The State of Maryland
Executive Department

EXECUTIVE ORDER
01.01.2024.02

<u>Catalyzing the Responsible and Productive Use</u>
<u>of Artificial Intelligence in Maryland State Government</u>

WHEREAS,   Artificial intelligence (AI) is transforming society and work in myriad ways, and the pace of that change will continue to accelerate - unlocking new opportunities and risks for Maryland's residents, workers, and economy;

WHEREAS,   To meet the moment, the State must begin its work to ensure the use of AI in Maryland state government is responsible, ethical, beneficial, and trustworthy;

WHEREAS,   Maryland is home to a rich and growing AI ecosystem of academic, industry, government, and civil society experts, researchers, builders, organizers, and stakeholders;

WHEREAS   To foster an environment for innovation while respecting individuals, employees, and civil rights, as AI technologies are developed and evolve, they should be analyzed and monitored by government officials, industry experts, consumer protection advocates, and other stakeholders;

WHEREAS   Given the rapid rate of change in AI technologies and industry, the State must chart a principled yet adaptable, pragmatic path forward, so that the technology's benefits can be confidently harnessed on behalf of Marylanders and in service of our mission to Leave No One Behind; and

WHEREAS,   Leaders across Maryland government share a common interest in establishing effective AI governance, and are committed to working together to develop the legal and policy framework for its responsible use in the State.

NOW, THEREFORE,   I, WES MOORE, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Definitions. In this Executive Order, the following terms have the meaning indicated.

1. The term "artificial intelligence" or "AI" has the meaning set forth in 15 U.S.C. § 9401(3): a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. Artificial intelligence systems use machine- and human-based inputs to perceive real and virtual environments; abstract such perceptions into models through analysis in an automated manner; and use model inference to formulate options for information or action.

2. The term "generative AI" or "GenAI" refers to AI algorithms and models that can create new content, including audio, code, images, text, and video, based on the data they are trained on.

B. Principles. Any use of AI in Maryland state agencies shall be rooted in the following.

1. Fairness and equity.

   The State's use of AI must take into account the fact that AI systems can perpetuate harmful biases, and take steps to mitigate those risks, in order to avoid discrimination or disparate impact to individuals or communities based on their race, color, ethnicity, sex, religion, age, ancestry or national origin, disability, veteran status, marital status, sexual orientation, gender identity, genetic information, or any other classification protected by law.

2. Innovation.

   When used responsibly and in human-centered and mission-aligned ways, AI has the potential to be a tremendous force for good. The State commits to exploring ways AI can be leveraged to improve State services and resident outcomes.

3. Privacy.

   Individuals' privacy rights should be preserved by design in the State's use of AI, while ensuring that data creation, collection, and processing are secure and in line with all applicable laws and regulations.

4. Safety, security, and resiliency.

   AI presents new challenges and opportunities for ensuring the safety and security of Maryland residents, infrastructure, systems, and data. The State commits to adopting best practice guidelines and standards to surface and mitigate safety risks stemming from AI, while ensuring AI tools are resilient to threats.

5. Validity and reliability.

   AI systems can change over time. The State should have mechanisms to ensure that these systems are working as intended, with accurate outputs and robust performance.

6. Transparency, accountability, and explainability.

   The State's use of AI should be clearly and regularly documented and disclosed, in order to enable accountability. The outputs of AI systems in use by the State should be explainable and interpretable to oversight bodies and residents, with clear human oversight.

C. Establishment of AI Subcabinet. To ensure these principles are at the root of all AI use by Maryland state government agencies, there is hereby established an AI Subcabinet of the Governor's Executive Council (the "AI Subcabinet").

   1. Purpose. The purpose of the AI Subcabinet is to:

      a. Promote the principles set forth in this executive order among all units of State government;

      b. Provide advice and recommendations to the Governor on matters related to AI; and

      c. Facilitate statewide coordination on the responsible, ethical, and productive use of AI, including by recommending approaches and State policies, setting objectives and priorities, structuring workstreams, establishing working groups, and building internal and external partnerships as needed.

   2. Membership. The AI Subcabinet shall include the following members.

      a. The Secretary of Information Technology;

      b. The Secretary of Budget and Management;

      c. The Secretary of General Services;

      d.   The Secretary of Labor;

      e.   The Secretary of Commerce;

      f.   The Director of the Governor's Office of Homeland Security;

      g.   The Chief Privacy Officer;

      h.   The Chief Data Officer;

      1.   The Senior Advisor for Responsible AI; and

      J.   Any additional member of the Governor's Executive Council at the discretion of the Chair.

3. Chair. The Secretary of the Department of Information Technology shall chair the AI Subcabinet.

4. The AI Subcabinet may designate working groups from the members' agencies to assist in the performance of its duties.

5. Each Executive Branch department and agency is hereby required, to the extent not inconsistent with law, to cooperate fully with the AI Subcabinet, and to furnish such assistance - including data, reports, or other information and assistance - on as timely a basis as is necessary to accomplish the purpose of the Executive Order.

D. AI Action Plan. The AI Subcabinet shall develop and implement a comprehensive action plan that takes a phased approach to operationalizing the State's Al principles. The elements of this plan shall draw upon emerging and established guidance such as NIST's AI Risk Management Framework, while acknowledging that global best practices and standards in AI governance are still being formulated and evolving. It will include at a mm1mum:

1. A path to establishing policies, processes, standards, contracts, and playbooks that ensure any AI tools procured by the State adhere to the AI principles.

2. Developing an approach and timeline to embedding risk-based assessments for Al tools into state processes.

3. Developing an approach and timeline to move towards continuous monitoring of AI tools, to ensure they continue to reflect the state's adopted values.

4. An approach to conducting legal analyses on an ongoing basis to evaluate evolving AI impacts to existing laws, policies, and regulations, and any necessary changes therein.

E. Promotion of AI Knowledge, Skills, and Talent in State Government. In order to upskill the state workforce and ensure access to needed AI talent, the AI Subcabinet shall:

   1. Find, evaluate, and offer training programs for state workers on the use of AI, and particularly Generative AI.

   2. Explore ways to provide external AI talent, such as in academic institutions or industry, an opportunity to serve Marylanders and State government agencies via targeted, short-term projects.

F. Recommendations for Critical Domains.

   1. Over time, AI may have particular influence and impact on certain sectors of Maryland's economy, environment, and society. The AI Subcabinet shall oversee and coordinate efforts to study and provide recommendations to the Governor and the legislature for Maryland-specific approaches in the following critical domains: workforce, economic development, and security.

      a. Workforce: Potential impacts of AI on the Maryland workforce in the coming decade and responses - including opportunities to upskill the workforce - in collaboration, as appropriate, with external experts, workers, labor unions, business, and civil society.

      b. Economic development: Opportunities and approaches for AI to drive job and business creation and growth in Maryland.

      c. Security: Mapping emergent cyber and physical security and resiliency risks to Maryland infrastructure and residents stemming from AI, along with prioritized recommendations.

   2. The AI Subcabinet may determine, at its discretion, any additional sectors that will be identified and studied as critical domains.

G. Identify AI Use Cases and Build Foundational Infrastructure.

   1. The Department of Information Technology shall evaluate relevant infrastructure to safely, securely, and efficiently test AI proofs of concept (PoCs) and pilots.

   2. The Department of General Services, in close consultation and partnership with the Department of Information Technology, shall create a repeatable playbook for running and procuring AI PoCs and pilots in compliance with applicable State laws, regulations, and policies.

   3. The Department of Information Technology, in consultation with the AI Subcabinet, will work with interested agencies to provide support in identifying

and prioritizing use cases and executing PoCs/pilots for key areas in line with the Governor's priorities.

H. Nothing in this Executive Order shall be construed to impair or otherwise affect the authority granted by law to an executive department or agency.

I. This Executive Order shall be implemented in a manner that is consistent with all applicable statutes and regulations. Nothing in this Executive Order shall operate to contravene any State or federal law or to affect the State's receipt of federal funding.

J. If any provision of this Executive Order is held invalid, or its application to a person, event or circumstances is held invalid by any court of competent jurisdiction, all other applications or provisions of the Executive Order shall remain in effect to the greatest extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are severable.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 8th Day of January 2024.

Wes Moore
Governor

ATTEST:

Susan C. Lee
Secretary of State