OFFICE OF MANAGEMENT AND BUDGET

Request for Information: Responsible Procurement of Artificial Intelligence in Government

AGENCY: Office of Management and Budget.

ACTION: Request for Information: Responsible Procurement of Artificial Intelligence in Government.

SUMMARY: This request for information on the responsible procurement of artificial intelligence is being issued concurrently with the release of the OMB Memorandum titled *Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence* (the “AI M-memo”).

Executive Order 14110, *Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*, directed OMB within 180 days of the issuance of the AI M-memo to develop an initial means to ensure that agency contracts for the acquisition of AI systems and services align with the guidance provided in the AI M-memo and advance the other aims identified in the Advancing American AI Act (“AI Act”).

DATES: Responses to this request for information will be accepted for consideration until [INSERT DATE THAT IS 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: Responses must be submitted electronically through regulations.gov. Mailed paper submissions will not be accepted, and electronic submissions received after the deadline may not be considered.

Instructions: Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on how to use Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “FAQ” (https://www.regulations.gov/faq).

Privacy Act Statement: OMB is issuing this request for information (RFI) pursuant to Executive Order 14110.¹ Submission of comments in response to this RFI is voluntary. Comments may be used to inform sound decision-making on topics related to this RFI. Please note that submissions received in response to

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¹ E.O. 14110, Executive Order on Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.
this notice may be posted in the Federal eRulemaking Portal at www.regulations.gov or otherwise released in their entirety, including any personal and business confidential information provided. Do not include in your submissions any information of a confidential nature, such as personal or proprietary information, or any information you would not like to be made publicly available. Comments and commenter information are maintained under the OMB Public Input System of Records, OMB/INPUT/01. The system of records notice accessible at 88 FR 20913 (https://www.federalregister.gov/documents/2023/04/07/2023-07452/privacy-act-of-1974-system-of-records) includes a list of routine uses associated with the collection of this information.

Comments containing references, studies, research, and other empirical data that are not widely published should include electronic links to the referenced materials, if they are available online.

Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed.

**FOR FURTHER INFORMATION CONTACT:** Please direct questions regarding this Notice to Samantha Hubner at OFCIO_AI@OMB.eop.gov with “AI Procurement RFI” in the subject line, or by phone at 202–395–0379.

**SUPPLEMENTARY INFORMATION:** Consistent with Section 7224(d)(1) of the AI Act, this “initial means” (see SUMMARY section) will at a minimum:

- Address protection of privacy, civil rights, and civil liberties;
- Address the ownership and security of data and other information created, used, processed, stored, maintained, disseminated, disclosed, or disposed of by a contractor or subcontractor on behalf of the Federal Government;
- Include considerations for securing the training data, algorithms, and other components of any artificial intelligence system against misuse, unauthorized alteration, degradation, or rendering inoperable; and
-Address any other issue or concern determined to be relevant by the Director to ensure appropriate use and protection of privacy and Government data and other information.²

The Administration has undertaken numerous efforts to advance responsible AI innovation and secure protections for people's rights and safety.

OMB has issued this RFI to help inform its development of an initial means to ensure the responsible procurement of AI by Federal agencies. OMB is specifically asking for information on the questions posed below. However, this list is not intended to limit the scope of topics that may be addressed by submissions. Commenters are invited to provide feedback on any topic believed to have implications for the procurement of AI by Federal agencies.

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, but OMB asks that comments be limited to no more than eight pages in length.

Strengthening the AI Marketplace

1. How may standard practices and strategies of Federal procurement, such as Statements of Objectives, Quality Assurance Surveillance Plans, modular contracts, use of contract incentives, and teaming agreements,³ as well as innovative procurement practices, such as those in the Periodic Table of Acquisition Innovations,⁴ be best used to reflect emerging practices in AI procurement? Are there additional materials or resources that OMB could provide to vendors or agencies to improve alignment between agency missions and technical requirements?

2. How can OMB promote robust competition, attract new entrants, including small businesses, into the Federal marketplace, and avoid vendor lock-in across specific elements of the technology sector, including data collectors and labelers, model developers, infrastructure providers, and AI

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³ October 2023, Report on Recommendations on Procurement from the National Artificial Intelligence Advisor Committee (NAIAC)
⁴ https://acquisitiongateway.gov/periodic-table
service providers? Are there ways OMB can address practices that limit competition, such as inappropriate tying, egress fees, and self-preferencing?

3. Should the Federal Government standardize assessments for the benefits and trade-offs between in-house AI development, contracted AI development, licensing of AI-enabled software, and use of AI-enabled services? If so, how?

4. How might metrics be developed and communicated to enable performance-based procurement of AI? What questions should agencies be asking vendors to determine whether AI is already being used in performance-based services contracts?

Managing the Performance and Risks of AI

5. What access to documentation, data, code, models, software, and other technical components might vendors provide to agencies to demonstrate compliance with the requirements established in the AI M-memo? What contract language would best effectuate this access, and is this best envisioned as a standard clause, or requirements-specific elements in a statement of work?

6. Which elements of testing, evaluation, and impact assessments are best conducted by the vendor, and which responsibilities should remain with the agencies?

7. What if any terms should agencies include in contracts to protect the Federal Government’s rights and access to its data, while maintaining protection of a vendor’s intellectual property?

8. What if any terms, including terms governing information-sharing among agencies, vendors, and the public, should be included in contracts for AI systems or services to implement the AI M-memo’s provisions regarding notice and appeal (sections 5(c)(v)(D) and (E))?  

9. How might agencies structure their procurements to reduce the risk that an AI system or service they acquire may produce harmful or illegal content, such as fraudulent or deceptive content, or content that includes child sex abuse material or non-consensual intimate imagery?

10. How might OMB ensure that agencies procure AI systems or services in a way that advances equitable outcomes and mitigates risks to privacy, civil rights, and civil liberties?
David A. Myklegard,
Deputy Federal Chief Information Officer.

Christine J. Harada,
Senior Advisor,
Office of Federal Procurement Policy,
Performing, by delegation, the duties of the Administrator for Federal Procurement Policy.

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