What Employers Should Know About Biden's AI Executive Order

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On October 30, 2023, President Biden issued an Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence (AI). The sweeping Executive Order sets out standards for safe and secure uses of AI with an emphasis on privacy protections, the promotion of innovation and competition, avoiding discrimination and bias, and supporting workers.

The Executive Order requires principles and best practices to be established by the Secretary of Labor within 180 days of the Executive Order. The principles and best practices will provide guidance for employers to "mitigate AI's potential harms to employees' well-being and maximize its potential benefits."

The principles and best practices must address the following,

• job-displacement risks and career opportunities related to AI, including effects on job skills and evaluation of applicants and workers
• labor standards and job quality, including issues related to the equity, protected activity, compensation, health, and safety implications of AI in the workplace
• implications for workers of employers' AI-related collection and use of data about them, including transparency, engagement, management, and activity protected under worker-protection laws

Agencies will likely adopt the Secretary of Labor's guidelines, as appropriate and consistent with applicable laws. We can also expect guidance on AI workforce development, as well as employee monitoring, which would ensure that workers whose work is monitored or augmented by AI are being properly compensated for their work time in accordance with the Fair Labor Standards Act.

Employers utilizing AI in the workplace should be mindful that as the uses of AI continue to expand, it is critical to ensure it is used in ways that safeguard worker protections. Gibbons will continue to monitor for principles and best practices, as well as additional

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guidance on AI's use in the workplace.

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