

October 24, 2023

President Joseph Biden  
Vice President Kamala Harris  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500

## **Re: Ensuring Adequate Federal Workforce and Resources for Effective AI Oversight**

Dear President Biden and Vice President Harris:

We write in regard to the Biden-Harris Administration's anticipated executive action on artificial intelligence (AI). We urge the administration, as part of that action, to direct adequate personnel and resources toward the oversight and evaluation of AI systems. The federal government's capacity to ensure that AI systems protect privacy, uphold civil rights and civil liberties, and promote equity should be commensurate with the government's capacity to develop, procure, and deploy those same types of systems.

The Electronic Privacy Information Center (EPIC) is a public interest research center established in 1994 to protect privacy, freedom of expression, and democratic values in the information age. For years, EPIC has urged regulators at all levels to enact commonsense regulations to protect the public from the harms commonly caused by AI systems—harms that your administration has rightly sought to address.

As the administration finalizes its forthcoming Executive Order on AI,<sup>1</sup> EPIC urges you to ensure that agencies build the necessary workforce, resources, and expertise to effectively evaluate and regulate AI systems—not just the means to develop and deploy those systems. Federal agencies can play a key standards-setting role in the AI ecosystem, both by acting as leaders in responsible AI use and by regulating AI use in the sectors they oversee. It is essential that agencies have the necessary capacity and direction to carry out these dual responsibilities. To that end, we urge the administration to take the following steps through (or in connection with) the Executive Order on AI:

1. Ensure that federal agencies direct sufficient resources and develop the necessary expertise to comply with new and existing AI transparency and accountability requirements. Executive orders 13,859 and 13,960, signed by former President Trump in 2019 and 2020, were aimed at increasing transparency in government use of AI by

---

<sup>1</sup> Press Release, Fact Sheet: Biden-Harris Administration Secures Voluntary Commitments from Leading Artificial Intelligence Companies to Manage the Risks Posed by AI, White House (July 21, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/07/21/fact-sheet-biden-harris-administration-secures-voluntary-commitments-from-leading-artificial-intelligence-companies-to-manage-the-risks-posed-by-ai/>; Caroline Nihill, *OSTP Director Teases Upcoming AI Executive Order as Measure to Mitigate Risks, 'Seize Huge Opportunity'*, FedScoop (Sept. 28, 2023), <https://fedscoop.com/ostp-director-teases-upcoming-ai-executive-order/>.

requiring agencies to create and publish use case inventories and plans to regulate the use of AI.<sup>2</sup> Despite 2021 deadlines, there has been inconsistent compliance with these requirements,<sup>3</sup> and agencies will likely (and appropriately) incur new assessment obligations in the near future. The administration can use the forthcoming Executive Order to illustrate its commitment to accountability and transparency, directing agencies to conduct trainings in AI evaluation and to commit the personnel necessary to carry out these obligations.

2. Direct entities such as National AI Advisory Committee and the Defense Innovation Board to focus on studying, supporting, and disseminating guidance on the evaluation of AI systems.
3. Use the National AI Research Resource (NAIRR) to model responsible AI governance, both to other agencies and private sector actors. Officials from the National Science Foundation and Office of Science and Technology Policy (OSTP) with authority over the data resources in the NAIRR should require robust transparency, accountability, and testing requirements for any AI systems built with datasets provided by the Resource. These requirements should be taken from recommendations previously put forth by the National Institute of Standards and Technology's Risk Management Framework and the White House Blueprint for an AI Bill of Rights.
4. Direct OMB to update its Privacy Impact Assessment guidance under Section 208 of the E-Government Act of 2002<sup>4</sup> to include AI impact requirements. This updated OMB guidance would align with a May 4, 2023, statement from the White House announcing new initiatives for regulating how federal agencies use emerging AI tools, including new OMB policy guidance on the U.S. government's use of AI systems.<sup>5</sup>
5. Direct agencies to reallocate resources toward building the capacity and knowledge necessary to comply with the spirit and letter of Section 208 of the E-Government Act, including any AI impact requirements set out by the Executive Order or OMB.
6. Support OMB and OSTP efforts to make use case inventory content on AI.gov more user-friendly. Another key step toward greater transparency and accountability would be the creation of a portal disclosing the details of each AI system that federal agencies are developing, purchasing, using, or considering for adoption. This database could be incorporated into AI.gov, which has become a helpful resource for researchers, civil

---

<sup>2</sup> Executive Order 13859, *Maintaining American Leadership in Artificial Intelligence* (Feb. 11, 2019), <https://www.federalregister.gov/documents/2019/02/14/2019-02544/maintaining-american-leadership-in-artificial-intelligence>; Executive Order 13960, *Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government* (Dec. 8, 2020), <https://www.federalregister.gov/documents/2020/12/08/2020-27065/promoting-the-use-of-trustworthy-artificial-intelligence-in-the-federal-government>.

<sup>3</sup> Ben Winters, *Two Key AI Transparency Measures from Executive Orders Remain Largely Unfulfilled Past Deadlines*, EPIC (Jan. 26, 2022), <https://epic.org/unfulfilled-ai-executive-orders/>.

<sup>4</sup> 44 U.S.C. § 3501 note.

<sup>5</sup> Press release, Fact Sheet: Biden-Harris Administration Announces New Actions to Promote Responsible AI Innovation that Protects Americans' Rights and Safety, White House (May 4, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/04/fact-sheet-biden-harris-administration-announces-new-actions-to-promote-responsible-ai-innovation-that-protects-americans-rights-and-safety/>.

society, and the public. The content of the portal should be searchable, browsable, accessible, and uniformly formatted, rather than spread across numerous disparate files.

EPIC thanks you for the dedication your administration has shown to protecting people from the harms that AI systems are causing. If your Administration has any questions or would like to discuss this further, please contact EPIC Senior Counsel Ben Winters at [winters@epic.org](mailto:winters@epic.org) or 202-483-1140 x126.

Sincerely,

/s/ Ben Winters

Ben Winters  
EPIC Senior Counsel

/s/ John Davisson

John Davisson  
EPIC Director of Litigation

/s/ Kara Williams

Kara Williams  
EPIC Law Fellow

cc:

Jeff Zients, Chief of Staff to President Joseph Biden  
Neera Tanden, Domestic Policy Advisor and Director, Domestic Policy Council  
Lorraine Voles, Chief of Staff to Vice President Kamala Harris  
Erin Wilson, Deputy Chief of Staff to Vice President Kamala Harris  
Ami Fields-Meyer, Senior Policy Advisor, Office of the Vice President  
Arati Prabhakar, Assistant to the President for Science and Technology and Director, White House Office of Science and Technology Policy  
Deirdre Mulligan, Principal Deputy U.S. Chief Technology Officer, White House Office of Science and Technology Policy  
Asad Ramzanali, Chief of Staff, White House Office of Science and Technology Policy  
Nik Marda, Technology Division Chief of Staff, White House Office of Science and Technology Policy  
Shalanda Young, Director, Office of Management and Budget  
Katie Keith, Deputy Assistant to the President, Deputy Director, Gender Policy Council  
Lina Volin, Director for Health Policy, Gender Policy Council  
Cailin Crockett, Director of Defense Personnel, National Security Council and Senior Advisor, Gender Policy Council  
Bharat Ramamurti, Deputy Director, National Economic Council  
Elizabeth Kelly, Special Assistant to the President for Economic Policy, National Economic Council  
Hannah Garden-Monheit, Special Assistant to the President for Economic Policy, National Economic Council