https://resources.data.gov).

sharing agency data assets with the public. As part of its responsibilities, GSA updates and maintains the requirements and schema established by OMB and made publicly available through [Data.gov](https://data.gov) or any successor website. Agency comprehensive data inventories must be interoperable with the Federal Data Catalog as described in Section 5(b) of this Memorandum to ensure that agency information is extracted correctly and displayed there appropriately. The comprehensive data inventory must be maintained in an open format consistent with the ISO/IEC 21778:2017, commonly known as the JSON format, or a successor format.

- ii. **Metadata.** Each agency's comprehensive data inventory must conform to the standard metadata schema approved by OMB and available on [resources.data.gov](https://resources.data.gov).<sup>39</sup> If that schema changes, agencies must update their inventories appropriately within one year.

The OMB-approved standard metadata schema will conform to the United States profile of the W3C Data Catalog Vocabulary Version 3, known as the DCAT-US 3.0. Guidance on updating comprehensive data inventories to conform with DCAT-US 3.0 will be available on [resources.data.gov](https://resources.data.gov) within 180 days of issuance of this Memorandum.

This schema includes the following metadata elements, consistent with the requirements of the Act (44 U.S.C. § 3511(a)(2)(A)):

- A. A description of the data asset;
- B. The names and definitions of all variables in the data asset;
- C. The name or title of the data asset;
- D. An indication of whether the agency:
  - 1. Has determined that:
    - a. The data asset is an open Government data asset;
    - b. The data asset is not an open Government data asset; or
    - c. The agency is unable to determine whether the data asset is an open Government data asset; or
  - 2. Has not yet made any of those determinations;
- E. An indication of whether the agency:
  - 1. Has determined that:
    - a. The entire data asset is exempt from disclosure under FOIA;
    - b. Part of the data asset is exempt from disclosure under FOIA;
    - c. The data asset is not exempt from disclosure under FOIA; or
    - d. The agency is unable to determine whether the data asset is exempt from disclosure under FOIA; or
  - 2. Has not yet made any of those determinations;

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<sup>39</sup> 44 U.S.C. § 3511(a)(2)(A). This schema was previously known as the Project Open Data Metadata Schema. The newly revised schema promulgated with this guidance is known as the DCAT-US Version 3.0.



- F. An indication of whether the agency:
  - 1. Has determined that:
    - a. The data asset is a public data asset eligible for disclosure in the Federal Data Catalog;<sup>40</sup>
    - b. The data asset is not a public data asset eligible for disclosure in the Federal Data Catalog;
    - c. The agency cannot determine whether the data asset is a public data asset eligible for disclosure in the Federal Data Catalog; or
  - 2. Has not yet made any of those determinations;
  
- G. An indication of whether the agency:
  - 1. Has determined that:
    - a. The data asset is subject to open format;
    - b. The data asset is not subject to open format requirements due to existing limitations or restrictions on government distribution of the asset; or
    - c. The agency cannot determine whether the data asset is subject to open format; or
  - 2. Has not yet made any of those determinations.
  
- H. An indication of whether the agency:
  - 1. Has determined that:
    - a. The data asset is subject to open license requirements;
    - b. The data asset is not subject to open license requirements due to existing limitations or restrictions on government distribution of the asset; or
    - c. The agency cannot determine whether the data asset is subject to open license requirements; or
  - 2. Has not yet made any of those determinations.
  
- I. A description of any determinations made about the data asset under Subchapter III of Chapter 35 of Title 44;<sup>41</sup>
  
- J. The date on which an entry for the asset was added to the agency comprehensive data inventory;
  
- K. The date on which the data asset was most recently updated;<sup>42</sup>

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<sup>40</sup> Agencies will evaluate public data assets for eligibility for inclusion in the Federal Data Catalog in accordance with the process detailed in Section 5(b)(iii) below.

<sup>41</sup> Agencies are not expected to include this element in their comprehensive data inventories until it is reflected in the schema. This metadata element will be added to the schema after OMB promulgates the regulation required under 44 U.S.C. § 3582.

<sup>42</sup> When applicable, and at least on an annual basis, agencies are expected to update the date in which the data assets were most recently updated.

- L. A description of the method by which the public may access or request access to the data asset, which may include the URL or persistent digital identifier of the data asset, or a description of the process to request access to the data asset;
- M. To the extent practicable,<sup>43</sup> an indication of any restriction on use of, or access to, the data asset;
- N. The location of the data asset;<sup>44</sup>
- O. The name of each agency responsible for maintaining and updating the data asset;
- P. The name of each owner of the data asset;<sup>45</sup> and
- Q. Other metadata elements as determined by OMB.

Agencies may include additional elements in their comprehensive data inventories, provided that those elements conform to the metadata schema. To assist agencies with understanding how each of the statutory metadata standards listed above can be implemented on the comprehensive data inventories with the DCAT-US 3.0 schema, a cross-walk is available on [resources.data.gov](https://resources.data.gov).

- iii. **Public Dissemination.** Agencies must submit their comprehensive data inventory to the Federal Data Catalog as a data asset in accordance with Section 5(b) and host it publicly on the agency’s website at the address: [www.\[agency\].gov/data.json](http://www.[agency].gov/data.json). Prior to publicly disseminating the comprehensive data inventory, agencies may redact any information that would be withheld from disclosure under FOIA. Metadata elements withheld from public release should be redacted in accordance with FOIA. For each redaction made, the agency must note the metadata element that was redacted and provide a citation to the relevant FOIA exemption in the open data plan in accordance with Section 6 of this Memorandum. Agencies must share any redacted metadata with OMB upon request, to the extent sharing is legally permissible.

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<sup>43</sup> Depending on the circumstances, there may be various restrictions on use of, or access to, a data asset (*e.g.*, legal requirements related to protecting privacy, confidentiality, security, deliberative process, or trade secrets). Given the wide range, identifying all such restrictions may not be practicable; however, agencies are responsible for evaluating whether any such restriction exists and, as practicable, identifying such restrictions.

<sup>44</sup> Agencies may fulfill the location indicator requirement for open Government data assets by providing the publicly accessible URL to the data asset in metadata element L (mode of access). Similarly, agencies may fulfill the location indicator requirement for public data assets that require special access controls, such as confidential data located available through the federal statistical research data centers, through metadata element L (mode of access). For all other data assets that are not publicly accessible, agencies may fulfill the location indicator requirement by including the city and state (or other relevant geographic location) of the institution in which the data is housed.

<sup>45</sup> For data assets produced by an agency, which are generally in the public domain, this element should reflect the name of the agency. For data assets produced by another party or with intellectual property rights held by another party, this element should reflect the name of that party.

- iv. **Identify Data Asset Sources.** Comprehensive data inventories include data assets from all agency components or operating units (for example, bureaus or offices). Agencies should begin their inventory by reviewing information systems and processes across the agency components for commonalities that would lead to efficiencies in constructing the comprehensive data inventory. There are multiple tools and techniques that agencies can use to assist in identifying, categorizing, and cataloging data assets, including metadata and application programming interface (API) translators, managed enterprise metadata software, and data management frameworks. To successfully maintain the comprehensive data inventory, agencies should consider a centralized or shared service for data hosting or metadata management. Finally, agencies should identify opportunities to automate processes associated with their comprehensive data inventory.

In order to help identify data assets and related metadata for their comprehensive data inventories, agencies are encouraged to look to established data management processes. While such processes may not correlate perfectly with data assets in the comprehensive data inventory, they can help provide a starting point for identifying data assets.

Finally, maintaining a comprehensive data inventory is a process that requires ongoing improvement. Agencies should regularly review their comprehensive data inventory for quality, accuracy, and timeliness. Agencies should establish processes to remove references to data assets that have been dispositioned pursuant to applicable records retention and disposition policies. Agencies are reminded in implementing this guidance that they must provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products.<sup>46</sup>

b. Agency Data Assets Maintained in an Open Format

Applying open formats allows for more effective utilization of agency data assets for evidence building and other purposes within the agency, across government, and by the public when those assets are appropriately disclosed or made available. Maintaining data assets in open formats also will improve the efficiency and effectiveness of data-sharing among agencies and with state, local, tribal, and territorial government partners.<sup>47</sup> Requiring open formats for all data assets – both those that are appropriate for public dissemination as well as those that are not – furthers the Act’s goals for increased access to and usability of agency data assets.

The Act requires agencies, with only certain exceptions detailed below, to maintain each data asset of the agency in an open format, such as Extensible Markup Language (XML) or

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<sup>46</sup> 44 U.S.C. § 3506(d)(3).

<sup>47</sup> See Exec. Order No. 14,058, *Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government*, 86 Fed. Reg. 71,357 (Dec. 16, 2021), available at [www.federalregister.gov/documents/2021/12/16/2021-27380/transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government](http://www.federalregister.gov/documents/2021/12/16/2021-27380/transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government).

comma-separated values (CSV).<sup>48</sup> Agencies are permitted to manage data assets in different formats as necessary.

Many agency data assets are already maintained in an open format, while other agency data assets will need to be converted into an open format. Agencies are encouraged to convert all data assets into an open format, as appropriate. However, in some instances an agency's data assets may not be suitable for conversion into an open format. Agencies may take the following factors into account when converting data assets into an open format:

- i. Costs & Benefits.** As agencies acquire new data assets or identify existing data assets that are not already in an open format, agencies should consider the cost and benefits of converting such data assets into an open format.<sup>49</sup> In many cases, current and future users of the data asset will benefit from the data asset being converted into an open format. However, agencies may deprioritize data asset conversion when the cost of conversion would exceed the relative benefit.<sup>50</sup> In prioritizing resource allocation in the application of these requirements, agencies may consider:

  - costs, resource availability, and other burdens associated with converting and maintaining the data asset in an open format;
  - benefits and advantages to the agency from converting and maintaining the data asset (*e.g.*, furthering the agency mission, including by helping meet a mission or operational need as identified in a Cross-Agency Priority Goal, Agency Priority Goal, Performance Plan, Strategic Plan, Learning Agenda, Annual Evaluation Plan, or other planning document; or reducing a burden associated with managing and using data assets); and
  - 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 (*e.g.*, increasing public participation, promoting government transparency, furthering the agency mission, improving service quality, creating economic opportunity, enabling civil society to chart government's progress toward equitable outcomes, expanding opportunities, or improving accountability).
- ii. Intellectual Property Rights and Other Restrictions.** Some existing data assets may be encumbered by restrictions related to intellectual property rights, contractual terms, proprietary data protections, or other use restrictions which will make it impossible or excessively costly to maintain the data assets in an open format. Agencies should, to the maximum extent practicable, strive to acquire data assets that are open by default and free from such encumbrances.
- iii. Other Considerations.** For the most part, making data assets available in an open format should not implicate privacy, confidentiality, national security, legal liability, or other agency interests. In those rare instances when an agency determines that a data asset is not suitable to be maintained in an open format, the agency must identify the data assets

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<sup>48</sup> 44 U.S.C. § 3506(b)(6)(A).

<sup>49</sup> *See id.* §§ 3502(20), 3504(b)(6)(C), 3506(b)(6)(B)(i) and (d)(5); *see also id.* § 3511(a)(2)(E)(iii).

<sup>50</sup> *See id.* §§ 3504(b)(6)(C), 3511(a)(2)(E)(iii) (taking into account the costs and benefits of converting data assets).

and note the reason for the exemption from the requirement to be maintained in an open format in accordance with Section 4(a) of this Memorandum.

## **5. REQUIREMENTS THAT APPLY TO ALL PUBLIC DATA ASSETS**

Understanding the definition of a *public data asset* is important for implementing the requirements of the Act and this Memorandum. The Act defines the term *public data asset* as “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 section 552 of title 5.”<sup>51</sup> The term *public data asset* is not limited to those data assets that have been or will be released publicly. In fact, many data assets that qualify as public data assets may not become publicly available, for reasons that are discussed in Section 5(b)(iii) of this Memorandum. It is important for agencies to recognize that the Act does not establish any new authority to disclose data assets that agencies otherwise would be prohibited from disclosing or alter any existing legal standards agencies use to determine when public disclosure is appropriate.<sup>52</sup>

Public data assets are those data assets or portions of data assets maintained by an agency that are legally permitted to be disseminated to the public, *and* that meet one or more of the following criteria:

- (1) They have already been lawfully disseminated to the public;<sup>53</sup>
- (2) They are required by law to be disseminated to the public; or
- (3) The agency *would* disclose them to the public in response to a FOIA request.<sup>54</sup>

The term *public data asset* is not limited to those data assets that have been or will be released publicly. In fact, many data assets that qualify as public data assets may not become publicly available under the Act, for reasons that are discussed in Section 5(b)(iii) of this Memorandum.

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<sup>51</sup> 44 U.S.C. § 3502(22).

<sup>52</sup> The rules of construction applicable to the OPEN Government Data Act clearly state that the Act does not require the disclosure of any material that is exempt from disclosure under FOIA, nor does it expand or create an exemption under the FOIA. 5 U.S.C. § 306 note.

<sup>53</sup> There may be rare circumstances in which a dissemination of a data asset or portion of a data asset to the public that was lawful in the past would no longer be considered lawful if done in the present. In those circumstances, agencies have discretion to determine whether it would be appropriate to label the data asset or portion of the data asset as a public data asset. Additionally, there may be rare circumstances in which an agency experienced an unintentional, yet lawful, dissemination of a data asset or a portion of a data asset to the public. Agencies should not label a data asset or portion of a data asset as a public data asset solely based on an unintentional disclosure, even if it was lawful.

<sup>54</sup> Agencies should not exclude data assets or portions of data assets from the definition of public data asset simply because a FOIA exemption *could* apply; they should only exclude them if the agency would *in fact* choose to withhold them in response to a FOIA request.

The Act establishes two requirements for public data assets:

- (1) Public data assets must be maintained within the agency as open Government data assets and under an open license,<sup>55</sup> unless this guidance provides otherwise; and
- (2) Certain public data assets must be disseminated to the public through the Federal Data Catalog.

Data assets or portions of data assets that are public data assets are eligible to be considered for dissemination under Section 6 of this Memorandum.

When determining whether a particular data asset is a public data asset and whether any of the corresponding requirements apply, the agency CDO, acting through the agency Data Governance Body, must involve relevant agency officials with appropriate expertise on privacy, confidentiality, intellectual property, and any other restrictions on the particular data asset. For example, the agency CDO must rely on:

- The agency Chief FOIA Officer to determine whether any FOIA exemptions could apply to the data asset, and whether the data asset would be disclosed in response to a FOIA request;
- The Senior Agency Official for Privacy (SAOP) to determine whether a data asset contains PII requiring additional review and disclosure protections; and
- The agency Statistical Official to determine whether a data asset contains confidential statistical information requiring additional review and disclosure protections.

Furthermore, these agency officials likewise should engage with the agency CDOs and the agency Data Governance Body to ensure that data assets that have changes in disposition are re-assessed to determine whether those changes result in them becoming public data assets.

a. Open Government Data Assets and Under an Open License

Agencies must maintain<sup>56</sup> public data assets as open Government data assets and under an open license, except as provided in this Memorandum. The Act defines an “open Government data asset” as a public data asset having the following attributes:

- (1) machine-readable;
- (2) maintained (or could be maintained) in an open format;

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<sup>55</sup> 44 U.S.C. § 3506(b)(6)(B). Many data assets created by the Federal Government are in the public domain and are, therefore, outside of any licensing requirements. Agencies may satisfy this requirement by indicating, in the comprehensive data inventory, that the data asset is in the public domain or by indicating that it is released under a public domain equivalent non-attribution license such as CC-0, MIT-0, or similar.

<sup>56</sup> As discussed in Section 2(a), the Act uses the phrase “make available” in this context to mean “make available” within the agency and not as a requirement to disclose any data asset. This guidance uses phrases such as “maintained by the agency” or “converted” to convey the same meaning.

- (3) not encumbered by restrictions, other than intellectual property rights, including under titles 17 and 35 of the U.S. Code, that would impede the use or reuse of such asset; and
- (4) based on an underlying open standard that is maintained by a standards organization.<sup>57</sup>

An open license is “a legal guarantee that a data asset is made available (A) at no cost to the public; and (B) with no restrictions on copying, publishing, distributing, transmitting, citing, or adapting such asset.” Such a license provides for maximum access, use, and reuse of the public data asset with minimal or no restrictions. The application of these attributes to public data assets promotes data interoperability, which increases operational efficiencies, reduces costs, improves services, supports mission needs, enhances accessibility, promotes long-term access, and increases public access to valuable Federal information.

There are some public data assets to which the application of these attributes would not be appropriate. When implementing the open Government data asset and open license requirements, agencies may take into account the same factors as listed in Section 6(g) of this Memorandum. Agencies should consider each required attribute separately, to ensure application of the attributes to the greatest extent practicable. Because these requirements apply to some data assets that are publicly available or could be accessed by the public, agencies should prioritize those public data assets that are mostly likely to be requested under FOIA, disseminated through the Federal Data Catalog, or otherwise made accessible to the public. In those instances when an agency determines that applying these attributes to a public data asset is not appropriate, the agency must identify the public data asset at issue in the comprehensive data inventory.

#### *Attributes Generally Required for Public Data Assets*

- i. Machine-Readable.** Agencies must make each of their public data assets machine-readable.<sup>58</sup> For a data asset to be machine-readable, it must be digital and in an appropriate “format that can be easily processed by a computer without human intervention while ensuring no semantic meaning is lost.”<sup>59</sup> Appropriateness of machine-readable formats may vary by data type or context. To ensure machine-readability, agencies should select a machine-readable format that is appropriate for the underlying data type and its intended use. Agencies should take into account the cost and benefits to the public of converting data assets into a machine-readable format that is accessible and useful to the public.<sup>60</sup>

**Example:** If the data asset is a spreadsheet or tabular information, agencies should not provide this data as a scanned image or image-based PDF document, but rather should provide that public data asset in an appropriate format (e.g., in a character-delimited format such as a CSV file).

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<sup>57</sup> 44 U.S.C. § 3502(20).

<sup>58</sup> *Id.* § 3506(b)(6)(B)(i); *see also id.* §§ 3502(20), 3506(d)(5).

<sup>59</sup> *Id.* § 3502(18).

<sup>60</sup> *Id.* § 3504(b)(6)(C).

- ii. **Open Formats.** As discussed in Section 4(b) of this Memorandum, 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.<sup>61</sup> Agencies are permitted and strongly encouraged to provide data assets in different formats to increase and facilitate access and use, but agencies must seek to ensure that every data asset is maintained in an open format.

**Example:** Although agencies may use proprietary file formats such as *Excel* spreadsheets, ACCESS databases, *ACCBD* file formats, or ESRI geodatabase files, they should make such data assets available in an appropriate open file format such as CSV, TSV, JSON, XML, SQL, or GeoPackage.

- iii. **Not Encumbered by Restrictions.** Open Government data assets must not be encumbered by restrictions, other than intellectual property rights, that would impede their use or reuse.<sup>62</sup> Data restrictions may include impediments such as registration requirements, access fees, and usage limitations, among others.<sup>63</sup> The ultimate goal, with respect to open data, should be to provide broad, non-discriminatory, free access to public data assets so that any person can access information at any time without providing personal identification. Agencies should remove inappropriate access restrictions whether they were intentionally or accidentally implemented.

**Example:** Agencies may establish reasonable rate limits for APIs for open Government data assets for security purposes (*e.g.*, to protect against known or anticipated denial-of-service attacks). However, rate limits for APIs of open Government data assets should not be used to limit or restrict access sought for non-malicious purposes (*e.g.*, web scraping and archiving) and an alternative access method to the open Government data asset should be available as appropriate.

- iv. **Open Standards.** The structure of open Government data assets must be based on an underlying open standard that is maintained by a standards organization.<sup>64</sup> Open standards and specifications enable data, products, and services to be used by anyone, at any time, and they spur innovation and growth. Use of open standards, specifications, and formats can provide significant benefits to agencies and stakeholders while helping to implement open data priorities. Standards may apply to data field requirements or to metadata.

**Example:** Agencies should utilize appropriate standards from the National Institute of Standards and Technology (NIST), W3C standards, or voluntary consensus

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<sup>61</sup> *Id.* § 3506(b)(6)(A); *see also id.* §§ 3502(20)(B), 3506(b)(6)(B)(i).

<sup>62</sup> *Id.* § 3502(20)(C).

<sup>63</sup> Examples of operational restrictions include: software or hardware protection mechanisms including multifactor authentication; predicating access on user response participation or user registration; digital rights management mechanisms that control content; software or hardware dongles that prevent access; unnecessary encryption or file encoding; unnecessary API (application programming interface) rate limits; unnecessary digital watermarking; or geo-blocking (or location-based access).

<sup>64</sup> 44 U.S.C. § 3502(20)(D).



standards bodies (e.g., International Organization for Standardization (ISO)) whenever practicable.

- v. **Open License.** The Act requires that agencies maintain each public data asset of the agency under an open license, except as provided in this Memorandum.<sup>65</sup> Generally, data and content created by Federal employees within the scope of their employment are not subject to domestic copyright protection under 17 U.S.C. § 105. As a result, it should be feasible to make most—if not the vast majority—of agency data assets available without legal restriction. Some data, however, may be subject to privately held or other copyrights that preclude such activities as copying or modification. Data assets that cannot practicably be made available under an open license are not subject to the open-license requirement.

**Example:** Some open Government data assets may have minimally restrictive licenses that are not technically open licenses under this definition. For example, an agency acquires a data set from a researcher who has assigned a Creative Commons by attribution (CC-BY) license to the asset, which requires only that the rights-holder be acknowledged when data is shared or used. The agency can meet the requirement in Section 5 by indicating the CC-BY license and researcher’s name in the inventory.

**Example:** Many open Government data assets will be in the United States public domain and therefore outside of the open license requirements per se. For example, an agency produces a data set and indicates in the inventory that it is a work of the Federal Government in the public domain in the United States to meet the requirement in Section 5.

## b. Federal Data Catalog

The Act establishes a Federal Data Catalog, which is “a single public interface [maintained] online as a point of entry dedicated to sharing agency data assets with the public.”<sup>66</sup> The Act requires agencies to submit their comprehensive data inventories for inclusion in the Federal Data Catalog.<sup>67</sup> In addition, the Act requires agencies to “submit public data assets, or links to public data assets available online, as open Government data assets for inclusion in the Federal [D]ata [C]atalogue.”<sup>68</sup> This section of the Memorandum outlines the requirements for submitting the comprehensive data inventory to the Federal Data Catalog and disseminating public data assets to the public through the Federal Data Catalog.

### i. **In General**

The Federal Data Catalog, accessible on Data.gov or any successor website, is maintained by GSA to serve as the central public interface for government data asset

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<sup>65</sup> 44 U.S.C. § 3506(b)(6)(B)(ii).

<sup>66</sup> 44 U.S.C. § 3511(c)(1).

<sup>67</sup> See 44 U.S.C. § 3511(a)(2)(D).

<sup>68</sup> 44 U.S.C. § 3511(b).

discovery. The Federal Data Catalog on Data.gov is designed to unleash the power of government open data to inform decisions by the public and policymakers, drive innovation and economic activity, achieve agency missions, and strengthen the foundation of an open and transparent government.<sup>69</sup>

Data.gov does not host or maintain any data assets directly; rather, it provides a centralized point of entry to discover government data assets from hundreds of decentralized locations, including Federal, state, and local governments. The Federal Data Catalog's ability to display information about data assets from many different sources allows users to discover data assets that they may not have otherwise known existed. Beyond its public interface, the Federal Data Catalog promotes data asset discoverability by indexing its holdings for search engines, web crawlers, and API translators. This allows users to discover data assets available through Data.gov without directly searching the sources themselves.

The Act also requires the establishment of an online repository of tools, best practices, and schema standards to facilitate the adoption of open data practices across the Federal Government.<sup>70</sup> Data.gov houses this repository, which includes definitions, links to policies, checklists, standards, and case studies related to open data policy and general information to improve data management workflows for Federal agencies and the public. The repository will continue to be updated as new resources become available. By hosting both the Federal Data Catalog and the resources repository, Data.gov improves the findability, accessibility, interoperability, and reusability of the Federal Government's public data assets.

## ii. Submitting the Comprehensive Data Inventory to the Federal Data Catalog

The Act requires agencies to submit their comprehensive data inventories, described in Section 4(a) of this Memorandum, for inclusion in the Federal Data Catalog.<sup>71</sup> The inclusion of comprehensive data inventories in the Federal Data Catalog allows members of the public to find in one location general information about data assets maintained by the Federal Government. While the underlying data assets themselves are not always disseminated through the Federal Data Catalog, the metadata on all data assets in agency comprehensive data inventories, including all metadata listed in Section 4(a) of this Memorandum, must appear in the Federal Data Catalog.

To submit the comprehensive data inventory to the Federal Data Catalog, each agency must post the inventory in JSON format, or a successor format, to [www.\[agency\].gov/data.json](http://www.[agency].gov/data.json), and must employ the metadata schema approved by OMB and available on [resources.data.gov](http://resources.data.gov),<sup>72</sup> or any successor schema. The Federal Data Catalog will collect each agency's comprehensive data inventory from the agency's website for inclusion in the Federal Data Catalog. Agencies must ensure comprehensive data inventories posted on

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<sup>69</sup> See [www.data.gov/about/](http://www.data.gov/about/).

<sup>70</sup> See [resources.data.gov](http://resources.data.gov).

<sup>71</sup> See 44 U.S.C. § 3511(a)(2)(D).

<sup>72</sup> *Id.*; see also *id.* § 3511(a)(2)(A). This schema was previously known as the Project Open Data Metadata Schema.

their websites include any real-time updates to their inventories, which will be collected by the Federal Data Catalog.<sup>73</sup>

The effectiveness of the Federal Data Catalog in promoting the discovery of data assets depends on the completeness and quality of the metadata that it collects from agencies in their comprehensive data inventories. Agencies should adhere to the requirements in this Memorandum to help ensure that the compilation of data assets described in the Federal Data Catalog is as useful to the public as possible.

### **iii. Disseminating Public Data Assets through the Federal Data Catalog**

The Act emphasizes public data asset dissemination as a policy priority for all agencies. To accomplish this priority, the Act requires agencies to “submit public data assets, or links to public data assets available online, as open Government data assets for inclusion in the Federal Data Catalog,” in accordance with guidance issued by OMB.<sup>74</sup> When an agency chooses to disseminate a public data asset through the Federal Data Catalog, they do so by including in the agency’s comprehensive data inventory the URL or persistent identifier<sup>75</sup> where the public data asset may be accessed.<sup>76</sup>

Data assets in the possession of an agency must be listed in the agency’s comprehensive data inventory, as described in Section 4(a) of this Memorandum, and included in the Federal Data Catalog. However, not all public data assets should be disseminated to the public through the Federal Data Catalog. This section of the Memorandum provides guidance to help agencies determine which public data assets are appropriate for dissemination through the Federal Data Catalog.

#### **A. Eligible and appropriate for dissemination**

All public data assets<sup>77</sup> are *eligible* for public dissemination, but not all public data assets are appropriate for public dissemination via the Federal Data Catalog. According to the House Report, Congress intended the Act to establish a “default of openness, meaning government data should be available to and usable by the public to the greatest extent possible.” Accordingly, agencies should use the process outlined in this section to evaluate public data assets prior to public dissemination and should consider public data assets to be appropriate for dissemination unless specific concerns particular to the circumstances or nature of that data asset outweigh the presumption in favor of openness.<sup>78</sup> Starting with the data assets that have been prioritized pursuant to Section 6(g) of this Memorandum, agencies must undertake a two-step process to assess

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<sup>73</sup> *See id.*

<sup>74</sup> *Id.* § 3511(b).

<sup>75</sup> In this context, “persistent identifier” refers to a globally resolvable persistent URL with an open metadata schema that points to a landing page where the data can be accessed, such as a Digital Object Identifier.

<sup>76</sup> 44 U.S.C. § 3511(c)(1).

<sup>77</sup> *Id.* § 3502(22).

<sup>78</sup> 44 U.S.C. § 3511(a)(2)(E).

both whether data asset is both eligible and appropriate for public dissemination through the Federal Data Catalog:

1. **Eligible:** Agencies must identify which data assets or portions of data assets are legally permitted to be disseminated to the public, *and* meet one or more of the criteria outlined at the beginning of Section 5 of this Memorandum.<sup>79</sup> These data assets or portions of data assets are public data assets and therefore are eligible to be *considered* for public dissemination.
2. **Appropriate:** Agencies must conduct an assessment in accordance with the criteria provided in this section of the Memorandum to determine which of these public data assets are *appropriate* to disseminate to the public through the Federal Data Catalog.

## **B. Appropriate for dissemination: assessing risk**

While the Act emphasizes public data asset dissemination as a policy priority, it also acknowledges that the proactive dissemination of some public data assets may introduce risks in vital areas such as national security, privacy, confidentiality, and intellectual property.<sup>80</sup> In addition to the direct risk that may be posed by dissemination of a particular data asset, agencies also must consider the possible risk posed if the information in that particular data asset is combined with other available information.<sup>81</sup> This includes taking into account information made publicly available by other agencies as well as information generally available in the public domain, and may require additional effort to mitigate the increased risk to protected interests that may arise when the information in the public data asset is combined with other publicly available data.

To conduct an assessment of the risk posed by the dissemination of public data assets, agencies should use the risk assessment tools established in law and policy. For example, agencies may use the risk assessment process established for information and information systems in NIST publications.<sup>82</sup> In addition, agencies may use privacy impact assessments and similar tools to determine the privacy risk associated with the dissemination of a public data asset.<sup>83</sup> When determining the level of risk that may be appropriate to accept, the agency may consult its risk management strategy, which should

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<sup>79</sup> The process for identifying public data assets is fully explained at the beginning of Section 5.

<sup>80</sup> 44 U.S.C. § 3511(a)(2)(E).

<sup>81</sup> *Id.* § 3504(b)(6)(A), (B); *see also id.* § 3511(a)(2)(E)(i), (ii).

<sup>82</sup> *See, e.g.*, National Institutes of Standards and Technology Special Publication 800-53, Revision 5, *Security and Privacy Controls for Information Systems and Organizations* (Sept. 2020), available at [doi.org/10.6028/NIST.SP.800-53r5](https://doi.org/10.6028/NIST.SP.800-53r5).

<sup>83</sup> *See* Off. of Mgmt. & Budget, Exec. Off. of the President, M-03-22, *OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002* (Sept. 2003), available at [www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2003/m03\\_22.pdf](https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2003/m03_22.pdf).

guide and inform risk-based decisions and may address how security and privacy risk is framed, assessed, responded to, and monitored.<sup>84</sup>

### **C. Appropriate for dissemination: weighing risk and public interest**

Agencies should consider the factors below when determining whether any particular public data asset is appropriate for dissemination through the Federal Data Catalog. Agencies should consider the balance of factors both for and against dissemination; public data assets are appropriate for dissemination through the Federal Data Catalog unless the factors against such dissemination outweigh the public interest. In case of doubt, openness should prevail.

#### **Identifying public interest**

*Public Interest.* When evaluating a public data asset for potential dissemination, agencies should evaluate whether the dissemination serves a public interest. A public interest would be served by, for example, shedding light on agency actions. If a public interest would be advanced by a public data asset's dissemination, that should weigh in favor of dissemination. That public interest would need to be weighed against the other criteria described in this section of the Memorandum to determine whether the dissemination would be appropriate.

When evaluating whether dissemination would serve the public interest, agencies consider whether the public has provided feedback about the value of the public data asset. Agencies should give particular weight to public feedback that identifies a specific use of the public data asset and explains how that use would be in the public interest. For example, uses that are in the public interest may include news reporting, policy development, and research in the physical sciences, social sciences, humanities, or another field.

#### **Balancing risks**

*National Security.*<sup>85</sup> Data assets maintained in national security systems are excluded from dissemination through the Federal Data Catalog. Additionally, data assets maintained in other information systems may contain data that, if disseminated, would present a risk to national security. Agencies are not required to disseminate public data assets that would present such a national security risk. In practice, however such data assets would likely not qualify as public data assets and would not be eligible for dissemination through the Federal Data Catalog.

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<sup>84</sup> See National Institutes of Standards and Technology Special Publication 800-37, Revision 2, *Risk Management Framework for Information Systems and Organizations: A System Life Cycle Approach for Security and Privacy* (Dec. 2018), available at [doi.org/10.6028/NIST.SP.800-37r2](https://doi.org/10.6028/NIST.SP.800-37r2).

<sup>85</sup> CDOs should work closely with their agency's relevant classification authorities, Chief FOIA Officer, and agency counsel to ensure that all dissemination is consistent with how the data asset would be handled under FOIA and any applicable Executive Order.

*Information Security.* When evaluating a public data asset for potential dissemination, agencies should consider information security-related restrictions on release. They should consider whether disseminating the public data asset would adversely affect information security—for example, by introducing risks pertaining to network architecture or information system configuration. If the agency determines that dissemination would have such an adverse effect, then the agency is not required by the Act or this Memorandum to disseminate the public data asset.

*Privacy and Confidentiality.*<sup>86</sup> When evaluating a public data asset for potential dissemination, agencies should consider the risks and restrictions related to the dissemination of any PII contained in the data asset. The dissemination of PII can pose significant risk of harm to affected individuals. In addition, agencies should consider the reidentification risk associated with the dissemination of any deidentified data. This risk can change over time and must be reassessed prior to any new dissemination of data.

Agencies must consider not only the privacy and confidentiality risk from the dissemination of public data assets that obviously contain PII; in addition, agencies must also consider such risk from data that have been deidentified, which may be subject to the “mosaic effect” that is defined in Section 3 of this Memorandum. The mosaic effect can cause purportedly deidentified information to become PII—a process called *reidentification*—and therefore present unanticipated risk to privacy and confidentiality.<sup>87</sup> When assessing the risk of reidentification, agencies must consider other publicly available data—in any medium and from any source—to determine whether some combination of existing data and the data intended to be disseminated could allow for the identification of an individual. In addition to redacting or withholding data, agencies may employ data analysis and statistical disclosure limitation and privacy enhancing techniques<sup>88</sup> to help manage and reduce the risk of reidentification.<sup>89</sup>

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<sup>86</sup> When evaluating a public data asset for potential dissemination, CDOs should work closely with their agency’s SAOP, Chief FOIA Officer, Statistical Official, and legal counsel to ensure that privacy and confidentiality are protected in compliance with applicable law and policy before the public data asset is disseminated. In addition, CDOs should rely on the confidentiality and disclosure avoidance expertise of their agency’s SAOP and Statistical Official, as well as data scientists and other relevant, qualified experts, to help inform how the public data asset should be processed prior to dissemination to manage privacy and confidentiality risk.

<sup>87</sup> 44 U.S.C. §§ 3504(b)(6)(A), 3511(a)(2)(E)(i).

<sup>88</sup> See Fed. Comm. on Stat. Methodology, *Data Protection Toolkit: Report and Resources on Statistical Disclosure Limitation Methodology and Tiered Data Access* (rev. Jan. 2020), available at [nces.ed.gov/fcsm/dpt](https://nces.ed.gov/fcsm/dpt).

<sup>89</sup> Statistical disclosure limitation and privacy enhancing techniques used in the production of data disseminated to the public must be done in conformity with the OMB guidelines on agency implementation of the Information Quality Act. Any such technique that results in knowingly inaccurate data, such as noise injection or differential privacy, must be accompanied with: (1) information sufficient for a reasonable data user to understand the limitations of the data use specifically induced by the technique; (2) complete methodological information sufficient for a technical data user to replicate the technique; (3) the range of uncertainty around each unit in the data that was altered by the technique; (4) an explanation of how data users can access the raw, unaltered data; and (5) a clear indication that the data has been altered *only* to meet privacy and confidentiality expectations and not for other purposes.

Any dissemination of data assets containing information that is maintained in a system of records under the Privacy Act must be permitted by the Privacy Act. Furthermore, when considering public disclosure, agencies should recognize that the Privacy Act allows agencies to disclose records pursuant to FOIA only if the disclosure is required by FOIA.<sup>90</sup> When determining whether a particular data asset is appropriate for disclosure, the protection of privacy is particularly important given the potential for civil and criminal liability under the Privacy Act.<sup>91</sup>

*Intellectual Property.* When evaluating a public data asset for potential dissemination, agencies should consider any intellectual property restrictions that affect the data. In particular, agencies should consider whether a public data asset contains material protected by Title 17 of the U.S. Code and whether publication of that data on the Federal Data Catalog could infringe copyright or otherwise risk legal liability. If it would do so, the agency is not required by the OPEN Government Data Act or this Memorandum to disseminate that data.

*Restrictions from Contracts or Other Binding Written Agreements.* When evaluating a public data asset for potential dissemination, agencies should consider whether dissemination via the Federal Data Catalog would be prohibited by or inconsistent with a contract or other binding written agreement. Dissemination through the Catalog is not required if it would create a significant risk of a breach of contract.

*Consulting with Rights Holders.* Under certain circumstances, when a public data asset involves rights held by another party, consultation with that party may be relevant in determining whether the data asset may be disseminated. Some disseminations that otherwise would be prohibited by law may be permitted when the holder of the rights to a data asset has provided consent. Before disseminating such a data asset, agencies must comply with applicable law, regulation, and policy to provide any required notice to third parties, or, when appropriate, to obtain their consent.<sup>92</sup>

#### **D. Disseminating portions of public data assets**

When an agency determines that a portion of a public data asset should not be disseminated based on these criteria, the agency should consider disseminating the remainder of the public data asset through the Federal Data Catalog. In doing so, agencies should remove or redact only the minimum amount of data necessary to make the data asset suitable for dissemination. In addition, agencies should consider using information limiting methods or disclosure limitation techniques that may allow agencies

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<sup>90</sup> The Privacy Act, at 5 U.S.C. § 552a(b), prohibits the disclosure of a record which is contained in a system of records without the prior written consent of the individual to whom the record pertains, unless the disclosure meets one of the statute's enumerated exceptions. One of these exceptions, at 5 U.S.C. § 552a(b)(2), permits a disclosure that is required under FOIA. For guidance on this provision of the Privacy Act and its relationship with FOIA requirements, see Off. of Mgmt. & Budget, Exec. Off. of the President, *Privacy Act Guidance – Update* (May 24, 1985).

<sup>91</sup> 5 U.S.C. § 552a(g), (i).

<sup>92</sup> See 44 U.S.C. § 3511(a)(2)(E)(vi).

to disseminate data through the Federal Data Catalog that otherwise would be unsuitable for dissemination.<sup>93</sup> When using information limiting techniques, agencies should employ those techniques only to the minimum extent needed to prevent unnecessary disclosure or harm and should provide sufficient information to the public to disclose how and why such techniques were used. If a public data asset is not disseminated to the public in full, agencies should provide an explanation through their comprehensive data inventory. In the circumstance where an agency disseminates a modified version of a data asset after applying information limiting techniques, the agency should consider listing the modified data asset on their comprehensive data inventory as a separate entry from the original non-public or restricted data asset.

#### **iv. Coordination**

When evaluating the impact of disseminating public data assets, it is important for agency CDOs to coordinate with those officials that have responsibilities related to the disclosure or dissemination of data or for the programs that generate data. Systematic coordination can help prevent the harm that may arise from an improper public release of data assets.<sup>94</sup> In addition, the release of a data asset to the public may affect decisions regarding the release of the data asset through other channels, such as under the FOIA or the Confidential Information Protection and Statistical Efficiency Act (CIPSEA)<sup>95</sup> or pursuant to program requirements. Accordingly, agency CDOs must coordinate with their agency’s Chief FOIA Officer, SAOP, Chief Information Officer, General Counsel, Statistical Official, program staff, and other relevant agency officials, such as other members of their Data Governance Body, to ensure that any public release of data assets is lawful and appropriate.

#### **v. Providing Access to Agency Data Assets<sup>96</sup> That Are Not Appropriate for Dissemination Through the Federal Data Catalog**

Many agency data assets are not appropriate for the broad access provided by disseminating data assets through the Federal Data Catalog, but they may nonetheless be useful to researchers, other agencies, organizations, Congress, and other stakeholders in the development of evidence or for other purposes. In two ways, the OPEN Government Data Act furthers the goal of the other titles of the Evidence Act to expand secure access to these data assets.

First, by providing access to all agencies’ comprehensive data inventories, the Federal Data Catalog will be a central source for the public and other agencies to discover agency data assets that have not been and may never be disseminated. In that sense, the Federal Data Catalog will be a comprehensive data inventory of the Executive Branch, including detailed metadata.

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<sup>93</sup> See Fed. Comm. on Stat. Methodology, *Data Protection Toolkit: Report and Resources on Statistical Disclosure Limitation Methodology and Tiered Data Access* (rev. Jan. 2020), available at [nces.ed.gov/fcsm/dpt](https://nces.ed.gov/fcsm/dpt).

<sup>94</sup> See, e.g., 5 U.S.C. § 552a(g), (i); 18 U.S.C. § 1905; 44 U.S.C. § 3572(f).

<sup>95</sup> CIPSEA is Title III of the Evidence Act.

<sup>96</sup> Generally, Section 5 focuses on public data assets; however, in subsection b. generally and in this paragraph v. specifically, data assets that are not public data assets are included in the scope for purposes of explaining what information about these data assets must be disseminated through the Federal Data Catalog.



As required by Section 4 of this Memorandum, agencies must include in their comprehensive data inventories metadata indicating the specific method by which the public and other agencies can request access to individual data assets.<sup>97</sup>

Second, the Federal Data Catalog also will maintain information on various methods for the public and other agencies to request access to data assets that are not available through the Federal Data Catalog, in general. One common method of accessing public data assets is for the public to request access under FOIA. While many public data assets subject to disclosure under FOIA will be available through the Federal Data Catalog, they may not be available there immediately or on a timeline that meets the needs of the requester. To address that concern, the Federal Data Catalog will remind the public that anyone can continue to request access to agency data assets through agency FOIA processes and direct requesters to [www.FOIA.gov](http://www.FOIA.gov).

The Federal Data Catalog also will provide information about how researchers and other agencies may request access to certain data assets that do not qualify as public data assets and are not appropriate for dissemination. For example, under Title III of the Evidence Act, Recognized Statistical Agencies and Units (RSAUs) accept applications to access confidential statistical data for evidence-building purposes through the Standard Application Process (SAP).<sup>98</sup> The Federal Data Catalog will house the data inventory through which data assets useful for evidence building will be discovered, and it will provide information about how to access data assets through the SAP. GSA and the SAP program management office will work together to ensure that the Federal Data Catalog includes all of the necessary information and metadata for the SAP to rely upon the Federal Data Catalog for the inventory of all data assets, including confidential statistical data assets. The metadata elements of the SAP and the Federal Data Catalog are fully interoperable. Agencies with data assets included in the SAP need only create and maintain the comprehensive data inventory required under this Memorandum to satisfy the requirements of both Titles II and III of the Evidence Act. The Federal Data Catalog will be the source of metadata for the SAP.

Additionally, many agencies have data assets that could become public data assets appropriate for dissemination if adequate disclosure limitation techniques were applied. In situations where a data asset is determined to be restricted or otherwise not appropriate for dissemination, agencies may consider whether to apply information-limiting methods or disclosure limitation techniques to the underlying data asset to make it appropriate for dissemination, provided that such techniques are consistent with law and policy. This new data asset with the information limiting methods or disclosure limitation techniques applied would be related to, but separate from, the original data asset in the agency's comprehensive data inventory. In such cases, agencies are responsible for indicating in their comprehensive data inventories the method for requesting access to the original data asset and for including the

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<sup>97</sup> The ability to request access does not, by itself, imply that any particular data must be released in response to a request.

<sup>98</sup> Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-23-04, *Establishment of Standard Application Process Requirements on Recognized Statistical Agencies and Units* (Dec. 8, 2022), available at [www.whitehouse.gov/wp-content/uploads/2022/12/M-23-04.pdf](http://www.whitehouse.gov/wp-content/uploads/2022/12/M-23-04.pdf).

newly created data asset in their comprehensive data inventories as instructed in Section 4 of this Memorandum.

## **6. AGENCY DATA REQUIREMENTS: OPEN DATA PLAN**

Agencies are already required by the Paperwork Reduction Act to maintain an Information Resource Management (IRM) Strategic Plan; these plans must align with Circular No. A-130.<sup>99</sup> The OPEN Government Data Act requires each agency to incorporate into that IRM Strategic Plan an open data plan that explains how the agency fulfills and/or plans to fulfill its open data obligations.<sup>100</sup> Agencies may choose either to (1) integrate their open data plan into their IRM Strategic Plan or (2) append a separate, stand-alone open data plan to their IRM Strategic Plan.<sup>101</sup>

### **a. Data Collection Processes for Open Formats.**

Agencies should ensure, to the greatest extent practicable, that data is collected in an open format. The open data plan must include a description of the processes and procedures that the agency uses to ensure data collection mechanisms created on or after January 14, 2019—the enactment date of the Act—collect data in an open format.<sup>102</sup> In the rare instances when data must be collected using non-digital methods, agencies should convert the data into an open format. The open data plan should also provide a description of the circumstances when the agency may use non-digital methods to collect data and how the data will be converted into an open format. Agencies should incorporate the requirements for open formats of agency data assets discussed in Section 4(b) of this Memorandum, as well as include: (1) a plan for implementing digital data collection mechanisms by default, and (2) processes and procedures that the agency should use to digitize into an open format any data that were not collected with a digital collection mechanism.

### **b. Data Usage Information.**

The open data plan must describe the methods the agency currently uses and methods the agency plans to implement to collect and analyze digital information on data asset usage by users within and outside of the agency. Agencies must publish on their websites, on a regular basis (but not less than annually), information on the usage of public data assets by non-government users.<sup>103</sup> Such information may take the form of statistics on the number of times specific public data assets have been accessed, the most recent date of access, citations to publications referencing the public data asset, or other information the agency, in consultation with the public, finds useful. Agencies should describe in their open data plans the metrics that are collected and reported. Agencies are responsible for collecting and analyzing usage data in accordance with

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<sup>99</sup> 44 U.S.C. § 3506(b)(2).

<sup>100</sup> *See id.* § 3506(b)(2)(B). Open data plans should not address data concerning monetary policy.

<sup>101</sup> The IRM Strategic Plan is required under the PRA and Circular No. A-130 and is reviewed annually.

<sup>102</sup> *Id.* § 3506(b)(2)(B)(i)(I); *see also id.* § 3506(b)(6)(A).

<sup>103</sup> *Id.* § 3506(d)(6)(A).

law and policy related to reducing burden on users, ensuring information quality, and protecting privacy.<sup>104</sup>

Agencies may fulfill this requirement through the use of website analytics, diagnostics, and user feedback tools, consistent with the guidance in OMB M-10-22. Any such use must comply with applicable law and policies concerning privacy, cyber security, intellectual property protection, third-party terms of service, information collection and burden reduction, and information quality.

Data asset usage information should be published, at a minimum, on the agency's [www.\[agency\].gov/data](http://www.[agency].gov/data) webpage, and should also be readily accessible through access points for specific data assets.

c. Collaboration with Data Users.

The open data plan must include a description of the processes and procedures that the agency uses to facilitate collaboration with stakeholders outside the Federal Government, including businesses, researchers, and the public, for the purpose of understanding how data users value and use government data. Agencies are encouraged to establish mechanisms to support ongoing dialogue with stakeholders including academia, non-profits, and private industry, as well as state, local, tribal, and territorial governments, to improve access to and the utility of data assets and to share best practices and innovations.

Agencies should use a broad range of iterative methods to engage with the public so that the public can better access and use public data assets. An agency's public engagement strategy should be reflected in and informed by other considerations in its open data plan. It should be organized around the principle of assisting the public in expanding the use of public data assets,<sup>105</sup> with an emphasis on encouraging collaboration and maintaining a dialogue between the public and the agency. Furthermore, when engaging with the public, it is important for agencies to include a wide variety of viewpoints and interests across different stakeholder groups and place-based organizations that have trusted relationships with communities. Agencies should consider how they can support robust, ongoing public participation through means such as technical assistance and partnerships. Agencies may build upon and benefit from public engagement occurring as part of implementing other legal requirements, including those established under other provisions of the Evidence Act.

d. Open Data Point of Contact.

Agencies must designate an open data point of contact within the agency to assist the public and respond to quality issues, usability issues, recommendations for improvements, and

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<sup>104</sup> For example, such information collections may be subject to the Paperwork Reduction Act, the Information Quality Act, the Privacy Act, and OMB M-10-22, *Guidance for Online Use of Web Measurement and Customization Technologies* (June 25, 2010), available at [www.whitehouse.gov/wp-content/uploads/legacy\\_drupal\\_files/omb/memoranda/2010/m10-22.pdf](http://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2010/m10-22.pdf).

<sup>105</sup> See 44 U.S.C. § 3506(d)(6)(C).

complaints about adherence to open data requirements within a reasonable period of time.<sup>106</sup> Contact information for that point of contact must be prominently displayed on the agency’s website within 180 days of the issuance of this Memorandum.

The open data point of contact should solicit input from the public about prioritization of public data asset review and dissemination. Public input must be communicated to the Data Governance Body, and the Data Governance Body must respond to the public input in a timely manner.

e. Improvement Processes.

Each agency’s open data plan should provide for the development and implementation of a process to evaluate<sup>107</sup> and improve the timeliness, completeness, consistency, accuracy, usefulness, and availability of open Government data assets.<sup>108</sup> That process should take into consideration applicable provisions of the Privacy Act, Information Quality Act, Paperwork Reduction Act, CIPSEA 2018, 21st Century Integrated Digital Experience Act (21st Century IDEA) and other relevant laws and policies, including implementing guidance from OMB. To the extent practicable, this process should also incorporate input from the public regarding data asset prioritization.<sup>109</sup>

f. Open Data Goal Requirements.

The open data plan must include a description of how the agency conducts or plans to conduct the following in accordance with the goals of the open data plan:

- i. establish processes for acquiring, updating, or repurposing of information technology;
- ii. provide recurring training opportunities for employees;<sup>110</sup>
- iii. ensure necessary staffing and appropriate expertise within the agency workforce for the implementation of the information resource management plan; and

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<sup>106</sup> Agencies may meet the quality requirement through their implementation of the Information Quality Act information correction processes as articulated in OMB M-19-15, *Improving Implementation of the Information Quality Act*, available at [www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf](http://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf).

<sup>107</sup> The use of the term “evaluate” and “evaluation” in this context and throughout this guidance means to “assess” and may differ from the statutory definition of “evaluation” in Title I of the Evidence Act (5 U.S.C. § 311(3)).

<sup>108</sup> 44 U.S.C. § 3506(b)(2)(B)(iii).

<sup>109</sup> *Id.* § 3506(d)(6)(B).

<sup>110</sup> Agencies should draw upon existing Federal resources that are available for free to their employees. Examples of such free resources that aim to improve general knowledge and technical capacity in this regard include the National Archives records management training modules available at [www.archives.gov/records-mgmt/training](http://www.archives.gov/records-mgmt/training), as well as the NASA Open Science 101 Curriculum available at [science.nasa.gov/open-science/tops](http://science.nasa.gov/open-science/tops). Additional training resources can be found at [resources.data.gov](http://resources.data.gov).

- iv. update procurement standards, in accordance with existing law, regulation, and policy, to allow for the acquisition of innovative solutions from public and private sectors.<sup>111</sup>

g. Prioritizing Public Data Asset Review.

Agency open data plans must identify public data assets for which dissemination may be in the public interest and a schedule to evaluate these priority public data assets for possible inclusion in the Federal Data Catalog.<sup>112</sup> The plan should establish a process and criteria by which the agency identifies priority public data assets, including a process by which the public can request that specific data assets be prioritized for dissemination and suggest criteria for use in prioritizing data assets for dissemination.<sup>113</sup>

Agency open data plans must also include a process for prioritizing the review of data assets to determine whether the data assets are public data assets, subject to disclosure under FOIA, open Government data assets, or subject to open format or open license requirements.<sup>114</sup>

Agencies may apply one or more of the following criteria to identify as priority public data assets those that

- i. are already in the process of being disseminated through the Federal Data Catalog;
- ii. are used to generate “influential information” as described in OMB M-19-15, *Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*,<sup>115</sup>
- iii. are used to develop, test, or measure the performance of an artificial intelligence system or use case, as described in OMB M-24-10, *Advancing Governance*,

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<sup>111</sup> Agencies should ensure that any procurement resources follow OMB guidance on the acquisition of information technology, data, and software, such as OMB M-24-18, *Advancing the Responsible Acquisition of Artificial Intelligence in Government* (Sept. 24, 2024), available at [www.whitehouse.gov/wp-content/uploads/2024/10/M-24-18-AI-Acquisition-Memorandum.pdf](https://www.whitehouse.gov/wp-content/uploads/2024/10/M-24-18-AI-Acquisition-Memorandum.pdf), OMB M-23-16, *Enhancing the Security of the Software Supply Chain through Secure Software Development Practices* (June 9, 2023), available at [www.whitehouse.gov/wp-content/uploads/2023/06/M-23-16-Update-to-M-22-18-Enhancing-Software-Security-1.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/06/M-23-16-Update-to-M-22-18-Enhancing-Software-Security-1.pdf), and OMB M-22-18, *Enhancing the Security of the Software Supply Chain through Secure Software Development Practices* (Sept. 14, 2022), available at [www.whitehouse.gov/wp-content/uploads/2022/09/M-22-18.pdf](https://www.whitehouse.gov/wp-content/uploads/2022/09/M-22-18.pdf).

<sup>112</sup> 44 U.S.C. § 3506(b)(2)(B)(v); see also *id.* § 3511(a)(2)(A)(iii)(I)(bb)–(cc), (b).

<sup>113</sup> See *id.* § 3506(d)(6)(B) (requiring agencies to provide for public input on the prioritization of specific data assets for disclosure).

<sup>114</sup> See *id.* § 3511(a)(2)(F).

<sup>115</sup> Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-19-15, *Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies* (Apr. 24, 2019), available at [www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf](https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-15.pdf); Off. of Mgmt. & Budget, Exec. Off. of the President, *Improving Implementation of the Information Quality Act: Frequently Asked Questions* (Dec. 2023), available at [www.whitehouse.gov/wp-content/uploads/2023/12/FAQs-Implementation-of-the-Information-Quality-Act-final.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/12/FAQs-Implementation-of-the-Information-Quality-Act-final.pdf).

*Innovation, and Risk Management for Agency Use of Artificial Intelligence* or other OMB guidance on the topic of artificial intelligence;<sup>116</sup>

- iv. respond to a specific user need or demand identified by the public (e.g., through public consultation or public feedback);
- v. might have a direct or deep impact on the public, further the core mission of an agency, or meet other needs of the Federal Government;
- vi. might improve communication or collaboration or support decision-making at federal, state, local, territory, or tribal level;
- vii. directly support the delivery of a service or benefit to the public;
- viii. improve reproducibility of research findings;
- ix. might spur innovation or progress in science or technology; and
- x. are related to a timely topic in the public interest (e.g., related to public or news media inquiries); are subject to or likely to be subject to frequent FOIA requests; or otherwise have high usage or public interest.

In each version of the open data plan after the first, agencies must also describe progress they have made since the last update of the plan towards evaluating priority public data assets and making those public data assets that are appropriate for dissemination available through the Federal Data Catalog.

#### h. Compliance Status.

The open data plan must include a clear statement that the agency will comply with all requirements of this Memorandum and the requirements of 44 U.S.C. § 3511 when disseminating a public data asset pursuant to the Act. The open data plan should describe progress toward updating the comprehensive data inventory, including efforts to improve its breadth and depth. Specifically, agencies should include descriptions of their process for ensuring they capture all agency data assets (such as through automated processes or common definitions) and for improving metadata to improve data asset quality and the dissemination of priority public data assets as described above.<sup>117</sup> In addition, agencies should include strategies to make their open data and metadata findable, accessible, interoperable, and reusable.

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<sup>116</sup> Off. of Mgmt. & Budget, Exec. Off. of the President, OMB M-24-10, *Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence* (Mar. 28, 2024), available at [www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance-Innovation-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf](https://www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance-Innovation-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf).

<sup>117</sup> Agencies may meet the reporting requirements by indicating which data assets have been prioritized and which have not yet been evaluated for prioritization in their comprehensive data inventory in an appropriate metadata field as described in Section 4(a)(ii) of this Memorandum.

i. Updating the Strategic Information Resources Management Plan.

Within a 180 days of the issuance of this Memorandum, agencies must update their existing IRM Strategic Plans or create new IRM Strategic Plans to fulfill the requirements of this Memorandum. Agencies must post these new or updated plans on their websites at [www.\[agency\].gov/data](http://www.[agency].gov/data). Agencies must update the plans at least annually and make them publicly available on their agency websites not later than five days after each update. Each update should highlight progress since the previous update.

**APPENDIX: CONSOLIDATED TABLE OF INITIAL ACTIONS**

<b>Deliverable Number</b>	<b>Responsible Entity</b>	<b>Section</b>	<b>Initial Action</b>	<b>Implementation Deadline</b>
1	CDO Council and Interagency Council on Statistical Policy	4(a)(i)	Update Schema	180 days from issuance of this Memorandum
2	Agency	6	Contact information for the open data plan point of contact prominently displayed on the agency's website	180 days from issuance of this Memorandum
3	Agency	6	IRM Strategic Plan updated with open data plan	180 days from issuance of this Memorandum
4	Agency	4(a)	Comprehensive data inventory data asset listings updated to DCAT-US 3.0 updated schema	September 30, 2026
5	Agency	4(a)	Comprehensive data inventory hosted publicly on the agency's website at the address: <a href="http://www.[agency].gov/data.json">www.[agency].gov/data.json</a> .	September 30, 2026
6	Agency	4(a)	All agency data assets represented in the comprehensive data inventory	September 30, 2026
7	Agency	4(b)	Data assets meet open format requirements	September 30, 2026
8	Agency	5(a)	Public data assets meet open Government data asset and open license requirements	September 30, 2026
9	Agency	6(c)	Public engagement conducted for releasing public data assets	September 30, 2026