

115TH CONGRESS
1ST SESSION

H. R. 1770

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2017

Mr. KILMER (for himself and Mr. FARENTHOLD) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open, Public, Elec-
5 tronic, and Necessary Government Data Act” or the
6 “OPEN Government Data Act”.

7 **SEC. 2. FINDINGS.**

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

9 (1) Federal Government data is a valuable na-
10 tional resource. Managing Federal Government data

1 to make it open, available, discoverable, and usable
2 to the general public, businesses, journalists, aca-
3 demics, and advocates promotes efficiency and effec-
4 tiveness in Government, creates economic opportuni-
5 ties, promotes scientific discovery, and most impor-
6 tantly, strengthens our democracy.

7 (2) Maximizing the usefulness of Federal Gov-
8 ernment data that is appropriate for release rests
9 upon making it readily available, discoverable, and
10 usable—in a word: open. Information presumptively
11 should be available to the general public unless the
12 Federal Government reasonably foresees that disclo-
13 sure could harm a specific, articulable interest pro-
14 tected by law or the Federal Government is other-
15 wise expressly prohibited from releasing such data
16 due to statutory requirements.

17 (3) The Federal Government has the responsi-
18 bility to be transparent and accountable to its citi-
19 zens.

20 (4) Data controlled, collected, or created by the
21 Federal Government should be originated, trans-
22 mitted, and published in modern, open, and elec-
23 tronic format, to be as readily accessible as possible,
24 consistent with data standards under this Act or
25 otherwise permitted by law.

1 (5) The effort to inventory Government data
2 will have additional benefits, including identifying
3 opportunities within agencies to reduce waste, in-
4 crease efficiencies, and save taxpayer dollars. As
5 such, this effort should involve many types of data,
6 including data generated by applications, devices,
7 networks, and equipment, which can be harnessed to
8 improve operations, lower energy consumption, re-
9 duce costs, and strengthen security.

10 (6) Communication, commerce, and data tran-
11 scend national borders. Global access to Government
12 information is often essential to promoting innova-
13 tion, scientific discovery, entrepreneurship, edu-
14 cation, and the general welfare.

15 **SEC. 3. DEFINITION.**

16 In this Act, the term “agency” has the meaning given
17 the term in section 3561 of title 44, United States Code,
18 as added by section 4.

19 **SEC. 4. OPEN GOVERNMENT DATA.**

20 (a) IN GENERAL.—Chapter 35 of title 44, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

23 **“Subchapter III—Open Government Data**

24 **“§ 3561. Definitions**

25 “As used in this subchapter—

1 “(1) the term ‘agency’—

2 “(A) has the meaning given the term in
3 section 3502; and

4 “(B) includes the Federal Election Com-
5 mission;

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

9 “(3) the term ‘data asset’ means a collection of
10 data elements or data sets that may be grouped to-
11 gether;

12 “(4) the term ‘Director’ means the Director of
13 the Office of Management and Budget;

14 “(5) the term ‘Enterprise Data Inventory’
15 means the data inventory developed and maintained
16 pursuant to section 3563;

17 “(6) the terms ‘information resources manage-
18 ment’, ‘information system’, and ‘information tech-
19 nology’ have the meanings given those terms in sec-
20 tion 3502;

21 “(7) the term ‘machine-readable’ means a for-
22 mat in which information or data can be easily proc-
23 essed by a computer without human intervention
24 while ensuring no semantic meaning is lost;

1 “(8) the term ‘metadata’ means structural or
2 descriptive information about data such as content,
3 format, source, rights, accuracy, provenance, fre-
4 quency, periodicity, granularity, publisher or respon-
5 sible party, contact information, method of collec-
6 tion, and other descriptions;

7 “(9) the term ‘nonpublic data asset’—

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

12 “(B) includes data provided by contractors
13 that is protected by contract, license, patent,
14 trademark, copyright, confidentiality, regula-
15 tion, or other restriction;

16 “(10) the term ‘open Government data asset’
17 means a data asset maintained by the Federal Gov-
18 ernment that is—

19 “(A) machine-readable;

20 “(B) available in an open format;

21 “(C) not encumbered by restrictions that
22 would impede use or reuse; and

23 “(D) based on an underlying open stand-
24 ard that is maintained by a standards organiza-
25 tion;

1 “(11) the term ‘open license’ means a legal
2 guarantee applied to a public data asset that the
3 data asset is made available—

4 “(A) at no cost to the public; and

5 “(B) with no restrictions on copying, pub-
6 lishing, distributing, transmitting, citing, or
7 adapting; and

8 “(12) the term ‘public data asset’ means a data
9 asset maintained by the Federal Government that—

10 “(A) may be released to the public;

11 “(B) has been released to the public in an
12 open format and is discoverable through a
13 search of Data.gov or any successor to
14 Data.gov; or

15 “(C) is part of the worldwide public do-
16 main or, if necessary, published with an open li-
17 cense.

18 **“§ 3562. Requirements for Government data**

19 “(a) MACHINE-READABLE DATA REQUIRED.—Open
20 Government data assets made available by an agency shall
21 be published as machine-readable data.

22 “(b) OPEN BY DEFAULT.—When not otherwise pro-
23 hibited by law, and to the extent practicable, public data
24 assets and nonpublic data assets maintained by the Fed-
25 eral Government shall—

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

2 “(2) be available under open licenses.

3 “(c) OPEN LICENSE OR WORLDWIDE PUBLIC DO-
4 MAIN DEDICATION REQUIRED.—When not otherwise pro-
5 hibited by law, and to the extent practicable, open Govern-
6 ment data assets published by or for an agency shall be
7 made available under an open license or, if not made avail-
8 able under an open license and appropriately released,
9 shall be considered to be published as part of the world-
10 wide public domain.

11 “(d) INNOVATION.—Each agency may engage with
12 nongovernmental organizations, citizens, nonprofit organi-
13 zations, colleges and universities, private and public com-
14 panies, and other agencies to explore opportunities to le-
15 verage the public data assets of the agency in a manner
16 that may provide new opportunities for innovation in the
17 public and private sectors in accordance with law and reg-
18 ulation.

19 **“§ 3563. Enterprise data inventory**

20 “(a) AGENCY DATA INVENTORY REQUIRED.—

21 “(1) IN GENERAL.—In order to develop a clear
22 and comprehensive understanding of the data assets
23 in the possession of an agency, the head of each
24 agency, in consultation with the Director, shall de-
25 velop and maintain an enterprise data inventory (in

1 this section referred to as the ‘Enterprise Data In-
2 ventory’) that accounts for any data asset created,
3 collected, under the control or direction of, or main-
4 tained by the agency after the effective date of this
5 section, with the goal of including all data assets, to
6 the extent practicable.

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

9 “(A) Data assets used in agency informa-
10 tion systems (including program administration,
11 statistics, and financial activity) generated by
12 applications, devices, networks, facilities, and
13 equipment, categorized by source type.

14 “(B) Data assets shared or maintained
15 across agency programs and bureaus.

16 “(C) Data assets that are shared among
17 agencies or created by more than 1 agency.

18 “(D) A clear indication of all data assets
19 that can be made publicly available under sec-
20 tion 552 of title 5 (commonly known as the
21 ‘Freedom of Information Act’).

22 “(E) A description of whether the agency
23 has determined that an individual data asset
24 may be made publicly available and whether the
25 data asset is available to the public.

1 “(F) Nonpublic data assets.

2 “(G) Open Government data assets.

3 “(b) PUBLIC AVAILABILITY.—The Chief Information
4 Officer of each agency shall use the standards provided
5 by the Director issued pursuant to subsection (c) to make
6 public data assets included in the Enterprise Data Inven-
7 tory publicly available in an open format and under an
8 open license.

9 “(c) STANDARDS FOR ENTERPRISE DATA INVEN-
10 TORY.—The Director shall issue standards for the Enter-
11 prise Data Inventory, including—

12 “(1) a requirement that the Enterprise Data
13 Inventory include a compilation of metadata about
14 agency data assets; and

15 “(2) criteria that the head of each agency shall
16 use in determining whether to make a particular
17 data asset publicly available in a manner that takes
18 into account—

19 “(A) the expectation of confidentiality as-
20 sociated with an individual data asset;

21 “(B) security considerations, including the
22 risk that information in an individual data asset
23 in isolation does not pose a security risk but
24 when combined with other available information
25 may pose such a risk;

1 “(C) the cost and benefits to the public of
2 converting the data into a manner that could be
3 understood and used by the public;

4 “(D) the expectation that all data assets
5 that would otherwise be made available under
6 section 552 of title 5 (commonly known as the
7 ‘Freedom of Information Act’) be disclosed; and

8 “(E) any other considerations that the Di-
9 rector determines to be relevant.

10 “(d) NONPUBLIC DATA ASSETS.—Nonpublic data as-
11 sets included in the Enterprise Data Inventory may be
12 maintained in a nonpublic section of the inventory.

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

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

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

20 “(3) may implement paragraph (1) in a manner
21 that maintains a nonpublic portion of the Enterprise
22 Data Inventory.

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

1 “(1) to the extent practicable, complete the En-
2 terprise Data Inventory for the agency not later
3 than 1 year after the date of enactment of this sec-
4 tion; and

5 “(2) add additional data assets to the Enter-
6 prise Data Inventory for the agency not later than
7 90 days after the date on which the data asset is
8 created or identified.

9 “(g) USE OF EXISTING RESOURCES.—When prac-
10 ticable, the Chief Information Officer of each agency shall
11 use existing procedures and systems to compile and pub-
12 lish the Enterprise Data Inventory for the agency.

13 **“§ 3564. Federal agency responsibilities**

14 “(a) INFORMATION RESOURCES MANAGEMENT.—
15 With respect to general information resources manage-
16 ment, each agency shall—

17 “(1) improve the integrity, quality, and utility
18 of information to all users within and outside the
19 agency by—

20 “(A) using open format for any new open
21 Government data asset created or obtained on
22 the date that is 1 year after the date of enact-
23 ment of this section; and

24 “(B) to the extent practicable, encouraging
25 the adoption of open format for all open Gov-

1 ernment data assets created or obtained before
2 the date of enactment of this section; and

3 “(2) in consultation with the Director, develop
4 an open data plan that, at a minimum and to the
5 extent practicable—

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

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

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

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

1 “(C) develops and implements a process to
2 evaluate and improve the timeliness, complete-
3 ness, accuracy, usefulness, and availability of
4 open Government data assets;

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

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

14 “(F) prohibits the dissemination and acci-
15 dental disclosure of nonpublic data assets.

16 “(b) INFORMATION DISSEMINATION.—With respect
17 to information dissemination, each agency—

18 “(1) shall provide access to open Government
19 data assets online;

20 “(2) shall take the necessary precautions to en-
21 sure that the agency maintains the production and
22 publication of data assets which are directly related
23 to activities that protect the safety of human life or
24 property, as identified by the open data plan of the
25 agency required under subsection (a)(2); and

1 “(3) may engage the public in using open Gov-
2 ernment data assets and encourage collaboration
3 by—

4 “(A) publishing information on open Gov-
5 ernment data assets usage in regular, timely in-
6 tervals, but not less than annually;

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

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

13 “(D) hosting challenges, competitions,
14 events, or other initiatives designed to create
15 additional value from open Government data as-
16 sets.

17 **“§ 3565. Additional Chief Information Officer respon-**
18 **sibilities**

19 “The Chief Information Officer of each agency, or
20 other appropriate official designated by the head of an
21 agency, is responsible for—

22 “(1) data asset management, format standard-
23 ization, sharing of data assets, and publication of
24 data assets for the agency;

1 “(2) the compilation and publication of the En-
2 terprise Data Inventory for the agency required
3 under section 3563;

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

6 “(4) engaging agency employees, the public,
7 and contractors in using open Government data as-
8 sets and encourage collaborative approaches to im-
9 proving data use;

10 “(5) supporting the agency Performance Im-
11 provement Officer in generating data to support the
12 function of the Performance Improvement Officer
13 described in section 1124(a)(2) of title 31;

14 “(6) reviewing the information technology infra-
15 structure of the agency and the impact of the infra-
16 structure on making data assets accessible to reduce
17 barriers that inhibit data asset accessibility;

18 “(7) ensuring that, to the extent practicable,
19 the agency is maximizing its own use of data, includ-
20 ing data assets used in agency information systems
21 (including program administration, statistics, and fi-
22 nancial activity) generated by applications, devices,
23 networks, facilities, and equipment, categorized by
24 source type and such use is not otherwise prohibited,

1 to reduce costs, improve operations, and strengthen
2 security and privacy protections; and

3 “(8) identifying points of contact for roles and
4 responsibilities related to open data use and imple-
5 mentation as required by the Director.

6 **“§ 3566. Technology portal**

7 “(a) DATA.GOV REQUIRED.—The Administrator of
8 General Services shall maintain a single public interface
9 online as a point of entry dedicated to sharing open Gov-
10 ernment data assets with the public.

11 “(b) COORDINATION WITH AGENCIES.—The Director
12 shall determine, after consultation with the head of each
13 agency and the Administrator of General Services, the
14 method to access any open Government data assets pub-
15 lished through the interface described in subsection (a).”.

16 (b) SPECIAL PROVISIONS.—

17 (1) EFFECTIVE DATE.—Notwithstanding sec-
18 tion 8, section 3562 of title 44, United States Code,
19 as added by subsection (a), shall take effect on the
20 date that is 1 year after the date of enactment of
21 this Act and shall apply with respect to any contract
22 entered into by an agency on or after such effective
23 date.

24 (2) USE OF OPEN DATA ASSETS.—Not later
25 than 1 year after the date of enactment of this Act,

1 the head of each agency shall ensure that any activi-
2 ties by the agency or any new contract entered into
3 by the agency meet the requirements of section 3562
4 of title 44, United States Code, as added by sub-
5 section (a).

6 (3) DEADLINE FOR TECHNOLOGY PORTAL.—
7 Not later than 180 days after the effective date of
8 this Act, the Administrator of General Services shall
9 meet the requirements of section 3566 of title 44,
10 United States Code, as added by subsection (a).

11 (c) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of sections for chapter 35 of title 44, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

“SUBCHAPTER III—OPEN GOVERNMENT DATA

“3561. Definitions.

“3562. Requirements for Government data.

“3563. Enterprise data inventory.

“3564. Federal agency responsibilities.

“3565. Additional Chief Information Officer responsibilities.

“3566. Technology portal.”.

15 **SEC. 5. EVALUATION OF AGENCY ANALYTICAL CAPABILI-**
16 **TIES.**

17 (a) AGENCY REVIEW OF EVALUATION AND ANALYSIS
18 CAPABILITIES; REPORT.—Not later than 3 years after the
19 date of enactment of this Act, the Chief Operating Officer
20 of each agency shall submit to the Committee on Home-
21 land Security and Governmental Affairs of the Senate, the
22 Committee on Oversight and Government Reform of the

1 House of Representatives, and the Director of the Office
2 of Management and Budget a report on the review de-
3 scribed in subsection (b).

4 (b) REQUIREMENTS OF AGENCY REVIEW.—The re-
5 port required under subsection (a) shall assess the cov-
6 erage, quality, methods, effectiveness, and independence of
7 the evaluation, research, and analysis efforts of an agency,
8 including each of the following:

9 (1) A list of the activities and operations of the
10 agency that are being evaluated and analyzed and
11 the activities and operations that have been evalu-
12 ated and analyzed during the previous 5 years.

13 (2) The extent to which the evaluations, re-
14 search, and analysis efforts and related activities of
15 the agency support the needs of various divisions
16 within the agency.

17 (3) The extent to which the evaluation research
18 and analysis efforts and related activities of the
19 agency address an appropriate balance between
20 needs related to organizational learning, ongoing
21 program management, performance management,
22 strategic management, interagency and private sec-
23 tor coordination, internal and external oversight, and
24 accountability.

1 (4) The extent to which the agency uses meth-
2 ods and combinations of methods that are appro-
3 priate to agency divisions and the corresponding re-
4 search questions being addressed, including an ap-
5 propriate combination of formative and summative
6 evaluation research and analysis approaches.

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

13 (6) The extent to which the agency has the ca-
14 pacity to assist front-line staff and program offices
15 to develop the capacity to use evaluation research
16 and analysis approaches and data in the day-to-day
17 operations.

18 (c) GAO REVIEW OF AGENCY REPORTS.—Not later
19 than 4 years after the date of enactment of this Act, the
20 Comptroller General of the United States shall submit to
21 Congress a report that summarizes agency findings and
22 highlights trends from the reports submitted pursuant to
23 subsection (a) and, if appropriate, recommends actions to
24 further improve agency capacity to use evaluation tech-
25 niques and data to support evaluation efforts.

1 **SEC. 6. ONLINE REPOSITORY AND ADDITIONAL REPORTS.**

2 (a) REPOSITORY.—The Director of the Office of
3 Management and Budget shall collaborate with the Office
4 of Government Information Services and the Adminis-
5 trator of General Services to develop and maintain an on-
6 line repository of tools, best practices, and schema stand-
7 ards to facilitate the adoption of open data practices,
8 which shall—

9 (1) include definitions, regulation and policy,
10 checklists, and case studies related to open data, this
11 Act, and the amendments made by this Act; and

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

15 (b) GAO REPORT.—Not later than 3 years after the
16 date of enactment of this Act, the Comptroller General
17 of the United States shall submit to the Committee on
18 Homeland Security and Governmental Affairs of the Sen-
19 ate and the Committee on Oversight and Government Re-
20 form of the House of Representatives a report that identi-
21 fies—

22 (1) the value of information made available to
23 the public as a result of this Act and the amend-
24 ments made by this Act;

25 (2) whether it is valuable to expand the publicly
26 available information to any other data assets; and

1 (3) the completeness of the Enterprise Data In-
2 ventory at each agency required under section 3563
3 of title 44, United States Code, as added by section
4 4.

5 (c) BIENNIAL OMB REPORT.—Not later than 1 year
6 after the effective date of this Act, and every 2 years
7 thereafter, the Director of the Office of Management and
8 Budget shall electronically publish a report on agency per-
9 formance and compliance with this Act and the amend-
10 ments made by this Act.

11 (d) AGENCY CIO REPORT.—Not later than 1 year
12 after the effective date of this Act and every year there-
13 after, the Chief Information Officer of each agency shall
14 submit to the Committee on Homeland Security and Gov-
15 ernmental Affairs of the Senate and the Committee on
16 Homeland Security of the House of Representatives a re-
17 port on compliance with the requirements of this Act and
18 the amendments made by this Act, including information
19 on the requirements that the agency could not meet and
20 what the agency needs to comply with those requirements.

21 **SEC. 7. RULE OF CONSTRUCTION.**

22 Nothing in this Act, or the amendments made by this
23 Act, shall be construed to require the disclosure of infor-
24 mation or records that are exempt from public disclosure

1 under section 552 of title 5, United States Code (com-
2 monly known as the “Freedom of Information Act”).

3 **SEC. 8. EFFECTIVE DATE.**

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

○