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The Emerging Importance of Chief Data Officers: Recent Legislation & Other Initiatives

DrinkerBiddle

Article By
Jason R. Baron
Drinker Biddle & Reath LLP
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A spotlight has been placed on the need for a chief data officer (CDO) in public sector agencies through both recent legislation and recommendations made in other recent reports and initiatives.

On January 14, 2019, the Foundations for Evidence-Based Policymaking Act of 2018 was signed into law, incorporating provisions of a previous stand-alone bill, the Open, Public, Electronic and Necessary (OPEN) Government Data Act. Among its provisions, the new legislation amends Title 44 of the U.S. Code, section 3520 to require the head of each federal agency covered under the Chief Financial Officers Act to "designate a nonpolitical appointee employee" to serve as CDO. The qualifications of a CDO shall include "demonstrated training and experience in data management, governance (including creation, application, and maintenance of data standards), collection, analysis, protection, use, and dissemination, including with respect to any statistical and related techniques to protect and de-identify confidential data."

As set out in the legislation, a partial list of the CDO's functions includes:

- Taking responsibility for life cycle data management
- Coordinating with any official responsible for using, protecting, disseminating, and generating data
- Managing data assets, including standardization of data formats, sharing of data assets, and publication of data assets

- Ensuring that to the extent practicable agency data conforms with data management best practices
- Engaging agency employees, the public, and contractors in using public data assets and encouraging collaborative approaches on improving data use
- Reviewing the impact of agency infrastructure on data asset accessibility and coordinating with the agency Chief Information Officer to reduce infrastructure barriers that inhibit data accessibility
- Ensuring that to the extent practicable the agency maximizes the use of data in the agency, including for the production of evidence (i.e., information produced as a result of statistical activities conducted for a statistical purpose), cybersecurity, and the improvement of agency operations.

The legislation also establishes a Chief Data Officer Council in the Office of Management and Budget, and requires agencies to maintain a comprehensive data catalogue of data assets, including a "data inventory that accounts for all data assets created by, collected by, under the control or direction of, or maintained by the agency." Agency heads are directed to "ensure that such inventory provides a clear and comprehensive understanding of the data assets in the possession of the agency."

Open Government Partnership Initiative

The emerging importance of CDOs has been highlighted further in the U.S. Fourth Open Government National Action Plan, issued on February 21, 2019, as the latest plan published pursuant to the Open Government Partnership initiative begun in 2011 by the Obama Administration. As explained in the Fourth National Action Plan under the title "Create Agency-Level Chief Data Officers":

> Increased access to data and the use of rigorous evidence is essential to optimizing government services that improve the lives of American citizens. In recent years, though, many Federal Government agencies have become deluged by vast and expanding volumes of information that complicate their ability to manage, analyze, and integrate the data to inform public policy deliberations. Most Federal agencies do not yet have a senior official empowered to, and responsible for, coordinating the active use of data within their agencies. Consequently, and consistent with legislation signed into law by President Trump on January 14, 2019, the Administration will prioritize the appointment of a Chief Data Officer (CDO) at each CFO-Act agency. Each designated CDO will be required to possess the right level of competencies, experience, and training in – and will be responsible for improving the respective agency's performance of – the suite of issues pertaining to data management, governance, collection, analysis, protection, use, and dissemination.

The IBM Report

The IBM Center for the Business of Government has produced an excellent background paper on the subject of CDOs, authored by Jane M. Wiseman at the Ash Center for Democratic Governance and Innovation at the Harvard Kennedy School: Data-Driven Government: The Role of Chief Data Officers (IBM Report). The

IBM Report argues that CDOs "can make government better by leveraging the power of data for more informed decision making," and recommends that "every leader of a government agency, regardless of size or mission, should consider the value that could be achieved for the public by hiring a data leader such as a CDO." Among its recommendations, the IBM Report promotes the idea that CDOs should create a strategic plan that will serve as a road map during their first few years, and that CDOs should strategize with respect to how they "relate to other parts of government and how … responsibilities [are] divided."

The recent increased attention on the role of the CDO within public sector organizations is an important development, especially when viewed through the lens of organizations achieving optimal information governance (IG) in maturing their overall IG programs. Ideally, public sector CDOs will work hand-in-hand with other senior agency officials, including those with oversight over records management, privacy, security, e-discovery, and FOIA access issues, to incorporate the best elements of an overall IG strategy while working to achieve the aims of the recent open data legislation and initiatives as discussed herein.

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