



Reporting Live!
*from the changing tides of AI
governance*

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An aerial photograph of a coastline, showing waves breaking onto a sandy beach. The water is a mix of light blue and white foam from the waves. The beach is a light tan color. The image is partially obscured by a white, torn-edge paper effect on the right side.

Outline

Ebb and flow of legislation
and regulation

Sectoral impacts:

Government

Organizational governance

Governance technologies

How to ride the waves

Legislation and Regulation

- Patchwork of laws and regulations
 - Federal framework
 - State laws
 - EU AI Act
 - AI-adjacent – [consumer protection](#), IP, algorithmic discrimination, deepfakes
- Regulatory [retrenchment](#)
- Government use of AI
 - Shift into Trump-era governance
- Developing governance frameworks for different contexts



Impacts to Government

- What has changed? Not as much as you'd think
- Elements of federal governance – inventories, high-impact AI, procurement
- What are federal agencies doing now?
- Where is federal governance headed?
Notable trends



Organizational Governance



- Absent black letter law/precedent – risk management
 - *Every* AI implementation carries benefits and risks that can manifest unexpectedly
 - *Everyone* who develops, deploys, purchases, or interacts with AI systems bears some responsibility for identifying and managing risks
 - Identifying and proactively managing risks enables quicker, more responsible AI adoption that protects the organization

DOJ AI Risk Management

Risk-Based Approach

Non-High
Impact

- Leadership Approval
- Risk Certification and Acceptance
- Ongoing Evaluation Plan

High
Impact

- Additional Risk Management Practices
- Test & Assess
- Access, Amendment, Appeal

Implementation

- Leverage Privacy and Security RMFs
- Dynamic Approach + Consistent Interpretation
- Risk-based Resource Allocation
- Transparency in Reporting

DOJ's Hybrid AI Governance Framework



Top-Down
Policies

Leadership Oversight

Authorization
Processes



Bottom-Up
Innovation

Implementation

AI Literacy &
Empowerment



Cross-Functional
Collaboration

Subject-Matter
Experts

Accessibility

Hidden Undercurrents in AI Implementation



Privilege Risks

Using AI for legal analysis without proper review protocols may waive privilege or create discoverable work product.



Shadow IT

Employees using unauthorized AI tools (ChatGPT, Claude, etc.) with confidential data without IT/legal approval.



IP Contamination

Training data or outputs that incorporate copyrighted material, creating infringement risks for your organization.



Bias Blindness

Deploying AI for decisions affecting people (e.g., hiring, credit, benefits) without bias testing or disparate impact analysis.



Vendor Lock-In

Contracts without exit strategies, data portability, or alternative provider options if vendor fails or changes terms.



Documentation Gaps

Lack of audit trails, decision logs, or documentation needed to defend AI-assisted decisions or demonstrate compliance.

Critical AI Vendor Contract Provisions

Data Protection

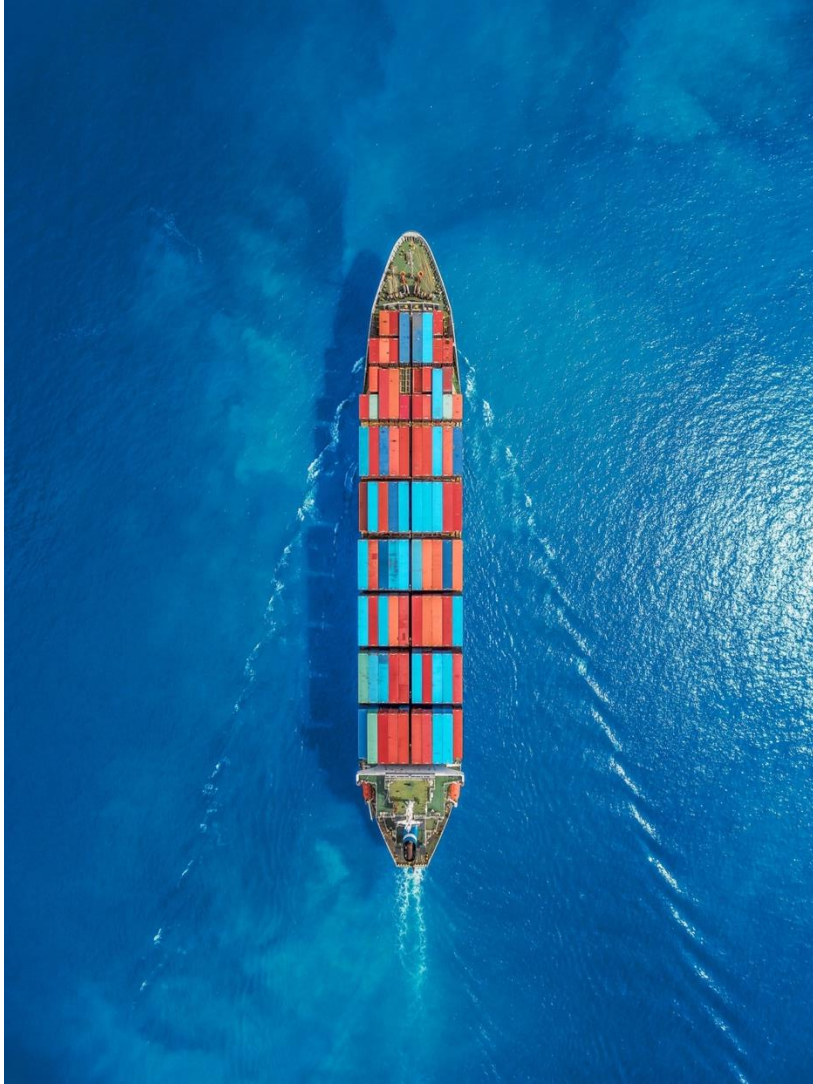
- Prohibition on model training with your data. Data deletion upon termination
- Processing limited to documented purpose
- Compliance with privacy policies

Operational and Audit

- Model performance guarantees
- Transparency on updates
- Right to audit/assess
- Incident notification
- Audit log retention

Liability and IP

- Regulatory compliance liability
- Discriminatory outcome liability
- IP indemnification
- Insurance minimums
- Data residency requirements



Federal Procurement of AI

Office of Management and Budget Memoranda

- M-25-22: Driving Efficient Acquisition of Artificial Intelligence in the Federal Government
- M-26-04: Increasing Public Trust in Artificial Intelligence
- M-25-21: Accelerating Federal Use of AI through Innovation, Governance, and Public Trust

Federal Procurement of AI, Cont'd

How the Memoranda Work in Practice

Pre-Contract: Product and Architectural Literature (even for 3rd parties)

Contract Performance:

- Quality Assurance & Performance Monitoring
- Selection & Evaluation

End of Contract: Handing Over the Keys and 'Vendor Lock-In'



Governance Technologies

AI can enhance governance, too!

- Building AI literacy in law firms
- Getting the right information to choose solutions
- Note on continuous monitoring
- Not just technical controls



How to Adapt & *Anticipate*

- Shift from traditional advisory roles to collaborative partnerships – “governance/privacy/anything by design” structure
- Alignment through trust-building and reframing the “no”
- Understanding and mitigating risk
- If you’re not already (a lot of lawyers aren’t!). . .

use the technology!



Q&A

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