Foundations for Evidence-Based Policymaking Act of 2018 (PL 115-435): Ensuring Open Access to Government Data

SUMMARY

The Act, enacted in January 2019, represents the continued efforts by researchers, evaluators, and statisticians to ensure that government data is used to leverage to inform policy decisions. It expands on prior open Government policy initiatives and calls for public access to agency data with three key goals: (1) enhancing evidence-building capacity, (2) improving access to data through secure means, and (3) strengthening privacy protections. The Act incorporates two prior freestanding Acts [the Open, Public, Electronic, and Necessary (OPEN) Government Act and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA)] and several recommendations from the Evidence-Based Policy Commission.

KEY PROVISIONS[1]

- *Title I – Evidence-Building Activities [Agencies & OMB]*
    - Establishes an Advisory Committee on Data for Evidence Building and a Chief Data Officer Council [OMB]
    - Develop Evidence-Building and Evaluation Plans. [February 2022]
    - Designate Statistical Officials and Evaluation Officers.
    - Implement data evaluation and personnel standards. [April 2020]
- *Title II – Open Government Data Act [Agencies]*
    - Make data open by default. [January 2020]
    - Implement forthcoming relevant OMB regulations or guidance. [January 2021]
    - Designate a Chief Data Officer
    - Publish their data sets in an open-license and machine-readable form.
    - Develop and maintain a comprehensive data inventory and publish it to a "Federal Data Catalogue" managed by the General Services Administration.
- *Title III - Confidential Information Protection and Statistical Efficiency [Agencies]*
    - Conduct risk assessments prior to releasing public data and develop methods to reduce the sensitivity of data.

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1 -Detailed listing of legislatively mandated deadlines are shown in the Appendix

IMPLICATIONS FOR AGENCIES

Agencies are expected to establish a more formal and structured approach to collecting, using and sharing high-quality agency data and to employ personnel with specific data responsibilities and expertise. Agencies will need to more fully integrate their data collections with their decision-making processes and demonstrate that policies and actions are evidence based. At the same time as agencies are to make their data openly available by default, they remain responsible for complying with privacy and other restrictions to data access.

IMPLICATIONS FOR GRANTSOLUTIONS

GrantSolutions already plays a key role in evidence-based policy and decision-making regarding grant management. GrantSolutions can expect increased Partner demand for data analytic services across the grant management lifecycle (with a strong emphasis on program outcomes) and a way to document how those services were used in decision-making. GrantSolutions may also face increased demand to directly participate in agency open data publishing efforts and with the new GSA Federal Data Catalogue.

Appendix: Key Dates in the Foundations for Evidence-Based Policymaking Act of 2018

Provision	Required Date	Status
Effective Date of the Act	"Except as otherwise provided, this Act, and the amendments made by this Act, shall take effect…180 days after the date of the enactment of this Act."	The provisions took effect on July 13, 2019, unless otherwise noted below.
Sec. 101(a) "5 USC § 312." Agency Evidence Building Plan	Agency Strategic Plans are due on first Monday in February in any year following the year in which a Presidential term commences.	Agency Strategic Plans are next due in February 2022.
Sec. 101(d). GAO Report on agency evidence-building plans under the agency strategic plan.	"Not later than 2 years after the date on which each strategic plan…is published."	Strategic plans are set to be updated in 2022. GAO would then have a deadline of 2024.
Sec. 101(e). Evaluation and Personnel Standards – OMB Guidance Issuance	"Not later than 1 year after the date of enactment…" (January 14, 2020)	Due by January 14, 2020.
Sec. 101(e). Evaluation and Personnel Standards – Agency Implementation	"Not later than 90 days after [the OMB Guidance] is issued."	Due ~3 months after OMB Guidance issuance.
Sec. 101(e). Evaluation and Personnel Standards – OPM Skill/Competency Identification	"Not later than 180 days after [the OMB Guidance] is issued."	Due ~6 months after OMB Guidance issuance.
Sec. 202(c). Federal Agency Responsibilities to Make Data Open by Default	"…shall take effect on the date that is 1 year after the date of enactment of this Act." (January 14, 2020)	Take effect January 14, 2020
Sec. 202(e). Data Officer Reports to Congress	Annually	
Sec. 202(f). Chief Data Officer Council Report	Biennially	
Sec. 202(f). GAO Evaluation of Council	"Not later than 4 years after date of enactment…"	Due January 14, 2023
Sec. 202(f). Termination of Chief Data Officer Council	"upon the expiration of the 2-year period that begins on the date the Comptroller General submits the report…to Congress."	Date tied to submission of GAO Report under Sec. 202(f)
Sec. 202(g)(1). GAO Report on Value of Open Data & Completeness of Data Inventory	"Not later than 3 years after the date of enactment of this Act…"	Due January 14, 2022
Sec. 202(g)(2). Biennial OMB Report	"Not later than 1 year after [the] date of enactment of this Act, and biennially thereafter…"	Due January 14, 2020
Sec. 303. Increasing Access to Data for Evidence	"Not later than 1 year after the date of the enactment of this Act, [OMB] shall…issue any regulation or guidance…[and] such regulation or guidance…be implemented not later than 1 year after the date on which such regulation or guidance has been promulgated or issued."	OMB Guidance or Regulation is due January 14, 2020. Implementation will be expected by January 14, 2021.