Akin

M E M O R A N D U M

January 10, 2024

From: Akin Gump Strauss Hauer & Feld LLP

Re: Summary of Senate Homeland Security and Governmental Affairs Committee Hearing: "Harnessing AI to Improve Government Services and Customer Experience."

On Wednesday, January 10, 2024, the Senate Homeland Security and Governmental Affairs Committee held a hearing titled, "Harnessing AI to Improve Government Services and Customer Experience." This memorandum provides a high-level summary of the hearing.

The following witnesses testified before the Committee:

- **Jennifer Pahlka**, Author of *Recoding America: Why Government Is Failing in the Digital Age and How We Can Do Better*, Former U.S. Deputy Chief Technology Officer

- **Beth Simone Noveck**, *Chief Innovation Officer*, State of New Jersey and *Professor of Experiential AI*, Northeastern University

- **Beth Blauer**, *Associate Vice Provost for Public Sector Innovation*, Johns Hopkins University

The following Members participated in the hearing:

 Chair Gary Peters (D-MI)
 Sen. Tom Carper (D-DE)
 Sen. Maggie Hassan (D-NH)
 Sen. Laphonza Butler (D-CA)

Member Opening Statements

Chair Gary Peters (D-MI) Opening Statement

- AI has the potential to make government services more efficient, while also making complex processes easier to navigate.

- This committee has passed my bill, the *Improving Government Services Act* (S.2866), which encourages federal agencies to adopt proven customer service tools to help ensure Americans get the assistance that they need.

- We have a responsibility to ensure that government can provide the most effective government services, as it can improve public trust in government, help our constituents, and strengthen democratic institutions.

Witness Testimony

Pahlka Testimony

- The U.S. must implement an enablement framework, which will expand government capacity by strengthening the workforce and reducing burdens, instead of a mandate and control framework, which will add rules and processes.

- The *Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence* ('AI EO'; EO 14110) provides safeguards, but I worry that some of its guidance will be applied inappropriately. Agencies have been using AI in day-to-day functions at low risks, and agencies may now subject these uses to red tape due to the EO.

- The status quo of government service delivery does not deserve to be protected, but poor application of AI systems could worsen the current situation. We must build digital capacity, which will strengthen the workforce and reduce burdens.

- Office of Personnel Management's (OPM's) recent memo titled "Government-wide Hiring Authorities for Advancing Federal Government Use of Artificial Intelligence (AI)", will grant direct hiring authority for several AI-related job classifications, but it does not allow for the use of pooled hiring across agencies. Congress should ask OPM about the authorities that they need to change the hiring processes, as well as the resources they need to scale programs.

- AI should be used to declutter current services, pairing them with leaner frameworks that the government develops.

Blauer Testimony

- An effective AI approach relies on investment in core data practices. A strong data practice will lead to safer AI implementation and anticipating resident needs, which will promote safer, more efficient, healthier communities.

- AI has the potential to predict the needs of residents by identifying households that are experiencing the early onset of economic distress. This will allow public agencies to provide immediate interventions that reduce barriers to aid.

- We advise local leaders to designate a trusted, senior leader in the community to deploy AI and focus on being transparent on AI deployment, using AI to explore what they already have, and creating space for experimentation.

- The government must invest in technology adoption across all levels and program areas to attract new skills to the sector and elevate the capacity of the current workforce. We need to start investing in the creation of public spaces to experiment with AI technologies.

- The *Improving Government Services Act* requires agencies to develop, implement, and submit a written customer experience strategy that includes the adoption of best practices from the private sector and long-term customer service modernization to Congress. This bill would greatly benefit the American people.

Noveck Testimony

- AI has the potential to make government more effective, efficient, and more responsive to residents. It can create a "conversational government," allowing the government to supply information, benefits, and services at all times.

- AI is helping us support public workers to better serve residents, which creates an array of digital benefits and makes them more readily available.

- The government is using AI to process data more efficiently, for example, parsing through comments when we ask citizens to leave comments on government initiatives. Furthermore, governments are using AI to improve public engagement.

- Congress can support federal efforts to implement AI systems by employing AI for more robust public engagement, using it to synthesize citizen comments, and engaging the public.

- We must do the following: (1) talk about how we are using and governing the use of AI in agencies; (2) open government data to facilitate the training of AI models; and, (3) build on the success of the *AI Leadership Training Act* (S.1564) by implementing free, accessible training for all federal employees that focuses on the practical application of government services.

Member Questions

Chair Gary Peters (D-MI) Questions

- What is your assessment of government service delivery today? What should we be striving for?
  - o **Pahlka:** It is getting better, but it needs to get better faster. As the private sector adopts AI, the gap between the public and private sectors will widen. The public sector needs to continue to support the current efforts that are going on, but also engage in policy simplification.

- How can AI help agencies provide quality outcomes for government services while also protecting individuals' privacy?
    - **Blauer:** First, we must employ leaders who can articulate goals for customer services, create expectations for customers for government service delivery, and assist in building the correct habits to hit those goals. We need to experiment with the technology, through the use of de-identified data, to prevent the exposure of individual data.
    - **Noveck:** Using chatbots will help us reduce the government backlog. AI will also help write clearer instructions, helping people receive customer service faster. But we need to also protect privacy and prevent the use of personally identifiable information.
    - **Pahlka:** We need to pair mandates and directives with enablement. Additionally, we need to ask agencies what can be removed to make processes easier.
- How can we change the federal procurement framework to better obtain and use capabilities like AI? Are there other types of reforms that you think are essential for us to consider?
    - **Pahlka:** The framework must be simpler. AI can help suggest some simplifications to the 2400-page-long framework.
- What are some measures that can be taken in federal procurement to promote competition?
    - **Noveck:** We need greater simplicity to enable smaller vendors to compete in this space. General Services Administration (GSA) has made strides on this through the Agile Procurement guide. The more we streamline, the more we can open up procurement and ensure that the tools we are procuring can translate into better services and better customer experience.
    - **Pahlka:** Open-source AI can be beneficial. If we consider using open-source AI to find a solution in government, it will allow for the promotion of competition in technology.
- How are mayors and local officials approaching the procurement of AI systems in their areas, and how can we learn from their work?
    - **Blauer:** It is important to look at local examples, as there are promising practices around outcomes-based procurement. We must think about how we can partner with AI developers and AI platforms to achieve some of the outcomes that we have been trying to crack for years. If we pivot away from thinking about procuring being focused on the technology, and instead get the technologist to partner with you through the procurement process, it will be transformational.
- Studies have indicated that 45% of Chief Data Officers (CDOs) believe that they do not have the responsibilities for AI at their individual agencies. How can the federal government ensure that CDOs are involved in improving service delivery?
    - **Noveck:** We need to ensure that CDOs have a seat at the table, and we must invest in the proactive publication and availability of data.

- o **Blauer:** CDOs need to have rounded expertise, as it will allow them to connect to government service employees. I have seen that the most successful CDOs have been empowered from a leadership level and have ensured that they are a part of the change that the government is trying to embark on.
- New Jersey is one of the first states to develop guidance on how employees should use AI. Can you describe that guidance, and how it works in practice?
  - o **Noveck:** This guidance shows that we want our government employees to try AI in their efforts to improve how service delivery. I lead a partnership consisting of multiple states called Innovate US, where we are providing free training in responsible AI usage to government workers. But we are also ensuring that they understand not to input any personally identifiable information, and fact-check the responses that come out of these tools. We want to ensure that these tools aid government workers in doing their work, instead of supplanting their work.
- Your book, *Recoding America: Why Government Is Failing in the Digital Age and How We Can Do Better*, outlines the disconnect that can occur between policymakers, policy implementers, and the general public. How can government prioritize the customer when it comes to service delivery in the lifecycle?
  - o **Pahlka:** We have to value delivery as highly as we value policy. We must put the customer at the center of government.

Sen. Tom Carper (D-DE) Questions

- What can federal agencies do with the current tools at their disposal to deploy AI technology more efficiently, and meet the evolving needs of the people we serve? How will this improve the public's satisfaction with government services?
  - o **Pahlka:** It is about the foundation and the basics. We need to continue to build faster, and we need to efficiently move into the Internet era. This will allow us to be a great customer service organization in the age of AI.
  - o **Blauer:** The most effective implementation of AI works in the background to optimize an experience that connects people to the services that they are trying to access. AI can skim processes down and free up the public sector workforce to create meaningful service delivery. We must prevent citizens from feeling distant from the work that the government is doing throughout the implementation of new interfaces.

Sen. Maggie Hassan (D-NH) Questions

- What specific ways can agency leadership foster greater technical capacity to deploy AI, while balancing each agency's mission? What can we do to develop an AI-competent workforce?
  - o **Pahlka:** The number of people who understand the mechanisms of delivery is small. This is a human capital strategy, and we must hire people who are oriented

> toward the competencies and capacities of delivery. But we need to shorten the hiring process so that we can hire the right people faster.

- What are some ways that AI could supplement the work of federal customer service representatives so that they can focus on people in need?
  - **Noveck:** In New Jersey, we are using AI to support our call center workforce. It allows us to put the correct information in front of constituents. Additionally, AI allows us to provide more online responses, which deters constituents from calling us with easy questions. This means we are putting fewer calls through to call centers and allows for more responsive human interactions.
- What are the main things that prevent data sharing across the government?
  - **Blauer:** AI makes it easier to link datasets together, and it reduces the time it takes to conduct this type of analysis. We also must clear the way to share data across all levels of government, so we can design more impactful services.

Sen. Laphonza Butler (D-CA) Questions

- How can these technologies be deployed to make our government more accessible to the diverse population of the U.S.?
  - **Pahlka:** AI can be very useful, as it can translate for non-English speaking constituents. AI can also suggest simplifications and parse through complex documents. But we need enablement over mandates, and we need to have better communication between agencies and legislators to enable the right outcome.
- Los Angeles is witnessing more than 1800 vacancies in the mental health provider system. Can you talk about how the deployment of chatbots has supported workers, as we deal with the challenges of creating more opportunities for workers in the space?
  - **Noveck:** These technologies are multimodal, they can give typed responses, as well as spoken responses, which can provide an added level of customer service. We will need guardrails to ensure that we are confident about the information that is provided to constituents, so we need to do things in a human-centered way. Additionally, you can train these chatbots to respond to a specific category of information, which can provide an added level of safety, provide a conversational element, and make content more digestible.

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