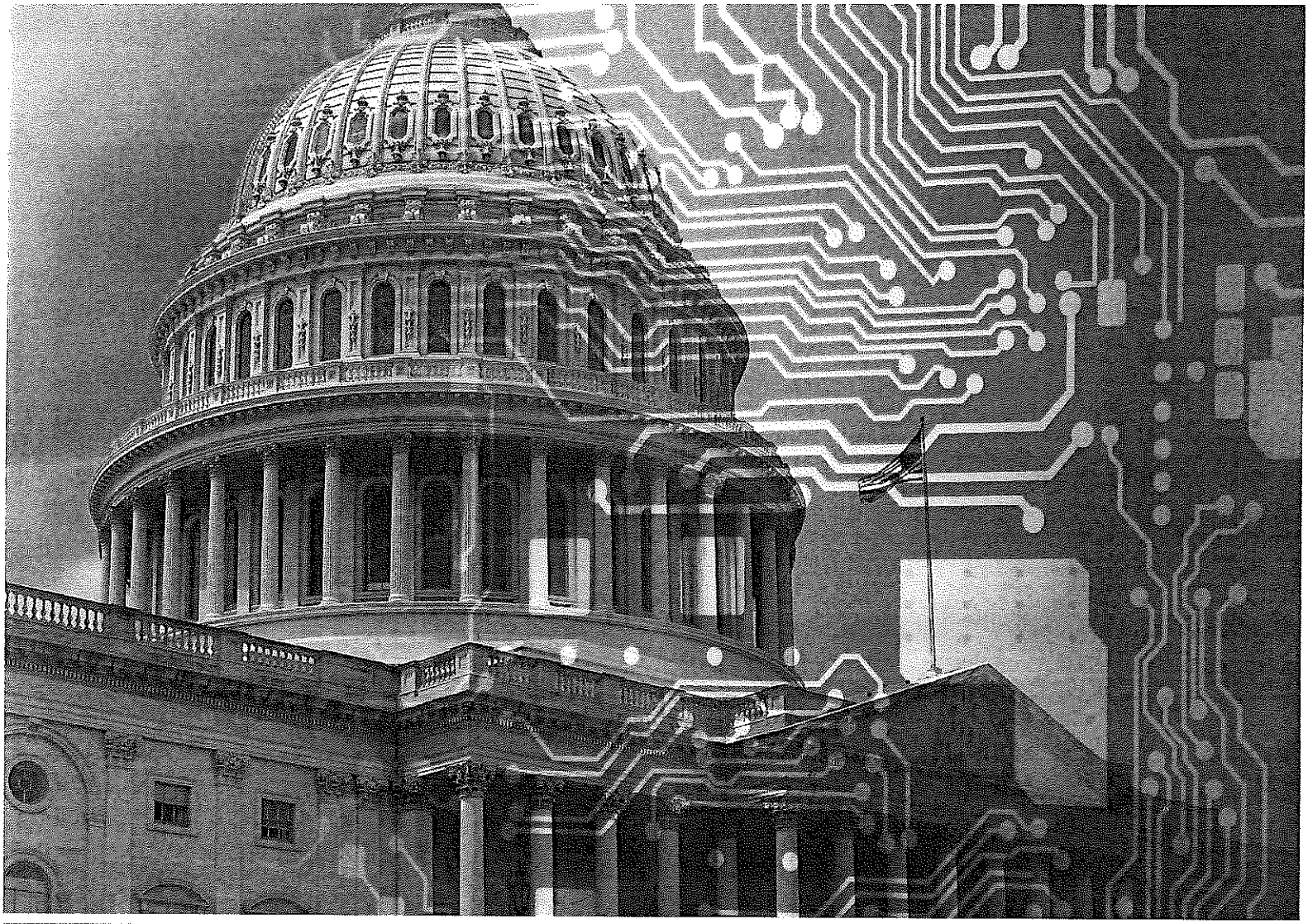
REPORT | ARTIFICIAL INTELLIGENCE, CYBERSECURITY AND PRIVACY TASK FORCE

Artificial Intelligence in Government

The Federal and State Legislative Landscape



NCSL
NATIONAL CONFERENCE OF STATE LEGISLATURES

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Artificial Intelligence in Government: The Federal and State Landscape

BY SANAM HOOSHIDARY, CHELSEA CANADA AND WILLIAM CLARK

The National Conference of State Legislatures is the bipartisan organization dedicated to serving the lawmakers and staffs of the nation's 50 states, its commonwealths and territories.

NCSL provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues, and is an effective and respected advocate for the interests of the states in the American federal system. Its objectives are:

- Improve the quality and effectiveness of state legislatures.
- Promote policy innovation and communication among state legislatures.
- Ensure state legislatures a strong, cohesive voice in the federal system.

The conference operates from offices in Denver, Colorado and Washington, D.C.

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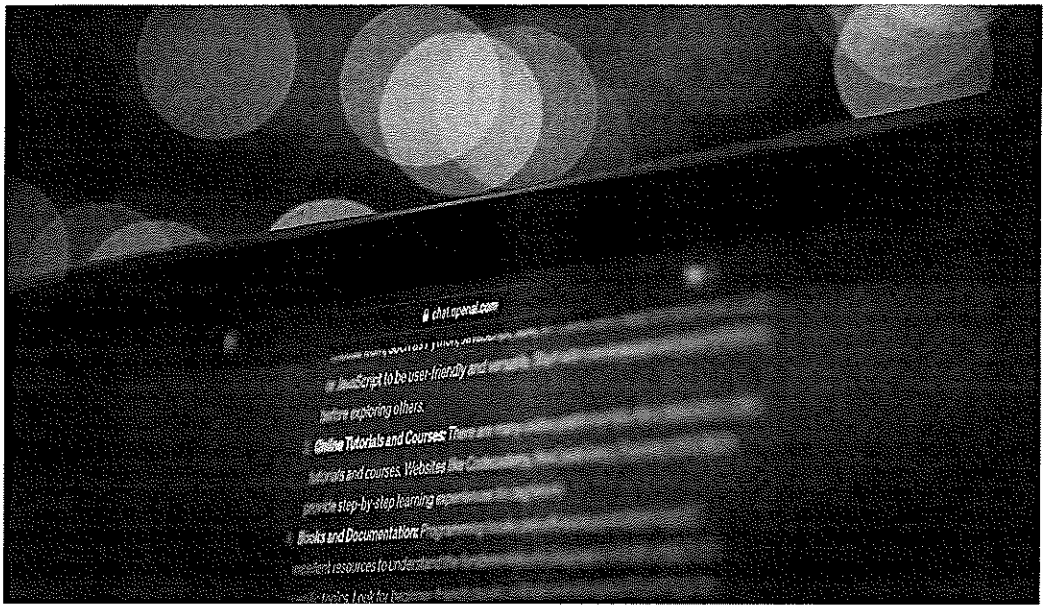


Introduction

The rapid adoption of artificial intelligence tools is not specific to the private sector. Federal, state and local governments have started to adopt AI tools in their daily operations and to deliver government benefits and services.

With the rapid adoption of generative AI tools, all levels of government have sprung into action, working to understand current uses, set a common understanding around allowable uses, put guardrails around future uses and encourage the innovative development and use of AI tools to transform government services.

A recent survey by Ernst & Young LLP of federal, state and local government employees showed that 51% use an AI application daily or several times a week. The report also found that federal agencies are more frequent daily AI users than state and local agencies, with 64% of respondents indicating so. Government agency leaders surveyed also indicated an increased focus on data integrity with 45% taking measures to verify data within their agency. One last key finding revealed the top three barriers to AI expansion in government. These included unclear governance or ethical frameworks at 48%; lack of technology infrastructure at 30%; and the failure of AI applications to align with current agency needs at 30%.

Developers such as Microsoft have shared their perspective on how generative AI can help create a more effective, inclusive and responsive government by improving citizen services, increasing efficiency, better managing and analyzing data and serving as a creative aid. Deloitte's report on generative AI to enhance government services and programs identifies uses for citizen engagement, report generation, case management, knowledge management and back-office functions. The report warns that government use comes with additional concerns and considerations related to legal, ethical, privacy and security issues.

Technology companies are partnering and exploring opportunities to work with the public sector on deploying AI tools. Skydio, an autonomous drone manufacturer, offers solutions to the U.S. Border Patrol to improve national security. Credo AI offers solutions to assist with automating AI governance through a centralized registry of AI use cases, automated risk assessments, policy-based governance and standardized reporting to meet regulatory requirements.

Governments at all levels are striving to balance the risks and opportunities of AI adoption. They are discussing real world impacts, building governance structures and privacy standards to support responsible use and evaluating their own technology and data infrastructure to ensure the reliability, safety and security of AI applications. This brief reviews the current legislative and regulatory landscape at both federal and state levels concerning government use of AI.

Federal Action

Executive Branch Use of AI

The federal government has significantly expanded its use of AI in recent years. Agencies and Congress are discovering ways to leverage advanced technologies to improve their internal processes to improve efficiency and assist in ministerial decision-making. The federal government is implementing AI applications in many sectors, from public health and national security to finance and regulatory compliance.

In March 2024, the Office of Management and Budget submitted a memorandum to the heads of executive departments and agencies outlining directives for federal agencies to enhance their governance and risk management practices related to AI, consistent with the AI in Government Act of 2020, the Advancing American AI Act and the Biden administration's Executive Order 14110, which also set expectations and parameters on AI use throughout the federal government. The OMB encourages the use of AI in government to streamline operations, reduce costs and improve overall efficiency.

When it comes to risk mitigation, the OMB emphasizes how crucial it is for agencies to identify and assess risks associated with AI, develop contingency plans and continuously monitor AI systems for emerging risks. According to the memo, AI governance should also be integrated into agencies' strategic and IT plans, to ensure a unified approach to AI use across the federal government.

Having clear communication with the public about the use and impact of AI is also essential. The OMB suggests that agencies need to make sure that their AI systems are used ethically, with a major focus on fairness, accountability, and transparency. This guidance also elaborates on the role of the chief artificial intelligence officer, an agency position created by the Biden administration's Executive Order 14110. The chief AI officer will play a pivotal role in ensuring that AI technologies are acquired and used responsibly within federal agencies, balancing innovation with ethical consideration and risk management.

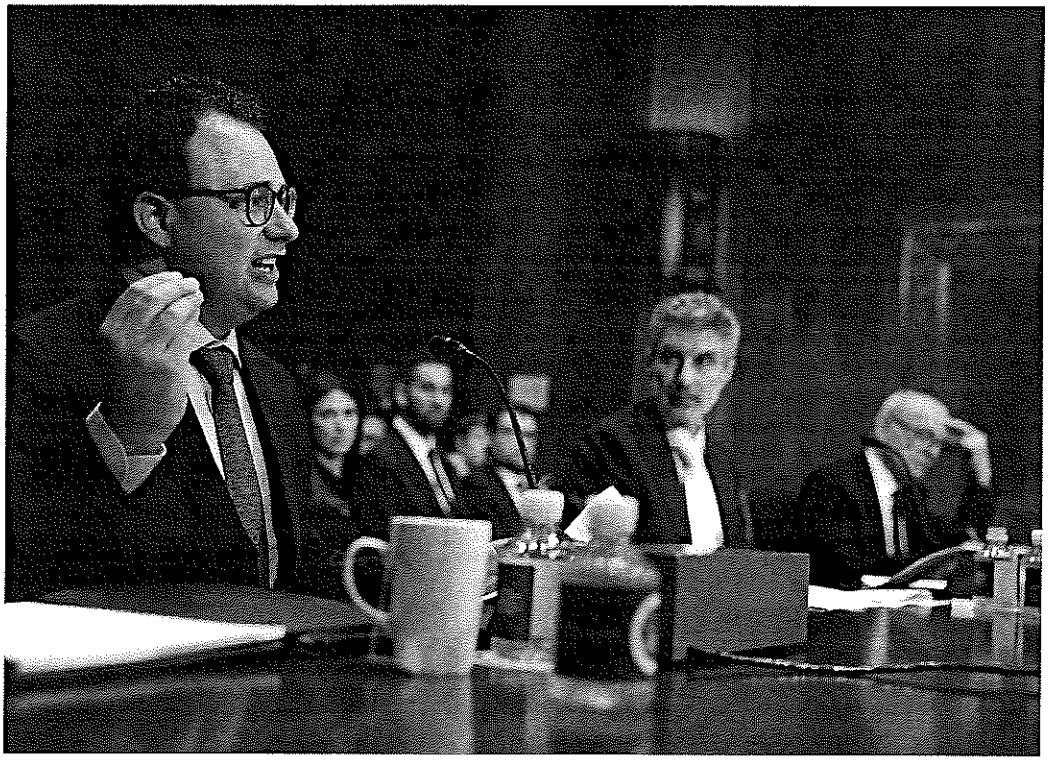
Pursuant to the release of the memo and the Biden administration's Executive Order 14110, the National Institute of Science and Technology published the Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile, which also provides a guideline to promote safe AI technologies by addressing the specific risks across AI platforms. NIST maintains that a framework is necessary to prioritize fairness, transparency, reliability and accountability. The framework aims to ensure ethical and safe use in both federal agencies and industries by setting standards for generative AI development and deployment.

The OMB issued additional guidance in September 2024, building on Executive Order 14110 and earlier OMB guidance, directing agencies to manage risks, promote competition and innovation, and ensure interagency collaboration across the federal government when acquiring and using AI technologies. The guidance includes best practices and specific requirements that impact rights and safety when it comes to the use of AI. To manage risks, the guidance states that agencies must have early and ongoing involvement with privacy officers to ensure control of privacy risks and comply with rules and regulations.

The OMB also makes recommendations for working with other agencies to support effective and responsible habits. The collaboration between departments should focus on identifying and prioritizing AI investments and developing best practices through interagency councils to safely deploy and promote the use of AI.

In the wake of the OMB guidance, many federal agencies have begun implementing AI. The U.S. Government Accountability Office reviewed federal agency efforts to safely develop and use AI in government as directed by the Biden administration's Executive Order. In their September 2024 report, Artificial Intelligence: Agencies Are Implementing Management and Personnel Requirements, the GAO found that federal agencies were on track to implement many of the AI management and talent requirements set forth in the Executive Order.

There are other examples. The Department of Health and Human Services has deployed AI tools to enhance medical research and track disease outbreaks. The Food and Drug Administration has been using AI to review drug applications. The Centers for Disease Control has been using machine learning to analyze



ALEX WONG/GETTY IMAGES

Left to right, CEO of Anthropic Dario Amodei, founder and scientific director of the Mila—Quebec, AI Institute and professor at the Universite de Montreal Department of Computer Science Yoshua Bengio, and professor of computer science at the University of California, Berkeley, Stuart Russell testify during a hearing before the Privacy, Technology, and the Law Subcommittee in Washington, D.C. The subcommittee held a hearing on the oversight of artificial intliigence.

medical images for health conditions or abnormalities and the National Institutes of Health (NIH) has been using the technology to predict disease the and identify scientific literature.

Like NIH, the Department of Veterans Affairs uses AI to help analyze medical records and data to predict risk-related incidents of suicide. The Department of Homeland Security is using AI to help advance its homeland security mission while still protecting privacy and individual rights for the public. For example, the U.S. Customs and Border Protection helps keep fentanyl and other drugs out of the country by using AI to identify a suspicious pattern in a car's border crossing history, screen cargo at ports of entry and identify objects in streaming video and imagery.

The General Services Administration is incorporating AI into its procurement and contracting processes to streamline operations, save time and reduce costs. The U.S. Departments of Agriculture and Transportation as well as the Environmental Protection Agency use machine learning to map satellite imagery of crops and vegetation, analyze regulatory comments from the public, predict flight delays and even for driving autonomous vehicles. The Department of Defense has been using machine learning for many years to help with predictive maintenance and military logistics.

Federal agencies are also using AI to address regulatory challenges and improve oversight. The Securities and Exchange Commission and the Federal Trade Commission use AI to detect fraud and other forms of financial misconduct by analyzing large datasets in real time. Additionally, the Internal Revenue Service is exploring AI to enhance tax compliance and identify inconsistencies in tax filings. This work aims to enhance public service delivery by making data-driven decisions faster and more accurately.

The federal government is incorporating AI to better serve the public while still establishing rules to ensure that AI will not violate people's rights. The website AI.gov provides additional information on how federal agencies are using AI to better serve the public, including a full inventory of AI use cases.

Congress' Internal Use of AI and Federal Legislation

In March 2024, the House of Representatives Committee on House Administration, which establishes internal procedures and technology updates for House daily operations, convened a roundtable and created guardrails for the chamber and legislative branch agencies. These guardrails emphasize human supervision of AI outputs, privacy protections, vigorous testing and re-testing of AI systems, transparency, and training and upskilling on AI systems.

The committee is also collecting use cases from agencies to evaluate the impact of AI in daily operations. For example, the Smithsonian Institution is experimenting with generative AI to improve public interaction and to increase internal efficiency as well as using years of well-curated research and scholarship for purposes of training generative AI.

As the federal government continues to incorporate AI into various functions, there is a growing emphasis on safeguarding transparency, accountability, and fairness in AI deployment, as well as developing policies to manage the risks associated with its use. Recent bipartisan legislative initiatives, introduced although not enacted, reflect the increasing importance of regulating AI in federal systems.

S. 2293—The AI Leadership to Enable Accountable Deployment Act, introduced by Sens. Gary Peters (D-Mich.) and John Cornyn (R-Texas), creates the Chief AI Officer Council, which would be run by chief AI officers of different federal agencies and aims to direct agencies AI practices and ensure interagency coordination regarding AI.

S. 3205—The Federal Artificial Intelligence Risk Management Act of 2024, introduced by Sens. Jerry Moran (R-Kan.) and Mark Warner (D-Va.), would require federal agencies and vendors to adopt the NIST AI Risk Management Framework. This legislation is designed to ensure the responsible use of AI within the federal government, focusing on mitigating risks like data privacy breaches and cybersecurity concerns. The bill aims to establish guidelines for federal AI applications, encouraging safe and transparent AI practices across government agencies.

S. 4230—The Secure Artificial Intelligence Act of 2024, introduced by Sens. Mark Warner (D-Va.) and Thom Tillis (R-N.C.), would improve the tracking and processing of security and safety incidents and risks from AI. The legislation would also create a voluntary database to record AI-related cybersecurity incidents.

S. 4495—The Promoting Responsible Evaluation and Procurement to Advance Readiness for Enterprise-Wide Deployment for Artificial Intelligence Act, introduced by Sens. Gary Peters (D-Mich.) and Thom Tillis (R-N.C.), aims to guide the federal government's use of AI. The bill requires that agencies classify the risk levels of their AI use to protect the public's rights and safety. This bill also requires agencies to establish a chief AI officer and other AI governance structures.

H.R. 7532—The Federal AI Governance and Transparency Act, introduced by Reps. James Comer (R-Ky.) and Jamie Raskin (D-Md.), builds on previous legislation like the Advancing American AI Act, to increase transparency in how federal agencies use AI. It mandates that agencies create AI governance charters and provide public access to details about AI systems used for decision-making. These efforts would improve public awareness and accountability regarding the use of AI in federal decisions.

State Action

Just as the federal government is using AI, state governments are using AI for government operations and to provide service to constituents. State legislatures, governors and state agencies have considered various means to study and drive the use of AI for improving and transforming government services and identifying its potential risks.

During the 2024 legislative session, state legislators considered over 150 bills relating to government use of AI, addressing inventories to track the use of AI, impact assessments, creating AI use guidelines, procurement standards and government oversight bodies. Governors in over 10 states including Alabama, Maryland, Massachusetts, Oklahoma, Oregon and Washington, D.C. have issued executive orders to study AI use in running government operations and providing government services and benefits.

Inventories and Impact Assessments

At least 10 states, including Connecticut, Delaware, Maryland, Vermont and West Virginia, have instructed state agencies to inventory and describe AI applications within their operations and that impact the services they deliver. Notable enactments include:

- In 2022, Vermont enacted legislation creating the Division of Artificial Intelligence within the Agency of Digital Services to review all aspects of AI developed, employed or procured by the state. The law requires the agency to conduct an inventory of all automated decision systems. Two inventories are publicly listed for 2023 and 2024.

- Washington enacted legislation directing the state chief information officer to prepare and make publicly available on its website an initial inventory of all automated decision systems being used by state agencies in 2022. In 2023, according to WaTech's inventory of automated decision systems, there were 8,379 applications and 129 of them were identified as an automated decision system.

- Texas enacted a law in 2023 that requires a newly created Texas AI Advisory Council to review automated decision system inventory reports created by state agencies. The guidance advises state agencies to not include items in the inventory where AI tools are embedded in common commercial products like spam filters or spell checkers.

- In 2024, Delaware and Idaho created a commission and a council to provide recommendations for statewide processes and guidelines, including overseeing required inventories.

To address concerns about possible bias, discrimination and disparate impact, states like Connecticut, Maryland, Vermont, Virginia and Washington mandated that state agencies run impact assessments to ensure that the AI systems in use are ethical, trustworthy and beneficial. State impact assessment requirements vary among states, including:

- California's 2023 Executive Order directs that states agencies draft a report to examine and explain potential risks associated with generative AI to individuals, communities and government and state government workers, focusing on high-risk use cases, including when generative AI is used to make a consequential decision affecting access to essential goods and services. The order also requires several state agencies to conduct a joint risk analysis of potential threats to and vulnerabilities of California's critical energy infrastructure presented by generative AI.

- In 2023, Connecticut enacted a law that requires an annual inventory of all systems that employ artificial intelligence and requires an impact assessment before deployment to ensure the system will not result in any unlawful discrimination or disparate impact. Through these assessments, systems will be categorized into risk tiers based on potential risks. Connecticut's AI Responsible Use Framework incorporates three different impact assessment templates including the Canadian government's algorithmic impact assessment tool. The framework specifies that if a state agency uses any AI tools when creating content or agency external-facing services, then the agency shall disclose the use of AI and what bias testing was done.

- Maryland enacted a law in 2024 requiring each unit of state government to conduct inventories of systems employing high-risk AI and conduct impact assessments.

- New York also passed a law in 2024, which is awaiting the governor's signature, specifying that state government cannot use automated decision-making systems without continued, operational and meaningful human review. An impact assessment is required before use is permitted to understand the purpose of the system; the design and data used to train the model; and, to test for accuracy, fairness, bias and discrimination, among other potential impacts.

Guidance and Oversight for Government AI Use

Minnesota's Transparent Artificial Intelligence Governance Alliance identified that AI use in government presents opportunities such as an enhanced quality of life; increased efficiency; equitable and inclusive access to services; proactive and personalized government services; an empowered workforce; transparency and trust; innovative economic growth; data-driven decision making; and improved education.

Georgia's AI Responsible Use guidance specifies that misuse of AI by state agencies can happen through AI-based fraud, discrimination, invasion of privacy, malicious use and spreading misinformation. The same guidance warns that unintentional misuse can happen in cases of bias and discrimination, privacy violations, inaccurate or misleading information, inappropriate context, or an over reliance on AI.

Guidance and reports coming out across states highlight similar opportunities and areas of concern. At least 30 states have issued guidance on state agency use through governor executive orders, agency collaboration, rulemaking and state legislation. Most state legislatures have enacted legislation setting forth specific requirements for AI use by state government or directing another entity to establish these guidelines.

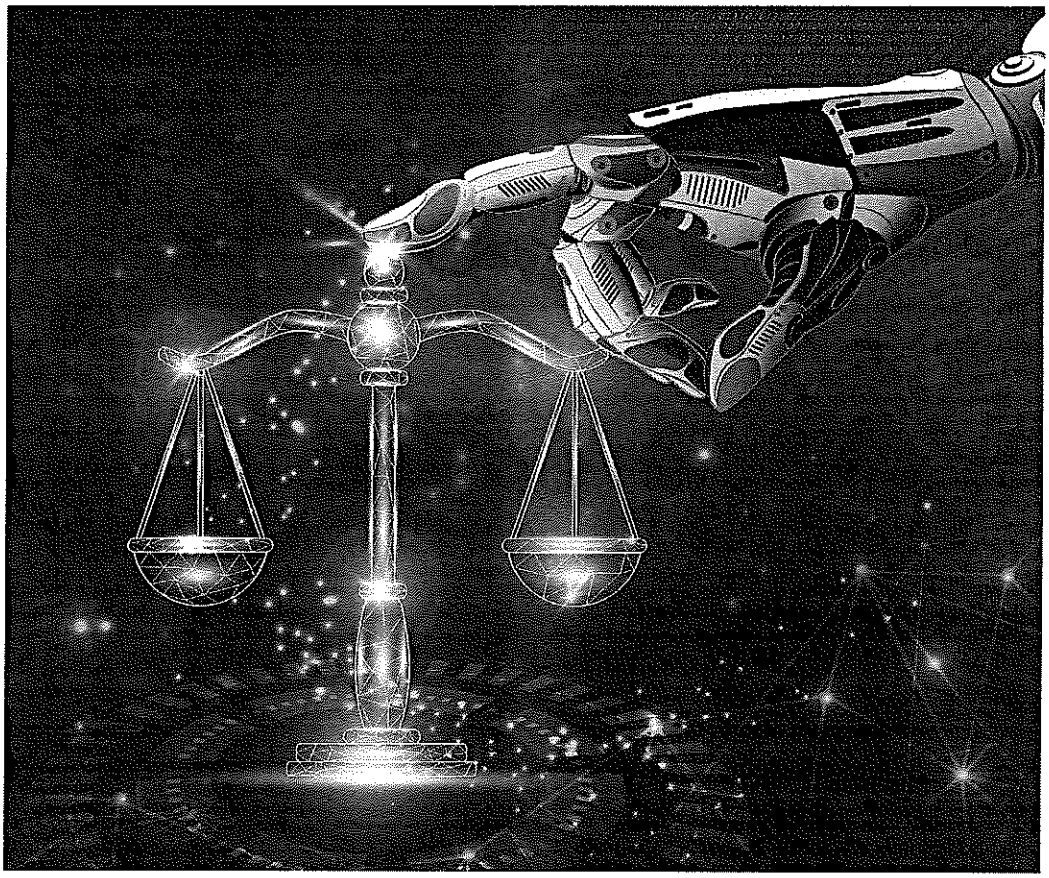
States vary in how centralized or decentralized they are in their management of information technology resources across their state agencies, so the state entities tasked with analyzing and setting guidelines may fall to statewide CIOs, information technology agencies, operations and administration agencies or individual information technology personnel based in other agencies. Other states are discussing if they should create new positions to do this work. The Oklahoma Governor's Task Force on Emerging Technologies recommended establishing a CAIO. Rhode Island is creating a single data governance structure and a new chief data officer position.

State legislatures also have established offices and other authorities to oversee AI implementation and make recommendations. Vermont's newly established Division of Artificial Intelligence within the Agency of Digital Services is charged with reviewing all aspects of artificial intelligence systems developed, employed, or procured in its state government. The division must review AI systems developed, employed, or procured in the Vermont state government, propose a state code of ethics for AI use in government to be updated annually and make recommendations to the General Assembly on policies, laws, and regulations for AI systems in the state government. The division is required to file reports to the General Assembly on or before Jan. 15 each year. The legislation established the Artificial Intelligence Advisory Council to provide advice and counsel to the director of the Division of Artificial Intelligence regarding the division's responsibilities to review all aspects of AI systems use by the state and engage in public outreach and education on AI.

Florida created the Government Technology Modernization Council in 2024 to be an advisory council within the Department of Management Services in 2024. The council will study and monitor the development and deployment of new technologies and provide reports on recommendations for procurement and regulation of such systems to the governor, the president of the Senate, and the speaker of the House of Representatives. Meeting quarterly, the council will recommend legislative and administrative actions that the Legislature and state agencies may take to promote the development of data modernization in the state, assess and provide guidance on any necessary legislative reforms and the creation of a state code of ethics for artificial intelligence systems in state government and assess the manner in which governmental entities and the private sector are using AI with a focus on opportunity areas for deployments in systems across this state, among other duties.

At least one quarterly meeting of the council must be a joint meeting with the Florida Cybersecurity Advisory Council. The council must submit any legislative recommendations to modernize government technology, including accelerating adoption of technologies to increase productivity of state enterprise information technology systems, improve customer service levels of government, and reduce administrative or operating costs annually.

In 2024, Maryland established a governor's Artificial Intelligence Subcabinet within the governor's Executive Council to facilitate and enhance cooperation among units of state government, in consultation with academic institutions and industries using AI. The subcabinet is tasked with developing strategy, policy and monitoring processes for responsible and productive use of AI and associated data by units of the state



government, overseeing the state's implementation of its AI inventory, supporting AI and data innovation across state government and developing and implementing a comprehensive action plan for responsible and productive use of AI and associated data by the Maryland state government.

Other examples include Utah's Office of Artificial Intelligence Policy and Hawaii's state Data Office. The data office, with the state Data Task Force, is leading work focused on the responsible use of data and AI. In its advisory action plan, the Wisconsin Governor's Task Force on Workforce and Artificial Intelligence recommended creating an Office of Data and Privacy under the Department of Administration tasked with developing and implementing a strategy and governance structure supportive of AI because no single office or division in state government is tasked with data governance.

Principles Within State AI Guidelines

Common elements of state guidelines include specifying roles and responsibilities, guiding principles, new processes, inventory requirements and impact assessments. Some states have required working groups to suggest policies for internal government adoption and others have mandated certain requirements be added to procurement procedures for new equipment. Some states have created a new code of ethics; others have aligned with evolving international and national standards. Examples of state guidance principles include:

- Arizona's statewide policy requires users of the technology to adhere to requirements and considerations related to transparency, accountability, fairness, security, privacy, training, procurement, and collaboration.
- The Massachusetts Executive Office of Technology Services and Security established minimum requirements for the development and use of generative AI by state agencies. The guidelines incorporate the NIST AI Risk Management Framework to reduce risk and promote trustworthiness.

- Vermont's AI Code of Ethics identifies conflict of interest, bias and confidentiality concerns and highlights attributes to focus on such as safety, security, accountability and trustworthiness.
- Colorado, Georgia, Maine, Maryland, New York, North Carolina, North Dakota and Washington referenced the NIST standards within their guidelines, while New Hampshire based its guidelines on the European Union ethics guidelines document on AI.

Procurement

State employees responsible for information technology and purchasing are incorporating considerations for AI within their current processes. The 2024 National Association of State Technology Directors survey, AI in State Government IT Operations, reported that 9% of survey respondents have developed preferred contract language around the use of AI for IT procurements; 62% are in the process of doing so and 29% have not yet begun efforts. A report from the National Association of State Procurement Officials and the National Association of State Chief Information Officers shows that successful AI initiatives in public procurement require robust collaboration between procurement and chief information officers and must be supported by robust AI policies. The joint report identified seven key factors for AI public procurement to be successful: 1) develop comprehensive AI polices; 2) start with targeted use cases; 3) foster collaboration between procurement and IT; 4) engage vendors and suppliers effectively; 5) prioritize training and change management; 6) focus on ethical and responsible use; and 7) establish performance monitoring, continuous improvement and training.

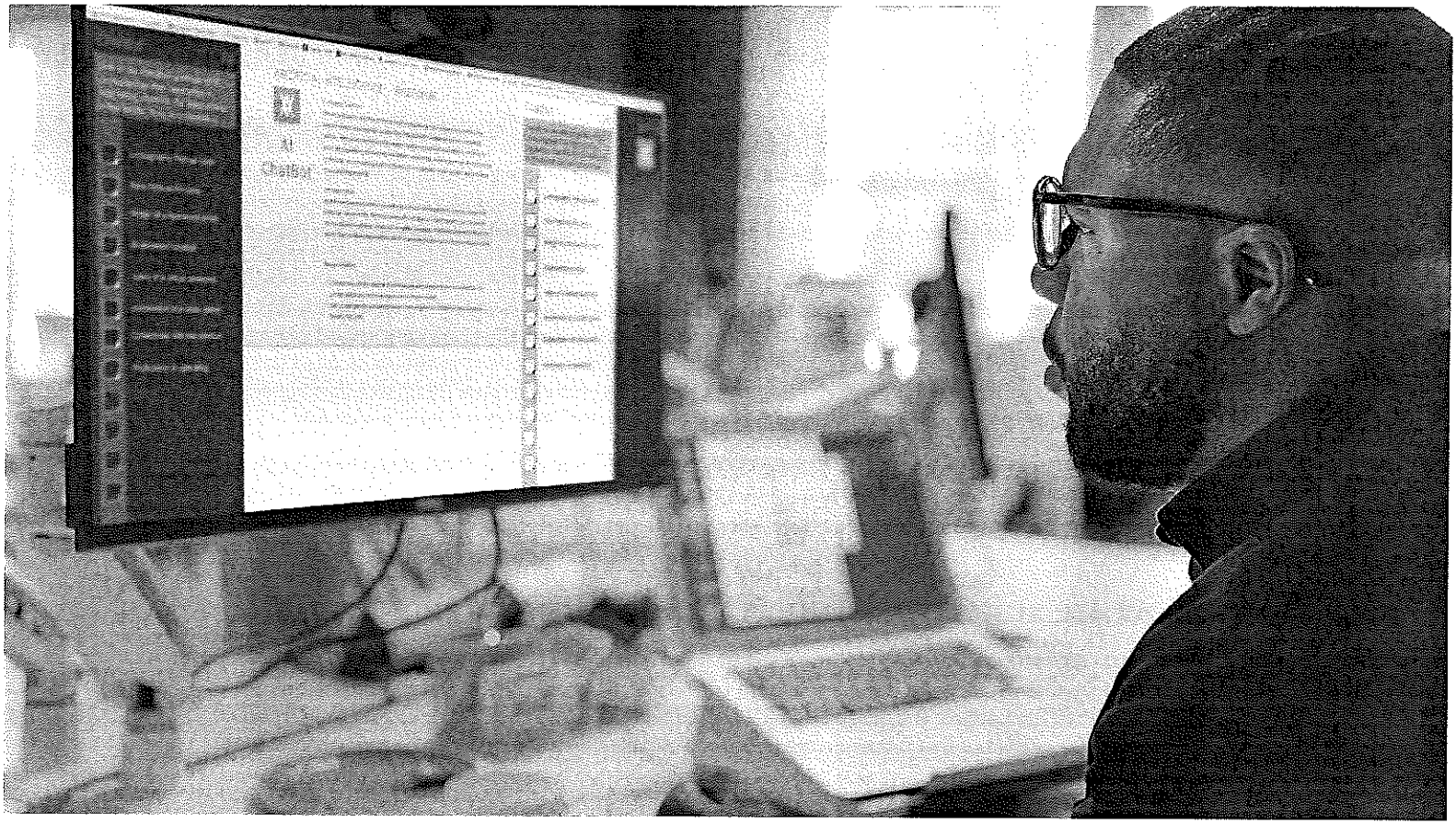
Examples of state AI procurement processes include:

- California released guidelines for public sector procurement, uses and training for generative AI. To use a generative AI product, state entities must go through a multi-step process that includes outlining a problem definition, assessing impacts and requiring a "human to be in the loop." State entities are allowed to submit budget requests through the annual budget process for generative AI proof of concepts. California requires state purchasing officials to take training on how to identify generative AI purchases.
- In Ohio, the policy for procuring new generative AI software requires review and approval from a multi-agency AI council that includes representatives from the governor's office and the Department of Administrative Services. The request must include a risk assessment, a privacy assessment, and a security review.
- While the Oregon State Government Artificial Intelligence Advisory Council works to develop an AI framework, interim guidance instructs state entities to submit an information technology request prior to investments in AI proof of concepts or pilots.
- Washington released an automated decision systems procurement and use guidance that requires an assessment to be conducted before the system's development or procurement. The procurement and development process also must include testing and validation to assess performance, accuracy and potential bias before deployment.

How are state governments using AI?

State agencies are using tools that have a range of capabilities like robotic process automation, natural language processing, machine learning and content generation. This use is seen across sectors as AI assists states with improving physical infrastructure, optimizing government resources and assisting citizens with inquiries.

State agencies have seen a steady increase in chatbot use since the COVID-19 pandemic. During the pandemic, at least 35 states used chatbots to support pandemic inquiries relating to health, unemployment benefits, taxes, Supplemental Nutrition Assistance Program benefits and citizen services. A 2024 survey of state technology directors use of AI, showed half of states are using chatbots, 36% are using it for office productivity and 26% are using it for code development. This survey found the four highest-ranked use cases for AI were cybersecurity, citizen portals, data management/analytics and office worker efficiency.



State legislatures have enacted legislation that includes funding for specific AI use in state government. Examples of those actions are:

- In 2021, Ohio required the Department of Medicaid to pilot a program using automation and artificial intelligence to provide program savings.
- In 2022, the Florida Legislature appropriated funds to the Department of Health for the development of an AI customer service solution.
- In 2023, West Virginia created a pilot program to incorporate machine learning, AI or other advanced technologies to assess state roads.
- In 2024, the Hawaii Legislature appropriated funds to the University of Hawaii to establish and implement a two-year program to develop a wildfire forecast system for the state using AI.

States have started to pilot uses of AI through a variety of ways, with an increase in activity in 2024 and several in a proof-of-concept phase. Five states have initiated pilots through different approaches in 2024, including:

- In Arkansas, a working group launched by the governor is reviewing a set of pilot projects on unemployment insurance fraud and recidivism reduction to craft best practices for safe implementation of AI across state government.
- California announced partnerships with five vendors to test, iterate and evaluate generative AI proof of concepts looking at solutions for problems like: enhancing customer service; improving health care facility inspections, reducing highway congestion, and improving roadway safety.
- The Massachusetts General Court appropriated $25 million for studying, planning and procurement of AI and machine learning systems for state agencies in alignment with enterprise security policies.
- In Pennsylvania, the governor announced a pilot program in partnership with OpenAI's ChatGPT Enterprise. State employees in the Office of Administration will have access to the tool to help determine how AI tools can be incorporated into government operations.

- Utah enacted a law in 2024 that creates an Artificial Intelligence Learning Laboratory Program to analyze the risks and look at opportunities of AI to inform legislation and regulation. In exchange for the partnership with the state, a participant may apply to temporarily waive legal and regulatory requirements for AI testing purposes.

Many states have focused specifically on generative AI applications in their AI government guidance. Colorado's statewide GenAI policy prohibits the use of the free version of ChatGPT on any state-issued devices because the governor's Office of Information Technology identified the terms and conditions violated state law. Under the guidance, AI that uses machine learning without a generative component, such as fraud detection, spam filters or autocorrect software for spelling are allowable uses without further approval.

In 2024, New Hampshire enacted legislation setting prohibited and allowable uses of AI by state agencies. All materials produced with generative AI must include a disclosure. Additional examples of states issuing guidance on the government use of generative AI include: Kansas, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina, Pennsylvania, South Dakota, Washington and Wyoming.

How are state legislatures currently using generative AI?

Some state legislatures have begun to experiment with open-source AI tools to assist with internal processes, while others have started to partner with large service providers like Microsoft and Amazon to build legislative applications. The Indiana General Assembly, for example, has developed the beta version of a generative AI chatbot that is open to the public and capable of answering questions about state statutes and regulations.

More broadly, results from a spring 2024 NCSL survey of state legislative staff show that they have begun using generative AI tools like ChatGPT and Claude for a variety of purposes, including for research, creating first drafts of documents and editing text. Staff reported they have also begun using, or considered using, other generative AI tools for tasks like transcribing hearings and debates, bill drafting, cybersecurity and constituent relations. Likewise, commonly used programs like those in the Microsoft suite and legal tools like LexisNexis are beginning to gain generative AI functionality, which some legislatures have begun experimenting with.

As legislative staff begin incorporating these tools into their work processes, some legislatures are drafting and implementing related policies, with particular attention being given to the risks around exposure of sensitive information and inaccuracies in AI-generated content.

According to the spring 2024 survey results and other information collected by NCSL, policies vary by state and in most instances apply to individual offices rather than legislatures as a whole. Some policies prohibit any use of these tools for legislative work, some provide general guidelines and encourage staff to exercise caution while using them, while others require permission from a manager or only allow use of certain approved applications.

For additional information about how state legislatures are using of these tools, see the results of the recent NCSL survey.

Conclusion

Federal and state leaders have jumped into action to understand current uses of AI and to measure its impacts. This activity has shown that leaders are carefully considering the risks, while exploring how new technology can transform government operations. Over the next few years, states and the federal government can expect continued rollout of AI use requirements and guidance, alongside increased adoption of these tools.

Delivering government programs and services with AI requires heightened sensitivity. As AI governance structures are built and allowable AI uses are determined, federal and state policymakers will continue to focus on government data and technology infrastructure, security, data privacy, bias and discrimination, and other potential misuse or unintended consequences by AI.

Sanam Hooshidary is a legislative specialist in NCSL's State-Federal Affairs Division
Chelsea Canada is a program principal in NCSL's Financial Services, Technology and Communications Program
William Clark is a program principal in NCSL's Center for Legislative Strengthening

NCSL Contact:

dc-directors@ncsl.org

7700 East First Place, Denver, Colorado 80230, 303-364-7700 | 444 North Capitol Street, N.W., Suite 515, Washington, D.C. 20001, 202-624-5400

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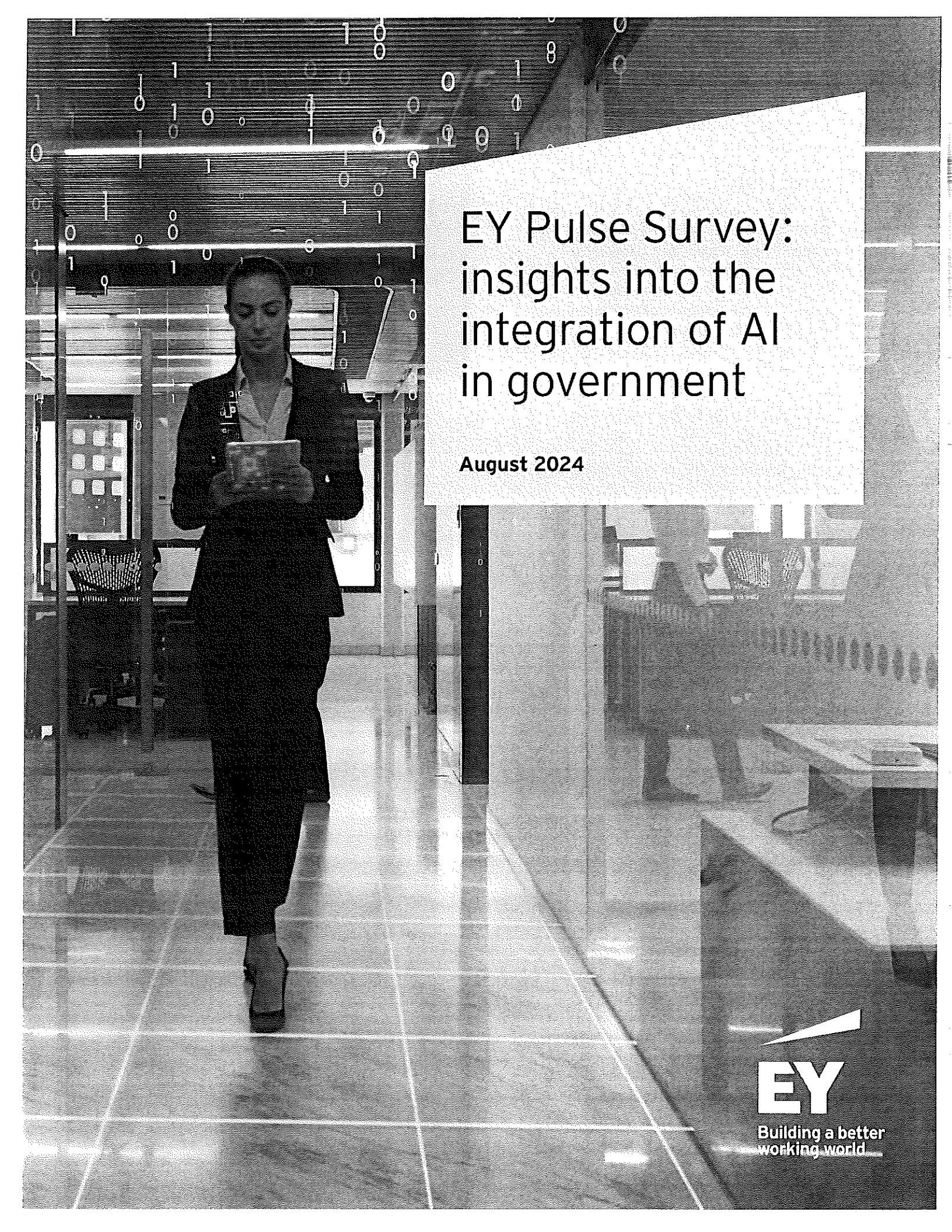


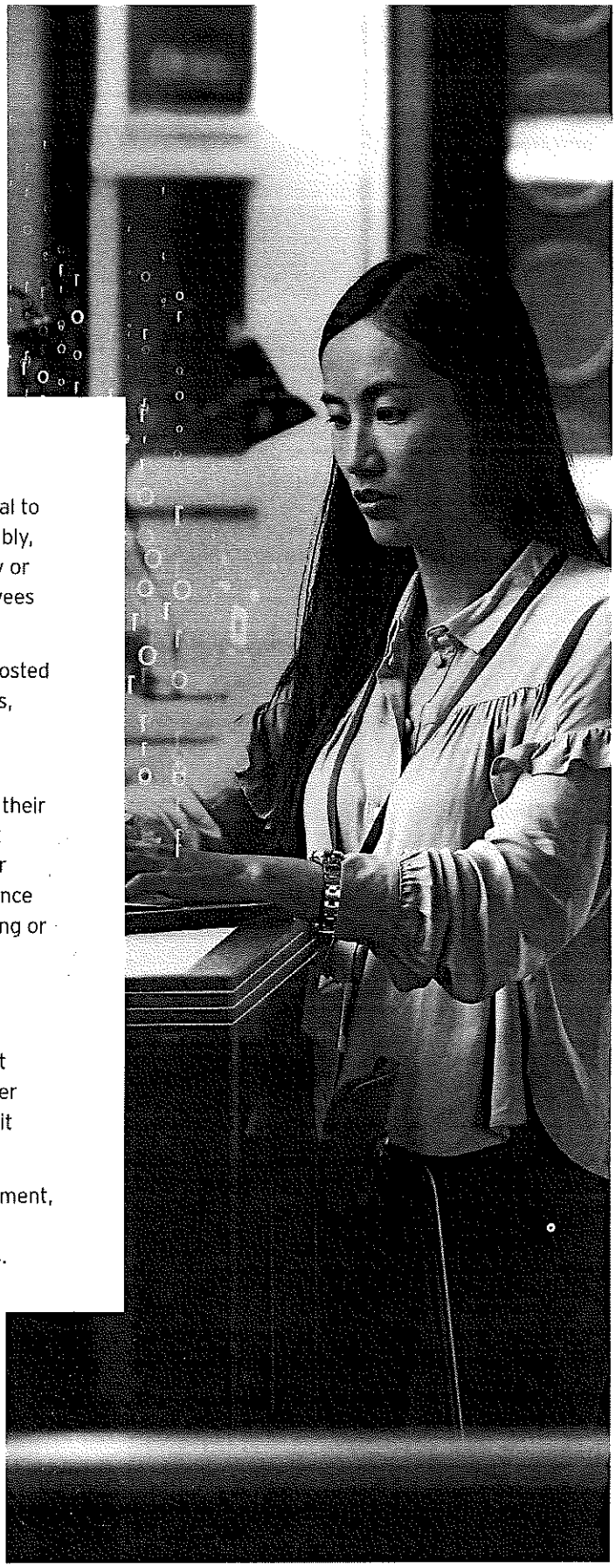
EY Pulse Survey: insights into the integration of AI in government

August 2024

Building a better working world

Introduction

Artificial intelligence (AI) is rapidly transforming major segments of the workforce, and the latest EY survey targeting public sector reveals significant insights into the current landscape of AI trends for government, the advantages it offers and the requirements for broader adoption.



Key findings of this study include the following:

- Approximately half of public sector employees, spanning federal to local levels, engage with AI applications nearly every day. Notably, 61% of respondents acknowledge the availability of proprietary or official AI tools provided by their agencies, with federal employees reporting the highest availability.
- AI users highlight key benefits such as enhanced efficiency, boosted creativity and the ability to allocate more time to complex tasks, underscoring AI's positive impact on productivity.
- Despite the growing use of AI, approximately one-third of participants reported a lack of AI-related training initiatives by their agencies within the current year, while only a fifth experienced monthly training sessions. The primary obstacle to AI's broader implementation was identified as the absence of clear governance and ethical guidelines, rather than issues like insufficient funding or lack of leadership interest.
- Agencies aligned with defense are notably ahead in embracing AI compared with civilian and state or local agencies. Defense agency personnel report more regular use of AI, more frequent training opportunities, greater authorization for AI usage, better understanding of AI policies and a stronger inclination to recruit individuals with AI expertise.
- When it comes to the skills necessary for thriving in AI development, critical and strategic thinking are ranked highest by leaders, overshadowing the need for technical and quantitative abilities.

The survey was conducted online, targeting senior professionals and leaders from federal, state and local agencies. The data collection spanned from June 5 to June 11, 2024, and garnered 445 responses.

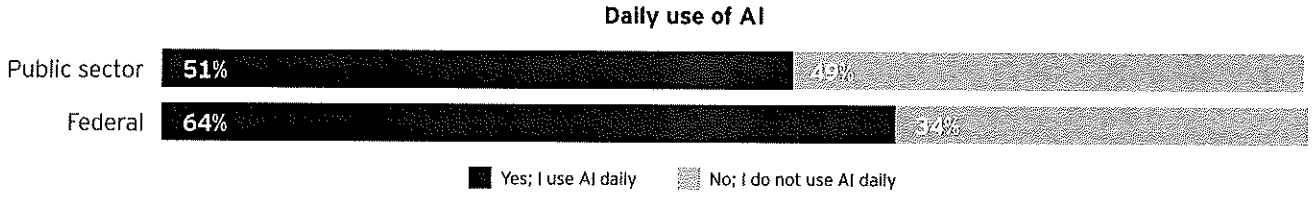
Use of AI technology among public sector leaders

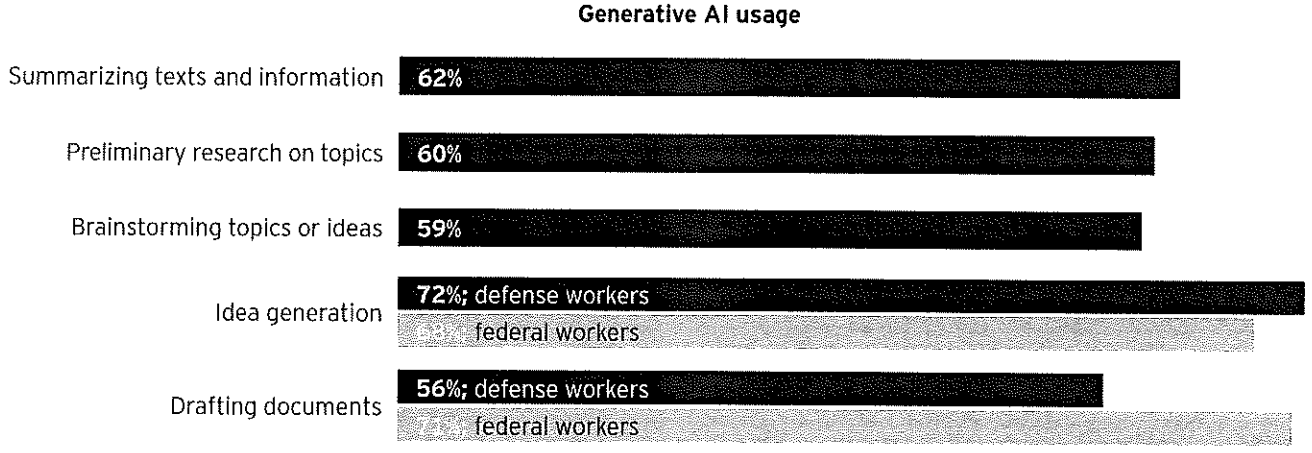
AI technologies and tools have been adopted widely by leaders and managers in the public sector. According to the EY survey, just over half (51%) report using an AI application either daily or several times a week. Federal agencies show a higher frequency of near-daily AI usage at 64%, in contrast to state and local agencies. Both federal civilian and defense personnel engage with AI applications with similar regularity. Since the start of the year, only 26% of respondents have not engaged with any AI applications.

Generative AI emerges as the most prevalent type of application. The top application is for summarizing texts and information (62%), closely followed by conducting preliminary research on topics (60%) and brainstorming topics or ideas (59%). This pattern holds true across federal and local levels, including both civilian and defense sectors. However, defense workers are more inclined to use AI for idea generation (72%) than other federal counterparts (68%), and less inclined to use AI for drafting documents or reports (56%) compared with the broader federal workforce (71%).

Survey participants acknowledge that AI contributes to greater work efficiency and allows them to concentrate on more complex tasks. The foremost benefit recognized by those who have incorporated AI into their workflow is time savings and improved efficiency (71%), followed by a boost in creativity (62%) and the ability to dedicate more time to complex tasks (61%). Civilian federal employees are the most likely (80%) to highlight time savings as the key benefit and are the most likely to cite all possible benefits of AI use in the workplace. Unsurprisingly, those who cited time savings and efficiency gains were more likely to have used AI in the workplace.

As AI becomes more integral to agency operations, there is a growing trend among leaders to seek out individuals with AI expertise. More than half of the survey respondents (52%) are beginning to value AI experience in job candidates to some degree, with nearly one in four (22%) looking for such experience extensively. Defense agency respondents are more proactive (43%) in this pursuit compared with their civilian counterparts (33%). State and local agencies are the least likely (23%) to prioritize AI experience in their recruitment efforts.





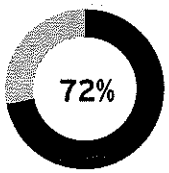
Agency policy on AI

A majority of public sector workers are reporting that their agencies have made proprietary AI applications available for use. Overall, 61% of survey participants reported that their current agency has made a proprietary or official AI application available. Federal workers were more likely (72%) to indicate that their agency had made applications available, with both civilian and defense workers equally likely to report the availability of an official AI application. Local agencies have been slower to deploy proprietary applications, with 59% of state and local government respondents indicating that their agency had made a proprietary application available.

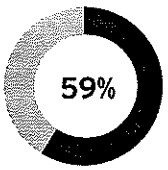
The survey found that public sector agencies are taking a mixed approach to regulating open-source AI technology such as Generative AI in the workplace. About half of respondents (47%) report that their agency allows the use of open-source AI with some restrictions, followed by 21% who indicated that their agency allows use with no restrictions. Just under a fifth (19%) of federal and local agencies do not allow the use of open-source AI technology, and 13% of respondents indicated that they weren't sure.

The survey has found that few federal and local agencies offer training on use of AI despite nearly half of public sector office workers using applications multiple times a week. Just over a third of respondents have indicated that their current agency has not offered training on using AI this year, in contrast to nearly one fifth (22%) reporting at least monthly training. Respondents at local agencies were the most likely (39%) to indicate that they have never offered training compared with 28% overall. About half of respondents (53%) indicated that they understood their agency's policies somewhat to generally well. Respondents at federal agencies were the most likely to report this level of understanding (67%) compared with 50% for those at local agencies. Notably, state and local respondents were more than three times as likely to indicate that their agency does not have a policy on AI use (22% vs. 7%).

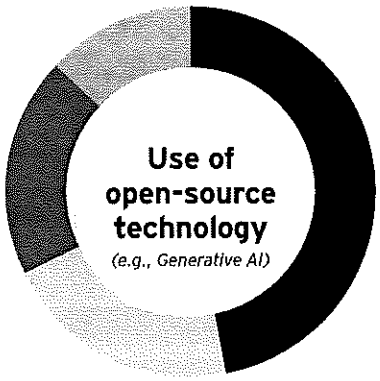
Reported that their current agency has made a proprietary or official AI application available



Federal workers indicated their agency had made applications available



State and local government respondents indicating that their agency had made a proprietary application available



47%
Use of open-source AI with some restrictions

21%
Use of open-source AI with no restrictions

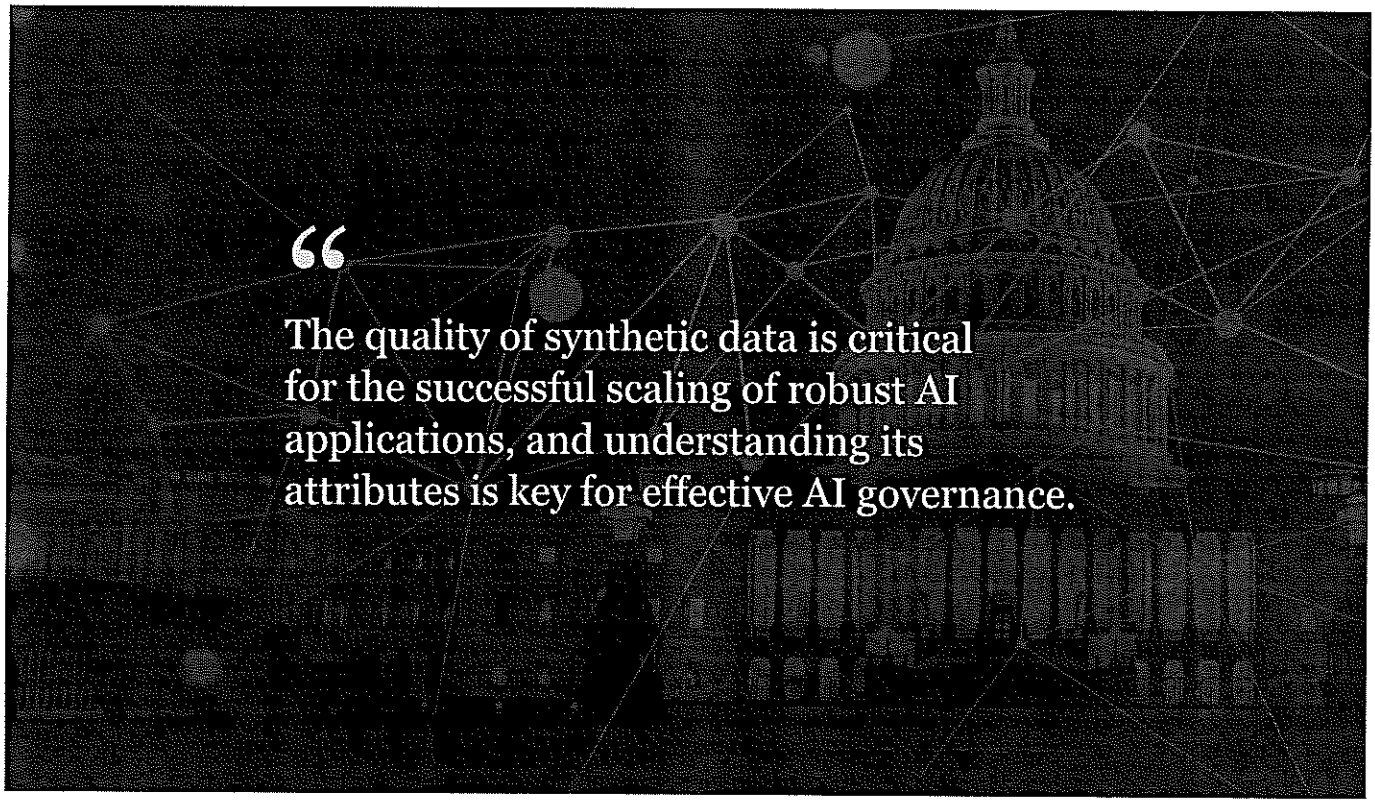
19%
Do not allow the use of open-source AI technology

13%
Unknown

Data use

The effectiveness of AI hinges on the caliber of data it uses for processing and training. Public sector entities, especially at the federal level, are recognizing the critical importance of data integrity as they increasingly implement AI. High-quality data is crucial for the reliability of AI-generated outputs and models. Ensuring data quality is therefore essential for the safe and efficient expansion of AI applications across organizations. According to the EY survey, agency leaders are actively taking measures to safeguard data quality for AI use. Verifying data sources is the most common measure, with 45% of leaders doing so, followed by checks on data formatting (38%) and setting standards for data freshness (37%). Federal agencies are particularly diligent in this regard, with their leaders more likely than those at local levels to undertake multiple steps to certify data suitability for AI. Notably, federal leaders are nearly twice as likely (60% vs. 31%) as their local counterparts to maintain standards for the timeliness of data. Defense agencies stand out, with 71% of their leaders conducting data source checks.

AI systems are now frequently developed and trained using synthetic data, which is designed to mimic the complexities of real-world information. This type of data enables the preliminary development and training of AI within a controlled environment prior to its deployment in actual scenarios. The quality of synthetic data is critical for the successful scaling of robust AI applications, and understanding its attributes is key for effective AI governance. Leaders from various agencies, as highlighted in our survey, are keen on implementing measures to guarantee that the synthetic data used in AI systems meets quality standards. The most common approach reported by respondents involves blending synthetic data with actual data for training purposes (34%), closely followed by the creation of standardized procedures for synthetic data generation (32%) and the implementation of synthetic data validation processes (32%). Federal agencies, and defense agencies in particular, are more proactive in establishing quality controls for synthetic data. Defense agencies surpass their civilian counterparts in rigorously checking synthetic data for biases, conducting validations, and maintaining thorough reviews and documentation of the processes used to create synthetic data.



Adoption

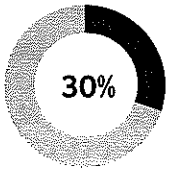
Unclear governance and/or ethical frameworks was identified as the top barrier to the expansion of AI (48%) followed somewhat distantly by lack of technology infrastructure (30%) and AI applications not aligned with current agency needs (30%). Respondents at defense aligned agencies identified lack of proper data infrastructure as their top barrier to expansion (57%). Respondents at defense agencies were equally concerned about unclear governance and/or ethical frameworks as workers at civilian agencies but were comparatively more concerned about AI applications not aligned with current agency needs (+18%) and lack of proper data infrastructure (+19%). Of note, concerns about both funding and leadership support were not cited as a top concern by any key segments of the survey.

Respondents have identified compliance/regulatory concerns (28%) as the top data governance issue followed closely by resistance to change (26%) and technological challenges (26%). Respondents at state and local agencies were the most likely to report resistance to change as the top challenge (28%). Otherwise, this pattern of concern about regulatory issues, resistance to change and tech issues was shared between federal and local as well as civilian and defense agencies.

Survey participants expressed varied opinions on the key skills required for effective AI development, with an unexpected emphasis on nontechnical abilities. It was the universally applicable skills that were most sought after, with critical thinking leading (32%) and strategic thinking close behind (30%). Familiarity with machine learning was also valued (29%). More specialized technical skills, such as expertise in cloud computing, model evaluation and statistical analysis, were less frequently chosen, except by those from defense-related agencies. Interestingly, respondents from defense agencies particularly highlighted the importance of ethical judgment and strategic thinking, both at 43%, as the top competencies needed for employees to excel in AI development.

Top barriers of AI expansion

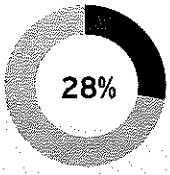
Unclear governance and/or ethical frameworks



Lack of technology infrastructure

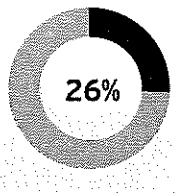
AI applications not aligned with current agency needs

Top data governance issue

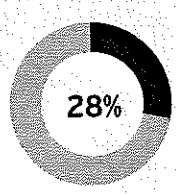


Compliance/regulatory concerns

Resistance to change



Technological challenges



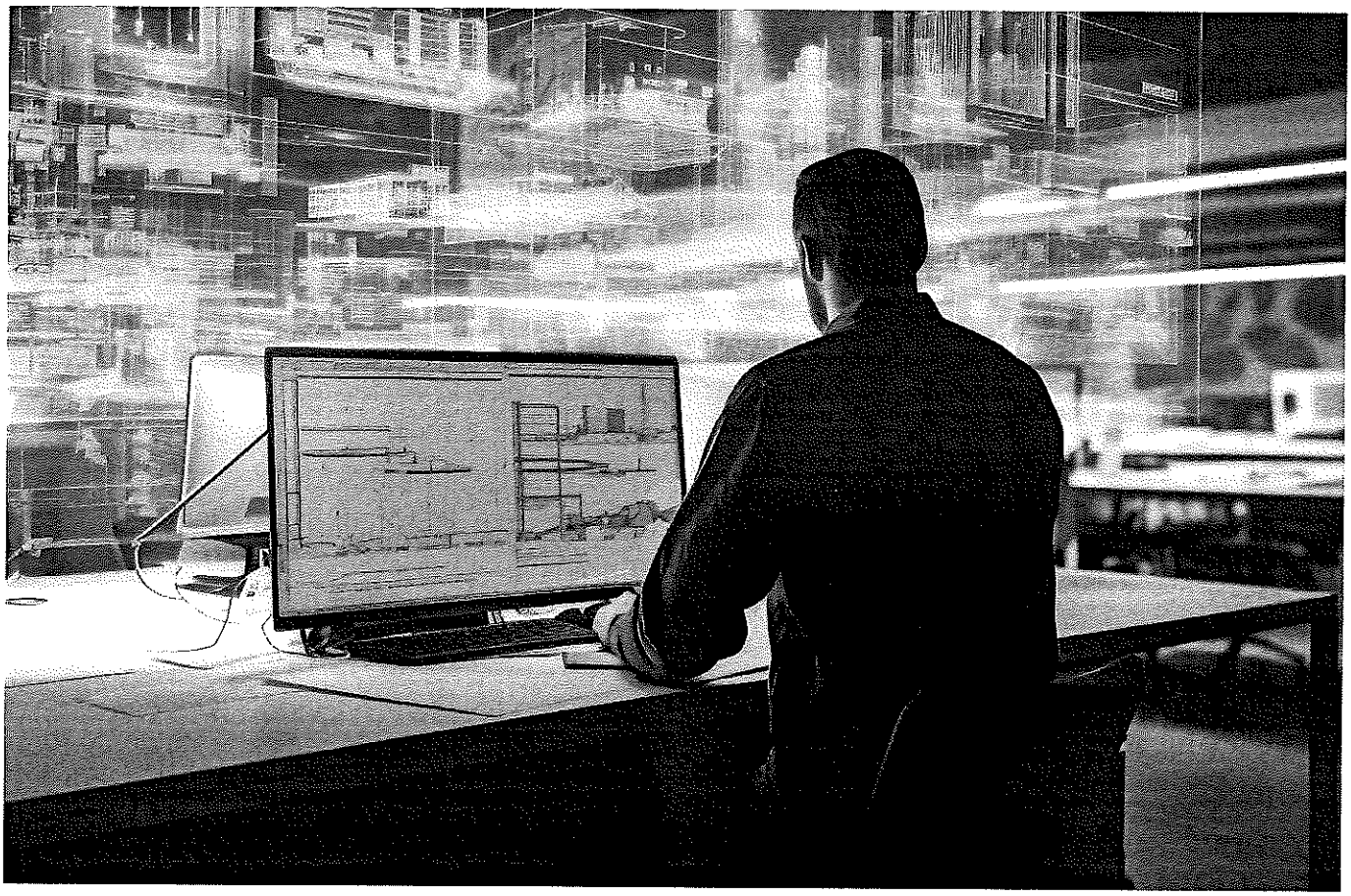
Resistance to change as the top challenge at state and local agencies

EY insights

This AI public sector pulse survey reminds us that the integration of AI is not just about technology – it's about preparing people to use it effectively. The true value of AI lies not only in its ability to automate tasks, but also in its potential to enhance human judgment and creativity, underscoring the importance of AI literacy among public sector employees. Critical thinking and strategic decision-making are valued even more than specific technical expertise. Large language models (LLMs) like GPT-3 are able to translate between written language and complex coding. These models excel at constructing sound, technical algorithms. Since LLMs are generative by nature, they will infer when there's ambiguity in the prompt, meaning the quality of the output hinges on the user's ability to ask the right questions.

It also highlights the urgency for clear AI governance and ethical standards to maintain public trust and align AI use with the public interest. The lack of such structures is not merely an administrative oversight; it is a fundamental vulnerability that could undermine public trust and the efficacy of AI initiatives. This emphasis on cognitive and ethical skills suggests a paradigm shift in what it means to be proficient in AI – where understanding the implications and strategic applications of AI is as important as the technology itself. We have to nurture a workforce that is not only technically adept but also equipped to navigate the ethical and strategic use of AI in an evolving landscape of public service.

EY teams can help agencies with employee training and upskilling. Learn to use data literacy to your agency's advantage by understanding data sources, analytical methods and techniques applied and how to describe the use-case application and resulting value. Driving data and AI literacy across all levels of the agency prepares today's workforce to meet tomorrow's challenges and help ensure successful AI adoption.



About this research

Ernst & Young LLP fielded a web survey to an audience of senior federal, state and local professional workers. Federal survey participants were screened into the survey if they had a General Schedule ranking of GS-13 to GS-15 or Senior Executive Service. Local and state participants were admitted to the survey if they identified as a director/executive/program or division leader or had management duties at a local agency. The survey admitted federal workers at both civilian and defense agencies. Respondents were recruited via a panel provider and the survey received 445 usable responses, including 90 federal professionals and 355 state or local professionals. The instrument collected data from June 5, 2024 to June 11, 2024.

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ED None

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HP 558, LD 872

An Act to Ensure Determinations Made by the State Are Free from Unethical, Unsafe or Illegal Interference by Artificial Intelligence

Amendment **C-A (H-566)** **Fiscal Impact**

Change Title: **Resolve, Directing the Office of Information Technology to Study the Use of Artificial Intelligence and Access to Ethical, Legal, Safe and Affordable Forms of Artificial Intelligence**

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Sponsors

Presented By:

Representative Gary Friedmann, D - Bar Harbor

Committee Actions

Referred To: **State and Local Government**, 3-18-25

Latest: **Reported Out ONTP/OTP-AM**, 6-6-25

Work Session Held, 5-19-25

Voted, Ant. Div. Rep., ONTP/OTP-AM, 5-19-25 on motion by Rep. Tuell, second by Rep. Salisbury

MAJ: Ought Not To Pass

Rep. Jeffrey Adams , Sen. Anne Beebe-Center , Rep. Lynn Copeland , Rep. Wayne Farrin , Rep. Randall Greenwood , Sen. Joseph Martin , Rep. Ann Matlack , Rep. Kimberly Pomerleau , Rep. Suzanne Salisbury , Rep. Will Tuell , Rep. Joseph Underwood

MIN: Ought To Pass As Amended

Sen. Joseph Baldacci , Rep. David Rollins

Reported Out, ONTP/OTP-AM, 6-6-25

Action Summary

Final Disposition: **Accepted Majority (ONTP) Report**, 6-9-25

Latest House Action: **Accepted Report MAJ (ONTP) REP**, 6-9-25

Latest Senate Action: **Accepted Report MAJ (ONTP) REP**, 6-9-25

Scheduled Committee Meetings

There have been 2 committee meetings scheduled.

Start times for meetings are listed, not when this bill will be discussed.

Public Hearing 4-28-25, 11:00 am

Work Session 5-19-25, 1:00 pm

Testimony

There are 3 testimony items.

Gray Cox *Bar Harbor*	4-28-25
Gray Cox *Bar Harbor*	4-28-25
Rep. Gary FriedmannRep. *Maine State Legislature*	4-28-25

132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document **No. 872**

H.P. 558 House of Representatives, March 4, 2025

An Act to Ensure Determinations Made by the State Are Free from Unethical, Unsafe or Illegal Interference by Artificial Intelligence

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative FRIEDMANN of Bar Harbor.

Printed on recycled paper

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §1977 is enacted to read:

§1977. Artificial intelligence software

1. Office responsible for artificial intelligence software. The office shall create, maintain and ensure the use of a list of approved artificial intelligence software or systems for procurement and use by an agency, administrator, agent, employee or subcontractor of the State.

2. Purchase and use of software employing artificial intelligence. The State, including an agency, administrator, agent, employee or subcontractor of the State, may not purchase or use software employing artificial intelligence unless the software:

A. Demonstrably conforms to ethical, legal and safety standards that ensure the software can provide explicable and transparent decision making that guarantees that the State maintains the sovereign, intentional control of the behavior of the software to enable the State to fully comply with constitutional and legal mandates; and

B. Guarantees that a resident affected by a decision made by the State with the assistance of the software is afforded the ability to secure due process and has an accessible and affordable way to understand, review and appeal the decision.

3. Office to seek collaboration on use of artificial intelligence. The office shall remain current on the status and advancement of artificial intelligence, in collaboration with the Federal Government, other states, municipalities, other national governments and other public and private organizations, to maintain access to ethical, legal, safe and affordable forms of artificial intelligence to allow the State and residents of the State to:

A. Effectively fulfill governmental and civic obligations;

B. Guarantee rights under the United States Constitution and the Constitution of Maine and state and federal laws, rules and regulations; and

C. Advance economic, cultural and environmental well-being.

4. Ethical, legal and safety standards. The Chief Information Officer shall establish ethical, legal and safety standards under this section by rule pursuant to section 1982, subsection 8.

SUMMARY

This bill requires the Office of Information Technology within the Department of Administrative and Financial Services to be responsible for creating, maintaining and ensuring the use of a list of approved artificial intelligence software or systems for procurement and use by the State. The bill also prohibits the purchase and use of artificial intelligence software by the State unless the State maintains the sovereign, intentional control of the behavior of the software to enable the State to fully comply with constitutional and legal mandates and secures the right to due process by guaranteeing that residents affected by a decision made by the State with the assistance of the software have an accessible and affordable way to understand, review and appeal the decision.

L.D. 872

Date: (Filing No. H-)

STATE AND LOCAL GOVERNMENT

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STATE OF MAINE

HOUSE OF REPRESENTATIVES

132ND LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 558, L.D. 872, "An Act to Ensure Determinations Made by the State Are Free from Unethical, Unsafe or Illegal Interference by Artificial Intelligence"

Amend the bill by striking out the title and substituting the following:

'Resolve, Directing the Office of Information Technology to Study the Use of Artificial Intelligence and Access to Ethical, Legal, Safe and Affordable Forms of Artificial Intelligence'

Amend the bill by striking out everything after the title and inserting the following:

'**Sec. 1. Office to study use of artificial intelligence. Resolved:** That the Department of Administrative and Financial Services, Office of Information Technology shall, in collaboration with the Federal Government, other states, municipalities, other national governments as appropriate and other public and private organizations, study the use of artificial intelligence and access to ethical, legal, safe and affordable forms of artificial intelligence to allow the State and residents of the State to:

1. Effectively fulfill governmental and civic obligations;

2. Guarantee rights under the United States Constitution and the Constitution of Maine and state and federal laws, rules and regulations; and

3. Advance economic, cultural and environmental well-being.

The Chief Information Officer shall establish ethical, legal and safety policy standards pursuant to this section.

Sec. 2. Report to Legislature. Resolved: That, by December 3, 2025, the Department of Administrative and Financial Services, Office of Information Technology shall submit a report of the findings of the study under section 1, including any suggested legislation, to the Joint Standing Committee on State and Local Government. The committee is authorized to report out a bill based upon the report to the Second Regular Session of the 132nd Legislature.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the minority report of the committee, replaces the bill with a resolve. It directs the Office of Information Technology within the Department of Administrative and Financial Services to study, in collaboration with the Federal Government, other states, municipalities, other national governments as appropriate and other public and private organizations, the use of artificial intelligence and access to ethical, legal, safe and affordable forms of artificial intelligence and directs the Chief Information Officer to establish ethical, legal and safety policy standards. It also requires that, by December 3, 2025, the Office of Information Technology must submit a report to the Joint Standing Committee on State and Local Government, which is authorized to report out a bill based upon the report to the Second Regular Session of the 132nd Legislature.

FISCAL NOTE REQUIRED

(See attached)

Maine State Government
Department of Administrative and Financial Services
Office of Information Technology (OIT)

Generative Artificial Intelligence (GenAI) Policy

1.0. Statement

1.1. The purpose of this policy is to specify Guiding Principles and Directives for responsible, transparent, and ethical use of GenAI within the Executive Branch of Maine State Government.

1.2. The rapid rise in GenAI technologies has been widely acknowledged as unprecedented. It holds significant potential for enhancing state government efficiency through automation, data analysis, streamlining processes, and optimizing resource allocation. By harnessing its potential, agencies can more efficiently identify areas of cost-saving measures and greatly enhance citizen services. However, the risks to privacy, security, the State's workforce, safety, government accountability, and fundamental human rights are just beginning to be understood. Many of these tools lack transparency in their design, making it challenging to assess the risks involved with their use. Furthermore, their development often involves the ingestion of data not vetted by the State. Absent appropriate safeguards, the use of these technologies opens the door to significant risks, including inaccuracies, algorithmic bias, unauthorized use of intellectual property, privacy and security vulnerabilities, severe bias, and false information. Additionally, GenAI can be leveraged by malicious cybercriminals for a number of nefarious purposes, including, but not limited to, opening new physical and digital security vulnerabilities, generating misinformation campaigns, and assisting with sophisticated social engineering attacks. Creating a transparent and collaborative GenAI deployment process and creating upskilling programs that support effective transition to this technology ensures the protection of Maine citizens and the data entrusted to the State.

2.0. Definitions

2.1. *AI Chatbot:* An Artificial Intellegence(AI) application that simulates human conversation and interaction through textual or aural communications.

2.2. *Embedded GenAI:* GenAI capabilities added into a tool or product that has previously been vetted and utilized by the State of Maine. The primary purpose of the tool or product is *not* GenAI.

2.3. *Generative Artificial Intelligence (GenAI):* Umbrella term for technologies that synthesize content mirroring human creativity. Encompassing machine learning and language models, GenAI generates human-like text, audio, imagery, video, and other digital content.

2.4. *Human in the Loop (HITL):* The mechanism where human judgment and decision-making are integrated into GenAI outputs. This approach ensures that while machines handle tasks with speed and efficiency, humans oversee, guide, and intervene when necessary.

2.5. *Information Assets:* The full spectrum of all I.T. products, including business applications, system software, development tools, utilities, appliances, etc.

2.6. *Private GenAI:* GenAI tools that are specific to an entity or organization and their data. Private GenAI tools are developed in-house by the State for its own use or obtained from a third-party vendor. These systems are configured in a way that ensures the State's sensitive data is segmented from other Training Data and accessible to only the State or organization that owns it.

2.7. *Public GenAI:* GenAI tools that are openly available to multiple entities, organizations, or the general public and use widely sourced data from the internet, as well as data from users or customers to train the GenAI model. Public GenAI tools do not guarantee the privacy of data input by users, entities, or organizations. Additionally, Training Data and models are not owned by a public organization unless otherwise noted.

2.8. *Training Data:* Data used to train a large language model and other predictive algorithms.

3.0. Applicability

3.1. This Policy applies to:

- 3.1.1. The Maine State Executive Branch, including all agencies, departments, commissions, committees, authorities, divisions, boards, or other administrative units, that operate under the direction of the Governor;
- 3.1.2. All Personnel, both employees and contractors/vendors, within the Maine State Executive Branch;
- 3.1.3. All Information Assets in use within the Maine State Executive Branch; and
- 3.1.4. Information Assets from other branches of Maine State Government that are reliant upon the State Wide Area Network (WAN) for their operation.

4.0. Responsibilities

4.1. Agency Management:

- 4.1.1. Ensures that their personnel are aware of, and compliant with, this Policy;
- 4.1.2. Ensures that any approved GenAI usage is managed in compliance with this Policy; and

4.1.3. Collaborates with the Chief Information Officer (CIO) in executing and enforcing this Policy.
4.1.4. Informs OIT of relevant changes to existing-software under section 6.14

4.2. Chief Information Security Officer (CISO):
4.2.1. Resolves any conflicts under this Policy;
4.2.2. Determines the risk associated with GenAI tools/products; and
4.2.3. Collaborates with Agency Management in executing and enforcing this Policy.

4.3. Chief Information Officer (CIO):
4.3.1. Owns and interprets this Policy.

4.4. OIT Architecture and Policy:
4.4.1. Vets all net-new Information Assets before permitted usage.

4.5. OIT Account Managers:
4.5.1. Liaise with Agency Management in executing and enforcing this Policy.

5.0. Principles

5.1. The following Guiding Principles serve as guardrails for use of GenAI within the Executive Branch of Maine State Government. These Principles were informed by a variety of sources, including the NIST Artificial Intelligence Risk Management Framework (AI RMF 1.0)[1]. The following Principles are intended to guide personnel in the responsible development, deployment, and use of GenAI on the State's IT enterprise:

5.1.1. **Valid and Reliable:** The GenAI tool should consistently produce verifiable results and dependable outcomes under the conditions of expected use. Its robustness is equally essential, with the tool maintaining its performance under a variety of circumstances. The tool's accuracy must be evaluated and managed throughout the application lifecycle to ensure the tool's outputs are trustworthy and can be confidently relied upon.

5.1.2. **Safe, Secure, and Resilient:** Securing the State's Information Assets is essential to the State IT enterprise's mission. GenAI tools must be evaluated for their safety, security, and resiliency to ensure the confidentiality, integrity, and availability of State data. These tools must adhere to established information security policies, procedures, and best practices to mitigate risk and protect against unauthorized access and misuse of data.

5.1.3. **Accountable and Transparent:** GenAI tools should appropriately detail the processes for generating outputs and ensuring users have access to relevant information behind its decisions and operations. This includes traceability, explainability, communication regarding the sources of training data, and being able to attribute the tool's outputs to specific data subsets when necessary. Mechanisms will be employed to identify responsibilities, to

[1] https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-1.pdf

provide accountability for the use of GenAI and its outcomes, and to be reviewed for compliance with applicable laws and regulations prior to use.

5.1.4. **Explainable and Interpretable:** The GenAI models and outputs are easily interpreted and explained to the greatest extent possible, ensuring that users can grasp both the mechanics (how) and the meaningful context (why) of the tool's decision and/or outputs, particularly regarding its impact on decisions and/or outputs impacting sensitive and confidential data.

5.1.5. **Privacy-Enhanced:** All applicable laws, regulations, policies, and procedures governing the privacy, quality, and integrity of State of Maine data must be applied in the development and use cases for all GenAI tools.

5.1.6. **Fair, with Harmful Bias Managed:** The GenAI tool should be under continuous scrutiny to identify and mitigate potential impacts arising from data, human or algorithmic bias, to the greatest extent possible. Given the potential for these tools to amplify existing biases, continuous monitoring and proactive interventions shall prioritize countermeasures to reduce the risk of harmful bias or discrimination and to uphold fairness.

6.0. Directives

6.1. This policy supersedes the Chief Information Officer's GenAI Moratorium.

6.2. All personnel must adhere to the Guiding Principles in 5.1 when using GenAI to enable the delivery of government services.

6.3. Prior to using a GenAI tool, personnel must complete a GenAI training, as determined by the CISO/CIO. In addition, personnel must complete GenAI training on an annual basis, as well as complete any applicable use-case-specific GenAI training, as determined by the CISO/CIO.

6.4. An output from a GenAI tool must *never* be:

6.4.1. Used without a review; or

6.4.2. Be assumed to be truthful, or accurate, or credible, or trustworthy; or

6.4.3. Be used as the sole source of reference; or

6.4.4. Be used *in total* to issue official statement (i.e. policy, legislation, or regulations); or

6.4.5. Be used to arrive at a final decision; or

6.4.6. Be used to impersonate individuals or organizations.

6.5. Should a GenAI tool be used to generate a batch output, then an appropriate Agency expert must use their domain knowledge to vet that batch output through appropriate statistical sampling techniques.

6.6. Before being disseminated, or otherwise acted upon, any output from a GenAI tool must *always* be:

6.6.1. Vetted by an appropriate agency human operator (HITL), and the organizational level/standing of the agency human operator should be commensurate with the significance/impact of the underlying content.

6.6.2. At a minimum, this vetting must account for accuracy, appropriateness, privacy, and security.

6.7. For any dissemination (irrespective of whether internal or external) of content that incorporates GenAI output, an explicit disclosure/attribution must be made by the agency. Such a disclosure/attribution may be achieved by a notation in the footnote, or header, or any comparable means.

6.7.1. Example "Advised that XXX (a product with GenAI) was used to draft this content. However, I/we have verified the content, and remain accountable for it."

6.8. Sensitive or confidential information (TLP: Amber or Red[2]) protected from disclosure under federal or state statutes or regulations, as well as any information protected from disclosure under Maine's Freedom of Access Act, must *never* be used as an input to a GenAI tool, *never* be used in GenAI queries, and *never* be used for building or training GenAI tools. Furthermore, under no circumstances may personnel provide State of Maine data classified as non-public data (TLP: Green or Amber or Red[3]) to a publicly accessible GenAI tool.

6.9. For a GenAI tool that allows such a feature, the history of usage must be disabled (i.e., turned off).

6.10. Material that is proprietary, or otherwise copyrighted, must *never* be used as an input to a GenAI tool.

6.11. GenAI must *never* be used by personnel for any activity that violates any federal or state laws, regulations, policies, or procedures.

6.12. Any vendor and/or contractor creating any Information Asset for the State of Maine Executive Branch must explicitly declare any usage of GenAI, especially the nature of the data used as input, and be subject to a risk assessment during the procurement process.

6.13. OIT will continuously maintain a webpage Generative AI Tools and Acceptable Use[4] (internal-only) that lists the GenAI tools and use cases that are currently approved for use by the Executive Branch of Maine State Government. Any such use is explicitly subject to *all* stipulations detailed in this Policy. The tools listed on the website are subject to removal, compensating controls, or conversion to an enterprise-based GenAI offering, at the discretion of the CISO such that risks to the confidentiality, integrity, and availability of State data are appropriately managed and rigorous information security standards and safeguards are in place to support

[2] https://www.maine.gov/oit/sites/maine.gov.oit/files/inline-files/DataClassificationPolicy.pdf
[3] https://www.maine.gov/oit/sites/maine.gov.oit/files/inline-files/DataClassificationPolicy.pdf
[4] https://stateofmaine.sharepoint.com/sites/MaineIT-Security/Shared%20Documents/Policies/GenAIToolsandAcceptableUse.pdf

scaling GenAI usage at the enterprise level. Any GenAI tool or use case *not* explicitly approved on this webpage is expressly prohibited from use within the Executive Branch of Maine State Government. To request consideration for an AI tool or use case, send an email to Enterprise.Architect@Maine.Gov.

6.14. Any application/tool/product/information asset that has previously been vetted and approved through the OIT New Technology workflow, but which now embeds GenAI, shall continue to stay approved, unless such an approval has been explicitly rescinded by the CISO/CIO.

6.15. Existing pre-approved tools must be reviewed at least annually, or more frequently if the agency is notified of changes to terms and conditions or platform changes that incorporate the use of GenAI, to ensure ongoing compliance with all state-set software usage and AI usage policies.

6.16. For any privacy concerns, absent an Agency Privacy Officer, contact the Enterprise Architect mailbox at Enterprise.Architect@Maine.gov.

7.0. Account Creation

7.1. GenAI tools often require that users enter an email address to register and create an account. Users who are utilizing an approved Public GenAI tool for State purposes must use their State e-mail address for registration and account creation purposes.

7.2. Once created, the account associated with a user's State e-mail address must be used solely for State business purposes. Personal use of Public GenAI from an account using a State e-mail is prohibited.

7.3. Upon completion of the registration and the account creation process, users must opt-out of data sharing and disable the chat history within the Public GenAI system. If unable to opt-out, the user must contact OIT at Enterprise.Architect@Maine.gov prior to using the Public GenAI system.

8.0. AI Chatbot Disclosure Requirements; Prohibited Conduct

8.1. Use of an AI chatbot in communications with consumers must include a clear and conspicuous disclosure that the consumer is interacting with an AI chatbot and not a human being.

8.1.1. Pursuant to Public Law 2025, chapter 294, a violation of this section constitutes a violation of the Maine Unfair Trade Practices Act.

8.2. The requirements of this section are intended to supplement the provisions of this policy and operate in addition to, and in conjunction with, the policy as a whole.

9.0. Compliance

9.1. For employees, failure to comply with this policy may result in progressive discipline, up to and including dismissal.

9.2. For contractors and non-State of Maine personnel, failure to comply may result in removal of the individual's ability to access and use State of Maine Information Assets. Employers of non-State of Maine personnel will be notified of any violations.

9.3 In addition, Public Law 2025, chapter 294 enacted new disclosure requirements governing communications with consumers through the use of AI chatbots. The law prohibits a person from using an AI chatbot to engage in trade or commerce with a consumer in a manner that may mislead or deceive a reasonable consumer into believing that the consumer is engaging with a human being unless the consumer is notified that the consumer is not engaging with a human being. A violation of this prohibition is a violation of the Maine Unfair Trade Practices Act.

10.0. Document Information

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10.2. Latest Revision Date: September 30, 2025
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[5] https://legislature.maine.gov/statutes/5/title5ch163sec0.html
[6] https://www.maine.gov/oit/policies/waiver.pdf
[7] https://www.maine.gov/oit/policies-standards