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# State and Local Government Generative Artificial Intelligence (AI) Use Policies

**by Practical Law Government Practice**

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An Article summarizing recent state and local government generative artificial intelligence (AI) use policies. These policies focus primarily on acceptable uses of generative AI while performing government functions and services. These policies include guidance on acceptable and prohibited uses, transparency and labeling requirements, attribution and copyright infringement risks, potential biases and inaccuracies, data privacy and security risks, accountability, and public record creation.

Many state and local governments are enacting policies concerning the use of generative artificial intelligence (AI). These policies and guidelines serve as a proactive measure to reduce the inherent risks associated with using generative AI. Many of these policies include guidance on disclosing confidential or sensitive information, attributing copyrighted material, labeling and fact-checking AI-generated content, reducing or removing biased and inaccurate information, creating public records, assessing security risks, software code development, and sample use cases.

This Article includes a summary of current state and local government generative AI policies and guidelines and provides links to the language of the policies and guidelines.

## Boston, Massachusetts

On March 18, 2023, the City of Boston issued Interim Guidelines for Using Generative Artificial Intelligence (AI) outlining acceptable uses (including examples of do's and don'ts) and possible risks associated with using generative AI. These guidelines anticipate eventual replacement by policies and standards. The guidelines apply to all city agencies and departments, excluding Boston public schools.

### Principles for Using Generative AI

The City of Boston's guideline principles are:

- **Empowerment.** Ensure benefits from using AI tools do not negatively affect the city or its constituents.

- **Inclusion and respect.** Respectfully and responsibly use AI tools in a way that uplifts all people.

- **Transparency and accountability.** Be transparent and accountable for costs and effects associated with using AI tools.

- **Innovation and risk management.** Be responsible when experimenting with new generative AI technology. Acknowledge the risks associated with using new generative AI technology.

- **Privacy and security.** Be aware of generative AI's effect on the agency's or department's security and the constituents' privacy and digital rights.

- **Public purpose.** Maintain service to the public as the focal point. Remember public service is the center of the entity's work.

(See City of Boston Interim Guidelines for Using Generative AI.)

### Usage Guidelines

The City of Boston's guidelines suggest that affected persons:

- Fact check and review all AI-generated content for inaccurate or biased information, especially if used in public communication or decision-making.

- Disclose the use of AI-generated content, including the specific versions and type.

- Not share sensitive, private, or confidential information in the prompts.

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(See City of Boston Interim Guidelines for Using Generative AI.)

## Seattle, Washington

On April 18, 2023, the City of Seattle issued the Use of Generative Artificial Intelligence in City of Seattle Interim Policy outlining acceptable uses of generative AI in city departments. This policy is enforced by the city's Chief Technology Officer (CTO), and failure to follow this policy may result in disciplinary or administrative action. The policy requires departments and city employees to:

- Obtain permissions from Seattle IT before accessing any generative AI product as a city employee.

- Use the city's acquisition process to purchase all generative AI software services.

- Ensure copyrighted material in AI-generated content is not published without proper attribution or without obtaining the proper rights.

- Label content produced using generative AI, including how and who edited the content.

- Reduce or remove biased and potentially harmful or offensive material from AI-generated content.

- Not submit sensitive, confidential, regulated, or personal identifiable data about members of the public to generative AI systems.

- Be aware that generative AI content may create public records subject to the Washington Public Records Act.

(See City of Seattle Use of Generative AI Interim Policy.)

## San Jose, California

On July 20, 2023, the City of San Jose created Generative AI Guidelines outlining acceptable use of generative AI for city staff members, contractors, volunteers, and other users.

### Principles for Using Generative AI

The City of San Jose's guideline principles are:

- **Privacy first.** Only disclose information to generative AI systems that is safe for public disclosure. This includes text, photos, videos, and voice recordings.

- **Accurate.** Confirm that AI-generated content is accurate.

- **Transparent.** Notate when AI generative systems are used to create city content.

- **Equitable.** Be mindful of and correct biased information in AI-generated content.

- **Human owned.** Be aware that users are accountable and responsible for AI-generated content.

- **Beneficial.** Responsibly incorporate generative AI into city work to make city services better and more efficient.

(See City of San Jose Generative AI Guidelines.)

### Usage Guidelines

The City of San Jose's guidelines suggest that affected persons:

- Be aware that information entered in generative AI systems are public records subject to the California Public Records Act and city retention policies.

- Create an account for all generative AI usage, such as services like ChapGPT, when using it specifically for city work.

- Use multiple credible sources to fact-check generative AI content for accuracy.

- Cite when a substantial portion of content is created using generative AI, including images and video.

- Record the use of generative AI in the city's generative AI citation form.

- Assess the risks associated with using generative AI tools, such as risks of information breach and adverse effects. Risks range from mid-risk to high-risk to intolerable risk. Users engaged in high-risk use cases must:

  - review generative AI content for tone and specific language;

  - cite and link verifiable sources, such as past memos, news articles, or research papers; and

  - not input information that should not be released or shared with the public, such as draft requests for proposals (RFPs), vendor transactions, procurement approvals, or internal city decisions.

- Review the city's generative AI guidelines quarterly.

(See City of San Jose Generative AI Guidelines.)

## Kansas

On July 25, 2023, the State of Kansas adopted a Generative Artificial Intelligence Policy outlining acceptable use of generative AI for state agencies, boards, commissions,

agents, and contractors. The policy applies to all state business, including:

- Software code development.

- Written documentation and correspondence.

- Research.

- Summarizing and proofreading documents.

- Decisions that affect short- and long-term activities, policies, and procedures.

(See State of Kansas Generative AI Policy.)

## Guidelines for Generative AI Responses

Knowledgeable human operators must review generative AI responses for accuracy, appropriateness, privacy, and security before using the content. Generative AI responses cannot be:

- Used verbatim.

- Assumed to be true, credible, or accurate.

- The sole source of reference.

- Used to issue official statements.

- The sole basis for making final decisions.

- Used to impersonate individuals or organizations.

(See State of Kansas Generative AI Policy.)

## Prohibited Information and Uses

The policy prohibits persons from entering into generative AI systems:

- Restricted use information (RUI) as defined by the State of Kansas.

- Inappropriate material for public release. Information entered in generative AI is subject to the State of Kansas Social Media Policy and treated as available to the public (public record).

- Copyrighted material.

- Confidential data. This also applies to agency contracts.

The policy also prohibits using generative AI for harmful or illegal activities or actions that violate state or agency acceptable-use policies. (See State of Kansas Generative AI Policy.)

## Contractor Requirements

Contractors furnishing goods or services to the State of Kansas:

- Cannot use confidential state information, especially not state RUI information, when:

  - making generative AI queries;

  - building a generative AI program. If a contractor wants to use confidential state information to build a proprietary AI program, the contractor must obtain permission from the agency director; or

  - training others in the use of generative AI. If a contractor wants to use state information in training certain applicable state employees or to develop their own training programs, the contractor must obtain permission from the agency director.

- When using AI to develop software for the State of Kansas, must:

  - show that they control all data input into the generative AI system; and

  - disclose the use or integration of generative AI in their contracts with the state.

(See State of Kansas Generative AI Policy.)

## Software Code Development

State entities using software code developed by generative AI must:

- Identify and mitigate all related business and security risks before implementing the software code.

- Annotate software code generated by generative AI.

(See State of Kansas Generative AI Policy.)

# Washington State

On August 8, 2023, the State of Washington adopted Interim Guidelines for Purposeful and Responsible Use of Generative Artificial Intelligence outlining responsible and ethical uses of generative AI technologies within state government. The guidelines apply to all state employees.

## Principles for Using Generative AI

The State of Washington's guideline principles are:

- **Safe, secure, and resilient.** Ensure generative AI systems are reliable, resilient, and controllable and do not endanger human life or property.

- **Valid and reliable.** Ensure AI-generated content is accurate, valid, and reliable.

- **Fairness, inclusion, and non-discrimination.** Ensure generative AI systems support and uplift all

communities (particularly historically marginalized communities) and address harmful biases and discrimination.

- **Privacy and data protection.** Respect user privacy, protect data, and comply with privacy regulations and standards.

- **Accountability and responsibility.** Use generative AI systems responsibly. Agencies are accountable for AI-generated content's performance effects and consequences.

- **Transparency and auditability.** Act transparently and create a record of AI processes.

- **Explainable and interpretable.** Explain how and why AI decisions are made, including the context, and meaning of the decisions.

- **Public purpose and social benefit.** Use AI to deliver better and more equitable state services.

(See State of Washington Interim Guidelines for Purposeful and Responsible Use of Generative AI.)

## Usage Guidelines

The State of Washington's guidelines suggest that affected persons:

- Review and fact-check all AI-generated content to ensure it does not contain inaccurate or biased information.

- Label AI-generated content, including who and how it was edited.

- Ensure copyrighted material in generative AI content is properly attributed.

- Not enter sensitive or nonpublic data into generative AI systems unless given prior approval from the agency's privacy or security team.

(See State of Washington Interim Guidelines for Purposeful and Responsible Use of Generative AI.)

## Local Government Usage Guidelines

The State of Washington's guidelines suggest that local governments:

- Not disclose confidential information to commercial generative AI systems.

- Consider that content created with generative AI systems are public records under the Washington Public Records Act.

- Collaborate with the state's AI Community of Practice (AICop) to foster collective learning.

(See State of Washington Interim Guidelines for Purposeful and Responsible Use of Generative AI.)

## Generative AI Usage Scenarios: Best Practices and Things to Avoid

The State of Washington's guidelines suggest that when affected persons are using generative AI to:

- Rewrite documents in plain language for better accessibility and understandability, they should:

  - specify the reading level in the prompt;

  - use readability apps to ensure the text is easily understandable and matches the intended reading level;

  - review for biases and inaccuracies; and

  - not include sensitive or confidential information in the prompt.

- Condense longer documents or summarize text, they should:

  - read the entire document;

  - review the summary for biases and inaccuracies; and

  - not include sensitive or confidential information in the prompt.

- Draft documents, they should:

  - edit and review the document;

  - label AI-generated content, including who and how it was edited;

  - attribute copyrighted material;

  - not include sensitive or confidential information in the prompt; and

  - not use generative AI to draft sensitive communications.

- Code, they should:

  - understand what the code is doing before using generative AI systems;

  - understand the use of libraries and dependencies; and

  - be familiar with vulnerabilities and security risks associated with the code.

- Generate images, audio, and video content for more effective communication, they should:

  – review AI-generated content for biases and inaccuracies;

  – contact the communications department before using or making public AI-generated visual content; and

  – not include sensitive or confidential information in the prompt.

- Automate responses to frequently asked questions from residents, they should:

  – implement measures to protect resident data;

  – not use generative AI as a substitute for human interaction; and

  – provide ways for residents to seek human assistance when generative AI cannot address their needs.

(See State of Washington Interim Guidelines for Purposeful and Responsible Use of Generative AI.)

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