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FACT SHEET: OMB Issues Guidance to Advance the Responsible Acquisition of AI in Government

New guidance helps agencies harness the power of AI through their acquisitions process to promote innovation and competition while managing risks

Today, the Office of Management and Budget (OMB) released the *Advancing the Responsible Acquisition of Artificial Intelligence in Government* memorandum (M-24-18). Successful use of commercially-provided AI requires responsible procurement of AI. This new memo ensures that when Federal agencies acquire AI, they appropriately manage risks and performance; promote a competitive marketplace; and implement structures to govern and manage their business processes related to acquiring AI.

As part of the Biden-Harris Administration's commitment to leading in this moment for the sake of our security, economy, and society, this guidance is the latest deliverable of President Biden's historic Executive Order (EO) on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence. The EO directed sweeping action to strengthen AI safety and security, protect Americans' privacy, advance equity and civil rights, stand up for consumers and workers, promote innovation and competition, and advance American leadership around the world.

As the largest single buyer in the United States economy with over \$750 billion in annual spend, the Federal Government's procurement decisions can have far-reaching implications. In 2023, the Federal Government purchased more than \$100 billion in IT products and services alone, and the exercise of this purchasing power can accelerate technological advancements in critical areas, including AI.

OMB M-24-10, issued in March 2024, made history by introducing the first government-wide binding requirements for agencies to strengthen governance, innovation, and risk management for use of AI. M-24-18 builds on this guidance to help agencies buy AI responsibly.

Agency acquisition of AI is similar in many respects to the purchase of other types of information technology, but it also presents novel challenges. M-24-18 helps agencies anticipate and address these challenges by issuing requirements and providing recommendations around three strategic goals.

Managing AI Risks and Performance

The complex nature of how AI systems are built, trained, and deployed creates certain considerations and challenges for agency acquisition of AI. For this reason, M-24-18 includes best practices and specific requirements for managing AI risk and performance, with additional requirements for acquiring AI use cases associated with rights-impacting and safety-impacting AI. The memorandum:

- Requires that agency privacy officials and programs have early, ongoing involvement in AI acquisition processes so that they are able to identify and manage privacy risks and ensure compliance with law and policy;

- Calls for agencies to work with vendors to understand when AI is being acquired and when such acquisition triggers additional risk management requirements for rights-impacting and safety-impacting AI;
- Promotes the use of innovative outcomes-based acquisition techniques that strengthen agencies' ability to effectively plan for, manage, and continuously mitigate risk as well as drive performance;
- Instructs agencies to negotiate appropriate contractual requirements and evaluation processes to ensure vendors provide sufficient information for agencies to evaluate vendor claims, identify and manage risk, conduct impact assessments, and fulfill requirements to notify impacted individuals and implement appeals; and
- Directs contractual terms to be negotiated in a way that protects government data and intellectual property, and be defined in a manner that ensures safe use when AI is involved in decision-making that impacts members of the public.

Promoting a Competitive AI Market with Innovative Acquisition

As AI evolves, agencies must have access to the best available solutions from a diverse and evolving market of suppliers. M-24-18 calls on agencies to ensure robust competition – both to increase value for the Federal government, and reduce risks to rights and safety, including by:

- Proactively incorporating acquisition principles designed to minimize vendor lock-in when establishing contractual requirements;

- Explicitly considering interoperability and transparency during market research, requirements development, and vendor evaluation processes; and
- Leveraging innovative acquisitions practices to secure good contractor performance and mission outcomes.

Ensuring Collaboration Across the Federal Government

Managing novel risks and the rapidly evolving AI technology landscape requires agencies to establish cross-functional teams that include officials with AI expertise and personnel from other relevant fields—including acquisition, cybersecurity, privacy, and civil liberties—to inform strategic planning and acquisition of AI. Through interagency councils and other efforts, agencies will work together to share lessons learned to inform future policy and procedural efforts to support effective and responsible acquisition of AI.

These collaborations should include considerations for:

- Identifying and prioritizing AI investments that best serve an agency’s mission;
- Developing the capacity to deploy any acquired AI; and
- Promoting adoption of cross-functional best practices for the duration of use.

As a part of the Biden-Harris Administration’s comprehensive strategy for responsible innovation, the guidance is designed to serve as a first step toward helping agencies and vendors grow together as the AI market continues to evolve – charting the course for ensuring that Federal acquisition of AI enables agencies to responsibly optimize the services they deliver for the American people.