



OFFICE OF MANAGEMENT AND BUDGET

Request for Comments on Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence Draft Memorandum

AGENCY: Office of Management and Budget.

ACTION: Notice of public comment period.

SUMMARY: The Office of Management and Budget (OMB) is seeking public comment on a draft memorandum titled *Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence (AI)*. As proposed, the memorandum would establish new agency requirements in areas of AI governance, innovation, and risk management, and would direct agencies to adopt specific minimum risk management practices for uses of AI that impact the rights and safety of the public. The full text of the draft memorandum is available for review at <https://www.ai.gov/input> and <https://www.regulations.gov>.

DATES: Written comments must be received on or before December 5, 2023.

ADDRESSES: Please submit comments via <https://www.regulations.gov>, a Federal website that allows the public to find, review, and submit comments on documents that agencies have published in the Federal Register and that are open for comment. Simply type “OMB-2023-0020” in the search box, click “Search,” click the “Comment” button underneath “Request for Comments on Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence Memorandum,” and follow the instructions for submitting comments. The OMB System of Records Notice, OMB Public Input System of Records, OMB/INPUT/01, includes a list of routine uses associated with the collection of this information.

PRIVACY/FOIA NOTICE: Comments submitted in response to this notice may be publicly available and are subject to disclosure under the Freedom of Information Act. For this reason, please do not include in your comments information of a confidential nature, such sensitive

personal information or proprietary information, or any other information that you would not want publicly disclosed.

FOR FURTHER INFORMATION CONTACT: Please direct questions regarding this Notice to Cindy Martinez at OFCIO_AI@OMB.eop.gov with “AI Memo Request for Comment” in the subject line, or by phone at 202-395-0379. Please direct media inquiries to OMB OFCIO's Office of Public Affairs, email: MBX.OMB.Media@OMB.eop.gov.

SUPPLEMENTARY INFORMATION: The Administration has undertaken numerous efforts to advance responsible AI innovation and secure protections for people’s rights and safety. This work spans targeted sector-specific initiatives, such as the Department of Health and Human Services’ proposed rule to protect patients from discriminatory algorithms in health careⁱ, as well as more broadly applicable guidance from the Department of Justice and Equal Employment Opportunity Commission to help employers avoid AI-enabled disability discrimination in employment.ⁱⁱ Significant efforts have also yielded the development of landmark voluntary frameworks such as the National Institute of Standards and Technology’s (NIST) AI Risk Management Framework and White House Office of Science and Technology Policy’s Blueprint for an AI Bill of Rights. To build upon this body of policy, and in accord with President Biden’s Executive Order of October 30, 2023 (Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence), OMB has prepared a draft memorandum that would direct Federal agencies to strengthen their AI governance and innovation programs while managing risks from the use of AI, particularly when that use affects the safety and rights of the public. This memorandum also would carry out provisions of the AI in Government Act of 2020, secs. 101-104, Div. U, Pub. L. 116-260, and the Advancing American AI Act, secs. 7221-7228, Pub. L. 117-263.

Requests for Comment

Through this Request for Comment, OMB hopes to gather information on the questions posed below. However, this list is not intended to limit the scope of topics that may be addressed. Commenters are invited to provide feedback on any topic believed to have implications for the content or implementation of the proposed memorandum.

When responding to one or more of the questions below, please note in the text of your response the number of the question to which you are responding. Commenters should include a page number on each page of their submissions. Commenters are not required to respond to all questions.

OMB is requesting feedback related to the following:

1. The composition of Federal agencies varies significantly in ways that will shape the way they approach governance. An overarching Federal policy must account for differences in an agency's size, organization, budget, mission, organic AI talent, and more. Are the roles, responsibilities, seniority, position, and reporting structures outlined for Chief AI Officers sufficiently flexible and achievable for the breadth of covered agencies?
2. What types of coordination mechanisms, either in the public or private sector, would be particularly effective for agencies to model in their establishment of an AI Governance Body? What are the benefits or drawbacks to having agencies establishing a new body to perform AI governance versus updating the scope of an existing group (for example, agency bodies focused on privacy, IT, or data)?
3. How can OMB best advance responsible AI innovation?
4. With adequate safeguards in place, how should agencies take advantage of generative AI to improve agency missions or business operations?
5. Are there use cases for presumed safety-impacting and rights-impacting AI (Section 5 (b)) that should be included, removed, or revised? If so, why?

6. Do the minimum practices identified for safety-impacting and rights-impacting AI set an appropriate baseline that is applicable across all agencies and all such uses of AI? How can the minimum practices be improved, recognizing that agencies will need to apply context-specific risk mitigations in addition to what is listed?
7. What types of materials or resources would be most valuable to help agencies, as appropriate, incorporate the requirements and recommendations of this memorandum into relevant contracts?
8. What kind of information should be made public about agencies' use of AI in their annual use case inventory?

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ⁱ Section 1557 of the Patient Protection and Affordable Care Act; 42 U.S.C. 18116, <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>.

ⁱⁱ *Algorithms, Artificial Intelligence, and Disability Discrimination in Hiring*, Department of Justice and Equal Employment Opportunity Commission, <https://www.ada.gov/resources/ai-guidance/>.