GUIDANCE FOR 2024 AGENCY ARTIFICIAL INTELLIGENCE REPORTING PER EO 14110

August 14th, 2024

The Advancing American AI Act,[1] Executive Order (EO) 14110, *Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*,[2] and Office of Management and Budget (OMB) Memorandum M-24-10, *Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence*,[3] require Federal agencies[4] to report on their use of artificial intelligence (AI). With limited exceptions, agencies must (I) conduct an annual inventory of their AI use cases, (II) submit metrics on AI use cases not subject to being individually inventoried, and (III) provide information about determinations, extensions, and waivers from Section 5 of OMB Memorandum M-24-10.

The following guidance provides the criteria, format, and mechanisms for Federal agencies to complete the required reporting activities for the 2024 calendar year.

I. INVENTORY OF ARTIFICIAL INTELLIGENCE USE CASES

Pursuant to Section 7225(a) of the Advancing American AI Act and Section 10.1(e) of EO 14110, Federal agencies are required to conduct an annual inventory of their AI use cases. The Director of the OMB is charged with issuing instructions to agencies for the collection, reporting, and publication of information about agency AI use cases, including information on agencies' management of risks from the use of AI. As provided by EO 14110, this guidance to agencies supersedes the annual inventory guidance originally established pursuant to Section 5 of EO 13960, *Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government*.[5]

1. SCOPE

<u>a. Definition of AI</u>
Agencies shall apply the definition of AI provided in Section 238(g) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019,[6] which states that "the term 'artificial intelligence' includes the following:

---

[1] Pub. L. No. 117-263, div. G, title LXXII, subtitle B, §§ 7224(a), 7224(d)(1)(B), and 7225 (codified at 40 U.S.C. 11301 note), https://www.congress.gov/117/plaws/publ263/PLAW-117publ263.pdf.
[2] Executive Order 14110, Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, https://www.govinfo.gov/content/pkg/FR-2023-11-01/pdf/2023-24283.pdf.
[3] OMB Memorandum M-24-10, Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence, https://www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance,-Innovation,-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf.
[4] The term "agency," is defined in 44 U.S.C. § 3502(1); see Advancing American AI Act § 7223(1).
[5] Executive Order 13960, Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government, https://www.govinfo.gov/content/pkg/FR-2020-12-08/pdf/2020-27065.pdf.
[6] Pub. L. No. 115-232, § 238(g), https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf.

i. Any artificial system that performs tasks under varying and unpredictable circumstances without significant human oversight, or that can learn from experience and improve performance when exposed to data sets.

ii. An artificial system developed in computer software, physical hardware, or other context that solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action.

iii. An artificial system designed to think or act like a human, including cognitive architectures and neural networks.

iv. A set of techniques, including machine learning, that is designed to approximate a cognitive task.

v. An artificial system designed to act rationally, including an intelligent software agent or embodied robot that achieves goals using perception, planning, reasoning, learning, communicating, decision making, and acting."

Additionally, the following technical context provided in Section 6 of OMB Memorandum M-24-10 should guide the interpretation of the definition above:

i. This definition of AI encompasses, but is not limited to, the AI technical subfields of machine learning (including deep learning, as well as supervised, unsupervised, and semi-supervised approaches), reinforcement learning, transfer learning, and generative AI.

ii. This definition of AI does not include robotic process automation or other systems whose behavior is defined only by human-defined rules or that learn solely by repeating an observed practice exactly as it was conducted.

iii. For this definition, no system should be considered too simple to qualify as covered AI due to a lack of technical complexity (e.g., the smaller number of parameters in a model, the type of model, or the amount of data used for training purposes).

iv. This definition includes systems that are fully autonomous, partially autonomous, and not autonomous, and it includes systems that operate both with and without human oversight."

b. Definition of AI Use Case

For the purposes of this inventory, an AI use case refers to the specific scenario in which AI is designed, developed, procured, or used to advance the execution of agencies' missions and their delivery of programs and services, enhance decision making, or provide the public with a particular benefit.

c. Included AI Use Cases

Agencies must inventory planned,[7] new, and existing AI use cases, and they must not remove retired or decommissioned use cases that were included in prior inventories, but instead mark them as no longer in use. However, agencies may remove use cases that no longer meet the inclusion criteria. Except as excluded below, agencies must inventory use cases whether they are implemented using standalone AI capabilities or AI that is embedded within other systems or applications, and they must inventory use cases whether the AI was developed by the agency, developed or procured by third parties on behalf of agencies for the fulfilment of specific agency missions, or procured by the agency.

When unsure whether to report a use case, agencies should err on the side of inclusion, except for the exclusions set forth below.

---

[7] An AI use case is considered "planned" when it has been initiated through the allocation of funds or resources or when a formal development, procurement, or acquisition plan has been approved.

d. Excluded AI Use Cases

Agencies must inventory all AI use cases, except for:

    i.   Research and Development (R&D)[8] AI use cases. However, agencies must still inventory any R&D use case that is currently being used to control or significantly influence a decision or outcome about individuals, or that has an approved agreement for transition into agency operations.

    ii.   AI when it is being used either as a component of a National Security System[9] or within the Intelligence Community.[10]

e. AI Use Cases Not Subject to Being Individually Inventoried

Some use cases are not required to be individually inventoried or to be shared or publicly released, but agencies with such use cases must still collect information on them internally and annually report aggregate metrics to OMB and publicly, as required by Section 3(a)(v) of OMB Memorandum M-24-10 and detailed in Section III of this document. This includes:

    i.   AI use cases within the Department of Defense;[11] and

    ii.   AI use cases within any other Federal agency whose sharing would be inconsistent with applicable law and governmentwide policy, such as the exemptions from public disclosure provided in 5 U.S.C. § 552. Agencies must provide a justification for why such use cases cannot be shared or released. The fact that a use case is not public-facing is not an adequate justification for withholding it from public sharing, nor is a desire to conceal inefficiency, violations of law, administrative error, or to prevent embarrassment to an organization or agency. Where particular details of a use case cannot be shared or released, agencies must only exclude those details and include any information that can be shared or released. Additionally, when use cases cannot otherwise be shared or released, but can still be reported to OMB, agencies must do so.

2.   SUBMISSION

a. Agency Actions and Deadlines

By December 16, 2024, each agency (except for the Department of Defense and agencies in the Intelligence Community), must:

    1.   annually submit an inventory of its AI use cases to OMB by completing a form at https://collect.omb.gov/site/212/home-page for each use case in their inventory; and

    2.   subsequently post a consolidated, machine-readable CSV of all publicly releasable use cases on their agency's website at [agency.gov]/ai.

Appendix A lists different categories of questions that agencies are required to answer when reporting their AI use cases to OMB. Note that many questions apply only to AI use cases in later stages of development

---

[8] Research and Development (R&D) has the definition established in OMB Circular No. A-11, Preparation, Submission, and Execution of the Budget (2023), where it is "defined as creative and systematic work undertaken in order to increase the stock of knowledge—including knowledge of people, culture, and society—and to devise new applications using available knowledge."

[9] "National Security System" has the meaning provided in 44 U.S.C. § 3552(b)(6).

[10] As defined in 50 U.S.C. § 3003.

[11] Pub. L. No. 117-263, div. G, title LXXII, subtitle B, § 7225(d) (codified at 40 U.S.C. 11301 note), https://www.congress.gov/117/plaws/publ263/PLAW-117publ263.pdf.

or that fall into the categories of "safety-impacting" or "rights-impacting AI," as defined by OMB Memorandum M-24-10.

In their public inventories, agencies may remove the columns "Contact Name" and "Contact Email Address" and instead add an email address designated for public inquiries. Agencies may also remove the column "Use Case ID."

Alternatively, if agencies do not utilize AI, agencies must:
1. notify OMB; and
2. post a notice at [agency.gov]/ai with a statement indicating no current use of AI technology. Notices should be posted in HTML format.

b. Responses Accessible to the General Public

To ensure readability and transparency of agencies use case inventories to the public, agencies are encouraged to use plain-language responses, where appropriate. As part of their efforts to use plain language, agencies are encouraged to avoid or minimize the use of acronyms, and should define any acronyms when first used.

c. Interagency Coordination

Sharing of use cases between agencies shall be coordinated through the Chief Artificial Intelligence Officers (CAIO) Council and other interagency bodies, as appropriate, to improve interagency coordination and information sharing for common use cases.

II. REPORTING ON ARTIFICIAL INTELLIGENCE USE CASES NOT SUBJECT TO BEING INDIVIDUALLY INVENTORIED

Some AI use cases are not required to be individually reported in an agency's AI use case inventory, as described in Section I of this document. However, as required by Section 3(a)(v) of OMB Memorandum M-24-10, for all use cases not subject to being individually inventoried, as identified in Section I(1)(e) of this document, agencies must annually report aggregate metrics about such use cases.

Agencies must provide this information by completing a form at https://collect.omb.gov/site/212/home-page.

III. REPORTING ON DETERMINATIONS, EXTENSIONS, AND WAIVERS FROM SECTION 5 OF OMB MEMORANDUM M-24-10

The following guidance provides the mechanisms for Federal agencies to report and certify the ongoing validity of the determinations granted under Section 5(b) of OMB Memorandum M-24-10 and report on any extensions and waivers granted under Section 5(c)(iii) of that guidance. Agencies are to refrain from reporting any information whose sharing would be inconsistent with applicable law and governmentwide policy, such as the exemptions from public disclosure provided in 5 U.S.C. § 552.

a. Reporting on Determinations

Section 5(b) of OMB Memorandum M-24-10 requires agencies to review each of their current and planned uses of AI to determine whether it matches the definition of safety-impacting or rights-impacting.

Appendix I of OMB Memorandum M-24-10 identifies categories where the use of AI is automatically presumed to be safety-impacting or rights-impacting. Agencies must report the corresponding use case as safety-impacting or rights-impacting in their inventory, unless the agency CAIO, in coordination with other relevant officials, determines that a given use case does not match the definitions of "safety-impacting AI" or "rights-impacting AI," consistent with the process established in Section 5(b) of OMB Memorandum M-24-10.

To report on such determinations:
1. By December 1, 2024, agency CAIOs must recertify and report the full list of active determinations to OMB by completing a form at https://collect.omb.gov/site/212/home-page for each active determination and must make their lists available publicly on their websites at [agency.gov]/ai.

b. Reporting on Extensions

For a particular use of AI that cannot feasibly meet the minimum risk management practices in Section 5(c) of OMB Memorandum M-24-10 by December 1, 2024, an agency may request an extension of that deadline by up to one year. Such an extension request must be submitted to OMB by October 15, 2024. OMB will not grant renewals beyond the initial one-year extension. At a minimum, an extension must provide detailed justification for why the agency cannot achieve compliance for the use of AI in question and what practices the agency has in place to mitigate the risks from noncompliance, as well as a plan for how the agency will come to implement the full set of required minimum practices in Section 5(c) of OMB Memorandum M-24-10.

To report on such extension requests:
1. By October 15, 2024, agencies must submit any extension requests to OMB by completing a form at https://collect.omb.gov/site/212/home-page.

c. Reporting on Waivers

In coordination with other relevant officials, an agency CAIO may waive one or more of the required minimum risk management practices in Section 5(c) of OMB Memorandum M-24-10 for a particular AI use case, consistent with the process and limitations established in that section. At a minimum, a waiver must provide detailed justification, based upon a system-specific and context-specific risk assessment, that fulfilling the requirement would increase risks to safety or rights overall or would create an unacceptable impediment to critical agency operations.

To report on such waivers:
1. Agencies must report to OMB within 30 days of granting or revoking a waiver by completing a form at https://collect.omb.gov/site/212/home-page.
2. By December 1, 2024, agency CAIOs must recertify and report the full list of active waivers to OMB by completing a form at https://collect.omb.gov/site/212/home-page for each waived use case and must make a summary of each waiver and its corresponding justification publicly available on their websites at [agency.gov]/ai.

APPENDIX A:

For all use cases that are required to be individually inventoried, agencies must report basic summary information, including the AI's intended purpose, expected benefits, and outputs.

DATA TYPE	FIELD
Text	Use Case ID
Text	Use Case Name
Multiple Choice	Agency
Text	Bureau/Component
Text	Contact Email Address
Multiple Choice	Use Case Topic Area
Multiple Choice	Is the AI use case implemented solely with commercial-off-the-shelf or freely available AI products?
Text	What is the intended purpose and expected benefits of the AI?
Text	Describe the AI system's outputs.
Multiple Choice	Should this AI use case be withheld from public reporting? If yes, why?
Multiple Choice	Stage of Development
Multiple Choice	Is the AI use case rights-impacting, safety-impacting, both, or neither?

For a subset of AI use cases, based on the stage of development, agencies are required to report on additional information regarding development, data and code, and AI enablement and infrastructure.

DATA TYPE	FIELD
Date	Date Initiated
Date	Date when Acquisition and/or Development began
Date	Date Implemented
Date	Date Retired
Multiple Choice, Text	Was the AI system involved in this use case developed (or is it to be developed) under contract(s) or in-house? If developed under contract(s), provide the Procurement Instrument Identifier(s) (PIID) of the contract(s) used.
Multiple Choice	Is this AI use case supporting a High-Impact Service Provider (HISP) public-facing service? If yes, which one?
Multiple Choice, Text	Does this AI use case disseminate information to the public? If applicable, how is the agency ensuring compliance with Information Quality Act guidelines?
Multiple Choice	Does this AI use case involve personally identifiable information (PII) that is maintained by the agency?
Multiple Choice	Has the Senior Agency Official for Privacy (SAOP) assessed the privacy risks associated with this AI use case?
Multiple Choice	Do you have access to an enterprise data catalog or agency-wide data repository that enables you to identify whether or not the necessary datasets exist and are ready to develop your use case?
Text	Describe any agency-owned data used to train, fine-tune, and/or evaluate performance of the model(s) used in this use case.
Multiple Choice	Is there available documentation for the model training and evaluation data that demonstrates the degree to which it is appropriate to be used in analysis or for making predictions?
Multi-Select	Which, if any, demographic variables does the AI use case explicitly use as model features?
Multiple Choice	Does this project include custom-developed code?
Multiple Choice, Link	Does the agency have access to the code associated with the AI use case? If the code is open-source, provide the link for the publicly available source code.
Multiple Choice	Does this AI use case have an associated Authority to Operate (ATO) for an AI system?
Multiple Choice	How long have you waited for the necessary developer tools to implement the AI use case?
Multiple Choice	For this AI use case, is the required IT infrastructure provisioned via a centralized intake form or process inside the agency?
Multiple Choice	Do you have a process in place to request access to computing resources for model training and development of the AI involved in this use case?
Multiple Choice	Has communication regarding the provisioning of your requested resources been timely?
Multiple Choice	How are existing data science tools, libraries, data products, and internally-developed AI infrastructure being re-used for the current AI use case?
Multiple Choice	Has information regarding the AI use case, including performance metrics and intended use of the model, been made available for review and feedback within the agency?

For only those use cases that have been identified as rights-impacting or safety-impacting, agencies are required to report on information regarding the AI's compliance with the risk management practices from OMB Memorandum M-24-10. This includes whether there's a process for testing and monitoring the AI's performance, whether groups impacted by the AI have been consulted in its development, and how the agency is mitigating discrimination from the use of AI, among others.

DATA TYPE	FIELD
Multiple Choice	Has your agency requested an extension to implement the minimum risk management practices for this AI use case?
Multiple Choice	Has an AI impact assessment been conducted for this AI use case?
Multiple Choice	Has the AI use case been tested in operational or real-world environments to understand the performance and impact it may have on affected individuals or communities?
Text	What are the key risks from using the AI for this particular use case and how were they identified?
Multiple Choice	Has an independent evaluation of the AI use case been conducted?
Multiple Choice	Is there a process to monitor performance of the AI system's functionality and changes to its impact on rights or safety as part of the post-deployment plan for the AI use case?
Multiple Choice	For this particular use case, can the AI carry out a decision or action without direct human involvement that could result in a significant impact on rights or safety?
Multi-Select	How is the agency providing reasonable and timely notice regarding the use of AI when people interact with an AI-enabled service as a result of this AI use case?
Multiple Choice	Is the AI used to significantly influence or inform decisions or actions that could have an adverse or negative impact on specific individuals or groups?
Text	What steps has the agency taken to detect and mitigate significant disparities in the model's performance across demographic groups for this AI use case?
Multi-Select	What steps has the agency taken to consult and incorporate feedback from groups affected by this AI use case?
Multiple Choice	Is there an established fallback and escalation process for this AI use case in the event that an impacted individual or group would like to appeal or contest the AI system's outcome?
Multiple Choice	Where practicable and consistent with applicable law and governmentwide policy, is there an established mechanism for individuals to opt-out from the AI functionality in favor of a human alternative?