

“AI” DEFINED

The order defines “artificial intelligence” or “AI” as “a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.” 15 U.S.C. 9401(3). This is a purposefully broad definition of AI and is not limited to generative AI systems.

POLICIES & PRINCIPLES

The 8 policies and principles are:

- Ensuring new standards for AI safety and security
- Protecting privacy
- Advancing equity and civil rights
- Standing up for consumers, patients, and students
- Supporting workers
- Promoting innovation and competition
- Advancing international cooperation
- Advancing the responsible and effective federal government use of AI

To ensure your organization is in compliance with these policies and principles, consider a consultation with our firm.

THE BASICS

EXECUTIVE ORDER ON THE SAFE, SECURE, AND TRUSTWORTHY DEVELOPMENT AND USE OF AI

The Biden-Harris administration released Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence on Oct 30, 2023. The order **directs governmental agencies to use eight policies and principles** (listed on the left) to drive responsible AI use and development. Additionally, **the order creates opportunities for private organizations, members of academia, international allies, and civil society to voluntarily adopt these principles.**

Recurring themes in the order are transparency and responsibility. The directive repeatedly instructs organizations to regularly evaluate their existing AI-related risks, develop organizational AI-management practices, and promote disclosure and transparency procedures across sectors. The directive also suggests that all users, developers, and vendors of AI-enabled technology be prepared for forthcoming AI-related guidance and legislation from federal agencies, state and local governments, and federal legislative bodies.

At present, the order is binding on federal agencies (with the exception of independent agencies). However, the order addresses AI risks and benefits at all stages of the AI-supply chain: development, procurement, and deployment. As a result, **any private sector organization that does business with a federal agency should adhere to the order’s policies and principles.** Organizations that are not directly impacted may still want to adhere to the policies and principles. Future AI governance will be informed by the evolving industry standards and best practices. Those who voluntarily abide by these policies and principles will have an advantage against those who are not proactive when new laws are inevitably passed.

TAKEAWAYS

This landmark order establishes new standards for AI safety and security. It aims to harness the promise of AI, while mitigating its risks to privacy and equity and civil rights.

As AI systems continue to be developed and introduced into the stream of commerce, **the industry standards that evolve from this order will likely also apply to private organizations that incorporate AI or use third-party vendors’ AI-enabled services.** These services may take the form of services used to aid in business, administration, hiring, and/or marketing purposes. As an example, cultural institutions should anticipate forthcoming AI-enabled services to include curation, record-keeping, artist exhibitions, and to aid in visitor engagement and experience.