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March 13, 2020

Alexander Hunt,
Office of Management and Budget, Office of Information and Regulatory Affairs

Re: RFC Response: Guidance for Regulation of Artificial Intelligence Applications

Dear Mr. Hunt,

The Data Coalition is America's premier voice on data policy. As a membership-based business association, the Data Coalition advocates for responsible policies to make government data high-quality, accessible, and usable. Our work unites data communities that focus on data science, management, evaluation, statistics, and technology in companies, nonprofit organizations, and academia.

The Data Coalition members play a significant role in supporting government's efforts to deploy innovative and emerging technologies that benefit American society. The Data Coalition supports policies that encourage responsible, ethical use of these technologies, such as artificial intelligence (AI). Specifically, the Data Coalition advocates for policies that support efforts to foster rigorous data analysis for evidence-based policymaking, while facilitating equitable data use and appropriate privacy protections.

In coming weeks, the Data Coalition is launching a new AI and Innovation Task Force, which will be a strategic resource for policymakers in applying the latest expertise from the private sector to help shape emerging government policies through legislation, regulation, and guidance.

Trustworthy AI is a matter of national and economic concern, and developing a national AI strategy will help bolster innovation across our economy. The Data Coalition is pleased to see that the Administration engages in emerging AI needs in our government and society, recognizing this topic by both considering the economic and social promise as well as the ongoing need to protect civil liberties, privacy, and American values.

The Data Coalition members prioritize reasonable and ethical practices for government's AI policies. In that spirit, the Data Coalition offers the following comments in response to the RFC:

- 1. Support Efforts to Bolster Public Trust in AI.**

The Data Coalition appreciates the understanding that, like all forms of data analysis, AI applications and technologies must be trusted by the American public in order to realize full potential and societal benefits. The Data Coalition suggests:

Public trust is fostered by both explainability and transparency.

Many AI applications rely on “black box” solutions, which make it difficult for human programmers to explain why these programs produce the output they do. For example, should an AI application “decide” that someone does not qualify for a loan, that decision must be explainable to both humans and the courts, satisfying legal muster.¹ Transparency that discloses complex underlying mathematics and programming will not be helpful to many lay people, and therefore will not help build understanding and trust. Explainability and transparency are both needed. Trust will come from being able to explain why (or why not) a result/decision happened and how errors may be addressed will be essential.² Importantly, different stakeholders may require varied levels of understanding and transparency (e.g., socially-relevant transparency and scientifically-relevant transparency). AI will be successfully explained when it is tailored to what people actually need and want.

Ethical Practice is Key. Explainability and transparency cannot alone maintain public trust -- AI developers and practitioners must also abide by ethical practices and standards to avoid abuses and misuses of AI applications. Attention should be given to the guardrails that society and government collectively need and want to support continued ethical practices for AI deployment and use.

Capacity should be developed to investigate AI limitations.

When adopting new technology in society, organizations and people engage in a learning process where improvements may need to be applied over time to calibrate based on expectations and even shortcomings. Whether in government or the private sector, auditing and evaluation processes for studying and improving underlying algorithms and programming offer potential to continuously improve AI approaches. Further consideration should be given to potential approaches for data subjects to appeal results for AI systems that support decision-making processes that result in a change of eligibility or receipt of benefits or services.

2. Set clear evaluation metrics for pilot programs and experiments.

The draft guidance includes a section encouraging agencies to pilot programs or run experiments with AI applications. The Data Coalition strongly supports efforts to test applications prior to scaling or large-scale deployment in federal agencies. We also recommend that government AI projects have clear evaluation metrics established prior to the experiment or pilot so that projects can be assessed based on the stated goals and objectives. Evaluation

¹ [Explainability: Expanding Beyond Transparency in White House Artificial Intelligence Guidance](#)), Steven Moore, Vice President, Global Government Affairs, DataRobot

² [Explainable Artificial Intelligence \(XAI\)](#), Matt Turek, DARPA

metrics could incorporate attributes for the agency's stated goals as well as effectiveness, efficiency, and cost.³

Projects should also articulate appropriate and reasonable targeting for scope and scale ex ante. Targets for projects could include understanding (1) the consequences of failure are minimal; (2) the context is constrained; and (3) a human overseer is present.

3. Develop and implement data standards for high-quality information to support AI applications

AI requires high-quality, accessible data to be deployed. Without high-quality information, the success of AI is dubious. For this reason, attention must be paid to improving the country's overall data infrastructure in order to facilitate successful applications of AI and other emerging technologicals and analytical approaches.

The Data Coalition encourages that any ongoing efforts to issue guidance or potential regulations for the federal government on AI align with the Federal Data Strategy principles and practices. In fact, Action 8 in the 2020 Action Plan for the Federal Data Strategy is to improve Data and Model Resources for AI research and development.⁴ Moving forward, future actions must move beyond solely the research function to address AI's reliance in government agencies on the success of virtually every other aspect of the Federal Data Strategy.

Further, the current metadata standards required for Federal Agencies to make federal dataset discoverable on Data.gov should be expanded to allow for discoverability of datasets that may be useful for AI research and development.

4. Enable and Promote Open Data.

The Foundations for Evidence-Based Policymaking Act of 2018 (P.L 115-435) includes the OPEN Government Data Act (Title II), which requires federal agencies to publish their non-sensitive information as open data when possible. The Data Coalition encourages agencies to prioritize development of open data plans and publications of open data, specifically by (1) incorporating input from non-federal AI researchers and users, (2) reflecting the principles and practices of the Federal Data Strategy,⁵ and (3) identifying datasets that support individual agencies' mission and public benefits purposes such as accountability, transparency, research, and analytical R&D goals that could support further AI deployment, for example.

5. Coordinate and Resource as Needed for Successful AI Across Government

While AI applications hold potential to drastically improve certain government operations and practices, with substantial benefits to the American public, the success of these applications in

³ [Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies](#), Engstrom et al, Administrative Conference of the United States, 2020

⁴ [Federal Data Strategy](#)

⁵ *ibid*

government will require calibrating with existing activities, coordinating across and within agencies, and providing sufficient resources, including funding and expertise.

OMB should provide leadership in supporting implementation of new AI approaches through appropriate interagency councils, including the Interagency Council on Statistical Policy, the Interagency Council on Evaluation Policy, the Chief Data Officers Council, and other relevant interagency bodies. In addition, the Data Coalition recommends that OMB encourage agencies to include plans for long term, sustainable funding for AI as part of the FY 2022 budget guidance so future needs can be clearly articulated to the American public and Congress.