

Office of the Chief Information Officer

Automated Decision Making Systems Workgroup Charter

July 2021

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Background

In the 2021-23 biennial operating budget, the state Legislature provided one-time funding to the Office of the Chief Information Officer (OCIO) to convene a workgroup and produce a report related to the adoption and use of automated decision-making systems (ADS) in the state. Due to the nature of automated decision systems and the increasing adoption of emerging technology in government, it is important that these systems are deployed in a manner which is fair, transparent, and accountable.

Purpose

The purpose of the ADS workgroup is to develop recommendations for changes in state law and policy regarding the development, procurement, and use of automated decision systems by public agencies. The ADS workgroup will examine how automated decision-making systems can best be reviewed before adoption, and while in operation, and be periodically audited to ensure that such systems are fair, transparent, and accountable and do not improperly advantage or disadvantage Washington residents. This charter will serve as the governing document that outlines the responsibilities, membership, and outcomes of the ADS workgroup.

Responsibilities

The ADS workgroup established as part of the 21-23 biennial budget process laid out clear deliverables of the workgroup, as well as processes and definitions. The workgroup is primarily tasked with the following activities:

- Develop recommendations for changes in state law and policy regarding the development, procurement, and use of automated decision systems by public agencies.
- Assess the impact of those recommendations by evaluating existing system in use by an agency as described within the proviso.
- Produce a final report to the Legislature and governor by December 1, 2021.

In addition to these core responsibilities, the workgroup must examine specific use cases relative to ADS technology. These are described below in the “Relevant Details” section.

Membership

The following members are required to participate in the workgroup, as described in the 21-23 operating budget:

- A representative of the OCIO, who chairs the workgroup.
- A representative of the Department of Children, Youth, and Families (DCYF).
- A representative of the Department of Corrections (DOC).

- A representative of the Department of Social and Health Services (DSHS).
- A representative of the Department of Enterprise Services (DES).
- At least two (2) representatives from universities or research institutions who are experts in the design and effect of an algorithmic system.
- At least five (5) representatives from advocacy organizations that represent communities that are disproportionately vulnerable to being harmed by algorithmic bias, including, but not limited to, African American, Hispanic American, Native American, and Asian American communities, religious minorities, people with disabilities, and other vulnerable communities.

Additional members may be added to the workgroup at the discretion of the chair.

Procedures

Chair and staff support

The chair of the workgroup is responsible for establishing meeting agendas, conducting the workgroup meetings, and ensuring that satisfactory progress towards required deliverables is being met. Each state agency identified as a participant on the workgroup must provide staff support to the workgroup and its activities.

Meetings

The workgroup must meet at least four (4) times, or more frequently if necessary, to complete its work. Required meetings will be publicly posted, held in ADA-accessible locations, and accommodate auxiliary aids for persons with disabilities when requested in advance. The workgroup may meet either virtually or in person to accomplish its goals. Meetings are expected to be conducted virtually; however, the chair of the workgroup has discretion on the way meetings are conducted. Whether an ADS workgroup meeting occurs virtually or in person will be published at least two weeks prior to any scheduled meeting date.

Attendance

Workgroup members are expected to consistently attend workgroup meetings. The chair will provide a meeting agenda at least seven (7) calendar days prior to any scheduled workgroup meeting. If a member is unable to attend a workgroup meeting, the member must notify the chair in advance. Substitutes to the workgroup may be considered at the chair's discretion.

Public comment

The workgroup's agenda will include an opportunity for any attendees from the public to comment on the material discussed in the meeting agenda. The chair may set and monitor time limits during any public comment period. Public comments may also be submitted to the

workgroup in writing outside of meeting activities directly to the contacts listed at the end of this charter.

Meeting minutes

Workgroup meetings will be summarized via written minutes. These minutes will be made available to the public on the same website as other meeting materials.

Decisions

Workgroup decisions that require a vote will be decided with a quorum of 60% of the members.

Relevant Details

In addition to the deliverables identified in the budget bill, the ADS workgroup has several tasks and considerations which are prescribed. These are summarized below.

Policy change considerations

When examining use cases for possible policy changes, the workgroup must consider the following:

- When state agency use of ADS technology should be prohibited.
- When state agency use of artificial intelligence-enabled profiling should be prohibited.
- Changes in procurement of automated decision systems, including when the procurement must receive prior approval by the office of the chief information officer.
- How to review, identify, and audit systems to ensure that the system prior to procurement and after placed into service does not discriminate against an individual, or treat an individual less favorably than another, in whole or in part, on the basis of one or more factors enumerated in [RCW 49.60.010](#).
- How to provide public notice when ADS technology is in use and how to appeal decisions.
- How ADS data should be stored and whether such data should be shared outside the system.

Additionally, other issues may be considered as determined by the OCIO or the Department of Enterprise Services if they are necessary to govern state agency procurement and use of ADS technology.

Impact of recommendations

In order to demonstrate the impact of its recommendations, the ADS workgroup must select a system in use by a state agency and describe how the implementation of any recommendations would affect:

- (1) The procurement of a new system; and
- (2) The use of an existing system.

For this work, the ADS workgroup must select **one** of the following systems:

- The DCYF system used to determine risk in the family child welfare system;
- The DOC system used to determine risk for purposes of evaluating early release and/or sentencing; or
- The DSHS system used for hospital admissions.

Definition of automated decision system

For the purposes of the workgroup, the following definition of an automated decision system shall be used:

- **“Automated decision system”** or “system” means any algorithm, including one incorporating machine learning or other artificial intelligence techniques, that uses data-based analysis or calculations to make or support government decisions, judgments, or conclusions that cause a Washington resident to be treated differently than another Washington resident in the nature or amount of governmental interaction with that individual including, without limitation, benefits, protections, required payments, penalties, regulations, timing, application, or process requirements.

Authorizing statute

The automated decision systems workgroup is authorized in law by [Chapter 334, Laws of 2021, Sec. 151\(14\)](#).

Contact

Questions regarding the ADS workgroup or this charter can be directed to:

- Katy Ruckle, State Chief Privacy Officer (privacy@ocio.wa.gov)
- Derek Puckett, Legislative Affairs Director (derek.puckett@watech.wa.gov)