

# CYBERSECURITY AND DATA PRIVACY INFORMATION MEMO

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## Biden Administration Issues Executive Order Regulating the Use of AI

On Oct. 30, 2023, President Biden signed the [Executive Order](#) (EO) on Safe, Secure, and Trustworthy Artificial Intelligence that seeks to regulate the use of artificial intelligence (AI) by balancing national security concerns and consumer rights. According to the Biden Administration, the EO's proposed measures are a "vital steps forward in the U.S.'s approach on safe, secure, and trustworthy AI." The EO's key provisions include standards for AI safety and security and protections for social equity and civil rights.

### New Safety and Security Standards

The major safety and security standards outlined in the EO include:

- Requiring the Department of Commerce to develop guidance for authenticating and watermarking AI content.
- Requiring companies that develop models that pose serious risks to national or economic security or public health to notify and share the results of safety nets with the federal government.
- Requiring the National Institute of Standards and Technology (NIST) to issue guidelines for "red team" testing. The red-team testing will assess AI technology to ensure safety before it is released to the public. The guidelines will be used by the Department of Homeland Security and Department of Energy to address infrastructure, chemical, biological, radiological, nuclear and cybersecurity risks.

### Equity and Civil Rights

In addition, the EO addresses equity and civil rights by addressing discrimination. The major provisions include:

- The Administration will provide guidance to landlords, federal benefits programs and federal contracts on the use of AI.
- The Administration will provide guidance in relation to using AI within the criminal justice system. Specifically, the EO touches upon the use of AI in sentencing, pretrial release, risk assessment surveillance and crime forecasting, among other uses.
- The Administration seeks to use AI to mitigate the harms and maximize benefits of using AI in relation to job displacement, labor standards and data collection.
- The establishment of the National AI Research Resource, which will increase access to AI resources and learning opportunities. Additionally, the EO will increase grant funding and requires immigration officials to loosen the visa requirements for overseas talent seeking to work at American AI companies.
- A mandate on The Department of Health and Human Services to create a program that addresses the risks associated with AI in healthcare.

The EO also mentions President Biden's support for the passage of a comprehensive consumer data privacy regulation. President Biden also emphasized the need for AI-related privacy initiatives, specifically mentioning prioritizing privacy-preserving techniques when used in relation to AI data training, establishing guidelines for federal agencies to account for AI privacy risks and guidelines for evaluating the effectiveness of privacy-preserving techniques in AI systems.

Despite mainly targeting federal use of AI, the EO applies to all companies that created powerful AI technologies, such as ChatGPT, regardless of whether the company contracts with the federal government. Additionally, the EO builds upon the [Blueprint for an AI Bill of Rights](#) and the voluntary commitments, which are aimed at combating discrimination as well as protecting consumers rights and safety when AI is used.

Bond attorneys regularly assist and advise clients on an array of data privacy and cybersecurity matters, including the management of legal and business risks associated with the use of AI tools. If you have any questions regarding the executive order, please contact [Jessica Copeland](#), CIPP/US, [Mario Ayoub](#) or any attorney in Bond's [cybersecurity and data privacy practice](#).

*\*Special thanks to Associate Trainee Victoria Okraszewski for her assistance in the preparation of this blast. Victoria is not yet admitted to practice law.*

