Comments on the General Services Administration's Proposed Clauses for Solicitations and Contracts for Artificial Intelligence Capabilities

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The Global Data Alliance (GDA)[1] appreciates the opportunity to provide input on the General Services Administration's (GSA) proposed clauses for solicitations and contracts for artificial intelligence (AI) capabilities. The Global Data Alliance is a cross-industry coalition of 75 companies that are committed to high standards of data responsibility and that rely on the transfer of data around the world to innovate and create jobs. GDA members develop, integrate, or deploy AI in products and services across every sector of the US economy, including the aerospace, agriculture, automotive, energy, finance, health, manufacturing, media, technology, and telecommunications sectors.

GSA, as part of its multiple award schedule revisions, proposed clauses for solicitations and contracts for AI that, in part, aim to implement previous Office of Management and Budget (OMB) directives, including on federal government use and acquisition of AI. GDA appreciates the effort to ensure that AI products and services are integrated responsibly by federal agencies to enhance their important public service missions. We are concerned, however, that the proposed terms significantly inhibit the US government's ability to leverage the benefits of AI services and, in particular, commercial advances in AI, impeding mission-driven efforts to prevent fraud and abuse, secure federal data, assets, and systems, and deliver critical citizen services. This, in turn, will produce cascading negative effects.
First, it imperils, contrary to the overarching goals that OMB has articulated to promote AI innovation both within the government and the commercial marketplace; fail to adequately protect contractors' intellectual property (IP) rights; and create burdensome and, in some cases, technically infeasible, implementation challenges for contractors, which will limit the number of companies able to provide these services, decreasing competition and increasing the cost to the US government to procure AI products.

Second, it creates burdensome, cost-prohibitive, and, in some cases, technically infeasible, implementation challenges for contractors, which will be unable to comply and cannot estimate the timeline to offer the US government products of comparable cost and feature quality that are available today, limiting the number of companies able to provide these services. If GSA does not make substantial revisions to the proposed clauses, contractors will be forced to strip AI features from their GSA schedule offerings and create a government-only, slower-to-update version of their commercial AI services.

Fourth, it increases the risk of liability for contractors under the False Claims Act because of the breadth of application, lack of clarity concerning key terms and concepts, requirements that exceed current technical state-of-the-art capabilities, attribution of responsibility to contractors for service provider actions, and expedited timeline for implementation.

Each of these consequences, in isolation, would decrease competition and increase the cost to the US government to procure AI products; in combination, they risk materially compromising the US government's

[1] The Global Data Alliance is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the transfer of data around the world to innovate and create jobs.
The GDA promotes sensible cross-border data policies that support innovation, science, security, and economic opportunity. *See* https://globaldataalliance.org/

efforts to not only adopt AI but also accelerate AI innovation in the commercial marketplace As a result, we recommend several changes to the proposed contractual clauses below that align more closely to OMB's directives and could help the US government better achieve its objective to "develop public strategies that elevate AI adoption and innovation as a priority."[2]

GDA's core recommendations are intended to ensure that GSA does not inadvertently undermine core Administration priorities. As noted above, given GDA's focused mandate on cross-border digital policy matters, we underscore that GDA does not speak for its membership outside of that policy focus. Many GDA members are federal contractors and will present their other concerns through other associations and organizations.

Finally, GDA has previously commented to other US agencies on the importance of adhering to the core principles of the President's AI Action Plan. We include as an Annex our prior comments to the Office of Science & Technology Policy (OSTP) in this regard.

I. Summary of Recommendations

Specifically, we recommend that GSA:

- Clarify the Prohibition on Use of Foreign AI Systems, or Foreign Components, to Avoid Unintended Conflicts with Trump Administration Policy, including the AI Action Plan. Among other things:
    - To prevent sweeping in foreign companies from allied countries that offer innovative models and contribute significantly to the US economy, GSA should tailor restrictions to highly sensitive technology categories from "countries of concern," such as Iran, North Korea, or Cuba, as identified in regulations;
    - GSA should expressly permit innovative technologies in the AI supply chain, such as open source models initially developed/trained abroad but hosted in the United States and/or modified by US companies or foreign companies based in allied jurisdictions;
    - GSA should eliminate ambiguity and uncertainty about the ability to leverage contributions from US companies' foreign subsidiaries or employees located in foreign countries;
    - GSA should not breach international commitments on procurement – such as the WTO Government Procurement Agreement or procurement commitments found in US Free Trade Agreements. These agreements benefit the US economy by preventing other governments from discriminating against US companies; and
    - GSA should align its approach with broader Administration priorities to "procure commercially available products and services…to the maximum extent practicable" and avoid adversely impacting federal market competitiveness;
- Rename the "Data Localization" Provision as "Government Systems Control" to Avoid Unintended Conflicts with Trump Administration Policy

[2] *See* OMB M-25-21 Memo on Accelerating Federal Government Use of AI Through Innovation, Governance, and Public Trust, *available at* https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-21-Accelerating-Federal-Use-of-AI-through-Innovation-Governance-and-Public-Trust.pdf.

Recommendation I: Clarify Prohibition on Foreign AI Systems or Components

GSA's proposed clauses impose a significant limitation on the US government's ability to purchase low-cost, cutting-edge AI technologies from a competitive marketplace by prohibiting the ability to purchase foreign AI systems or components. Specifically, Section (e)(2) of the proposed clauses states, "The contractor and Service Provider must use only American AI Systems. The use of foreign AI systems in the performance of this contract, including any AI components manufactured, developed, or controlled by non-U.S. entities, is prohibited." This overbroad prohibition will have significant adverse and unintended consequences on government access to innovative, commercial AI products and services.

We urge GSA to reconsider its approach and implement a more narrowly tailored foreign sourcing restriction for several reasons. Specifically, the proposed clause: (1) unnecessarily restricts access to models developed by foreign companies headquartered in allied countries with significant operations in the United States and that contribute significantly to the US economy; (2) limits access to more cutting-edge open source/open weight models that US companies routinely host securely in the United States and or substantially modify in their own US development processes (and, for which there are often no comparable exclusively domestic alternatives); (3) creates uncertainty from US companies that have foreign subsidiaries and employees located abroad and foreign companies with US operations or subsidiaries that are not from countries of concern; (4) will interfere with research, evaluation, or benchmarking activities conducted in isolated environments; 5) violates international trade agreements on procurement that prevent other countries from discriminating against US companies selling services abroad; and (6) does not align with the broader federal directives on AI procurement that incentivize but do not otherwise restrict the use of American AI systems and adversely impacts the federal competitive marketplace.

A. Any Limitation on Use of Foreign AI Systems Should Be Narrowly Tailored to Countries of Concern

First, the blanket prohibition on foreign AI systems and components would significantly limit the US government's ability to purchase best-in-class commercial marketplace offerings. By extending the prohibition t foreign companies based in countries that are US allies and that pose no national security threat to America, the proposed language would limit access to innovative AI products routinely integrated into American AI systems In addition, many of these foreign-based companies have operations in the United States, employing American citizens and otherwise significantly contributing to the US economy. As a result, a broad prohibition on foreign AI systems, which is not otherwise linked to specific foreign jurisdictions and national security-based regulations, unnecessarily restricts access to innovative services—many without comparable alternatives—that could enhance the US government's mission to leverage advanced AI technologies and could adversely impact the American economy. Moreover, the blanket prohibition goes far beyond existing federal law, such as the Advancing American AI Act, which addresses privacy and security but not country of origin, and policy, as reflected in President Trump's Executive Order 14179 and OMB M-25-22 memo, to "maximize the use of AI products and services that are developed and produced in the United States," which incentivizes agencies to "buy American" but does not outright broadly prohibit all foreign AI systems, or the purchase of foreign components in what are otherwise still American AI systems. By converting a preference into a categorical prohibition, the proposed clause goes materially beyond both the text and the intent of existing policy statements, which do not direct agencies to exclude allied or globally developed systems that meet US security, privacy, and reliability requirements.

B. Open Source Models Should Be Explicitly Excluded from Any Sourcing Restrictions

Second, the overbroad prohibition would sweep in access to open source/open weight models, which are frequently developed internationally and shared globally, and which US companies commonly integrate into their AI development pipeline, including by substantially modifying them for particular purposes or uses, hosting them in the United States, without transmitting data to initial foreign actors, and integrating trust and security layers into AI systems where they have been integrated. The proposed clauses make a US company's AI system that integrates open source software or an open weight model in its initial development but otherwise develops the AI system in the United States and hosts the government's data in a compliant, controlled environment, ineligible for government purchase.

Such a result would run afoul of the Trump Administration's support of the open source AI ecosystem, which levels the competitive playing field, enables companies to provide AI services at lower cost, and allows companies to customize AI systems to deliver more innovative, tangible benefits. The proposed prohibition would effectively preclude US companies from selling their AI systems integrating open source code/models to the US government because, in many instances, they will be unable to definitively trace the geographic origin of open source model contributors, making compliance technically and administratively difficult at best and in some instances infeasible. In addition to contradicting the Administration's support for open source AI, this outcome would also contravene the Administration's IT modernization objectives and limit the US government's ability to purchase low-cost commercial AI solutions.

C. Ensure Foreign Limitations Do Not Apply to US Companies' Global Operations, Including Foreign Subsidiaries, Foreign Companies with Significant US Operations, and Employees Located Abroad

Third, the proposed language even creates uncertainty for US companies with foreign subsidiaries or employees located abroad who contribute to the AI development process, as well as, foreign companies with significant US operations that are not from countries of concern, , because it is unclear how the broad phrase "developed and produced" would be interpreted, potentially excluding a wide range of AI products and services from US companies that operate globally, including US-based SMB's with small engineering teams abroad.

D. Prohibiting Foreign AI Systems Could Lead to Retaliatory Measures That Could Adversely Affect US Companies Selling AI-Related Products or Services to Foreign Governments

Fourth, we are concerned that use of this contract language could prompt retaliatory measures from foreign governments targeting United States technology companies. Given the current transatlantic climate, legislation perceived as restricting market access may serve as an additional justification for restrictions on US companies in international markets. United States information technology companies are global leaders, and reciprocal barriers abroad could meaningfully affect their ability to compete in key foreign markets, ultimately impacting investment, jobs, and innovation at home. In particular, the proposed clause risks placing the United States in violation of the World Trade Organization's Agreement on Government Procurement as well as the government procurement chapters of US Free Trade Agreements — each of which was negotiated, in significant part, to strengthen the competitive position of US exporters in public procurement markets abroad. These agreements guarantee US companies protection from discrimination against US companies in public tenders abroad. Indeed, the United States is not only a member of the GPA agreement, but it continues to "strongly encourage" other foreign governments to sign.[3]

The proposed clause would set a deeply damaging precedent for US trading partners to emulate. If GSA proceeds with a procurement mandate predicated on the premise that AI systems must be free of wholly US-origin (i.e., no coding, content, databases, or engineering from anywhere else), it should anticipate that other governments will adopt analogous restrictions of their own — whether framed as "European AI," "Japanese AI," "Australian AI," or similar national-origin mandates — and deploy them to exclude AI-enabled products and services across all sectors of their economies. The consequences for US exporters would be severe. The United States holds a sizeable and longstanding comparative advantage in high-technology, data-intensive, and AI-enabled industries. The procurement markets of allied and partner nations represent some of the largest and most valuable export opportunities available to US firms in these sectors.

Trading partners harmed by a US national-origin AI mandate would have both the legal basis and the political incentive to retaliate in kind. The resulting backlash would disproportionately disadvantage US industry — costing American exporters billions of dollars in lost market access and producing job losses in the technology and innovation sectors at home. This is not a speculative outcome; it is the predictable and foreseeable consequence of a procurement policy that raises serious compliance questions re US

[3] *See* https://ustr.gov/issue-areas/government-procurement/wto-government-procurement-agreement.

international trade obligations and invites reciprocal discrimination against the United States' most competitive export industries.

Finally, this proposal could also undermine several other critical Administration efforts outlined in the AI Action Plan. This includes the AI export stack program administered by the Department of Commerce. For all of the reasons stated above, inclusion of this new requirement in GSA contracts could substantially frustrate the Administration's efforts to fulfill President Trump's goal of facilitating foreign government procurement of AI-enabled products and services abroad produced and exported from the United States.

E. GSA's Approach Could Adversely Impact Federal Market Competitiveness

Fifth, as drafted, the proposed clauses would have significant operational implications for GSA and could lead to precedential problems across the federal acquisition system more broadly. The proposed language introduces rigid sourcing requirements that could limit agencies' ability to procure leading commercial technologies in a timely and cost-effective manner. Restricting access to the United States government market for certain companies with foreign ownership, including those operating through United States subsidiaries that fully comply with Foreign Ownership, Control, or Influence (FOCI) mitigation requirements, may reduce competition without clearly advancing security outcomes.

GDA member companies strongly support policies that enhance domestic competitiveness, safeguard national security, and strengthen the federal industrial base. However, this proposed contract language, as currently drafted, may create new compliance burdens and sourcing constraints that slow procurements, narrow the competitive field, and limit agencies' access to innovative commercial offerings. These effects could complicate ongoing efforts to modernize federal information technology systems, accelerate digital transformation, and expand the government's use of commercial solutions.

The breadth of the proposed restriction also raises concerns under longstanding federal procurement principles requiring full and open competition. By excluding a wide range of otherwise qualified and innovative providers without a clear, risk-based justification, the clause may unnecessarily narrow the competitive field in a manner that is not aligned with the Competition in Contracting Act. In addition, the absence of clear tailoring to specific national security risks or countries of concern may raise questions as to whether the approach reflects a sufficiently reasoned and proportionate policy consistent with administrative law principles.

Recommendation: We strongly urge GSA to remove the prohibition on purchase of foreign AI systems. Such a blanket prohibition is inconsistent with the Administration's broader AI innovation and IT modernization policies and objectives, risks harming US companies in international markets, and does not align with how global supply chains operate or the distributed manner in which AI may be developed. In the event that GSA does not implement this important recommendation wholesale, we urge the agency to revise the proposed clause to minimize the harmful consequences from this prohibition. Specifically, we ask that GSA revise the proposed clause to limit any restrictions on foreign AI systems to countries of concern, such as those identified in export regulations, explicitly permitopen source/open weight models, and clarify that AI models and systems "developed and produced" by US companies with foreign subsidiaries or employees located abroad, or foreign-owned companies with US subsidiaries or operations that are not from countries of concern , are considered "developed and produced" in the United States. The proposed clause should also clarify that the prohibition does not apply to internal research, benchmarking, or evaluation activities conducted on isolated infrastructure with no connection to production systems, as well as to activities whose outputs are not directly incorporated into contract performance.

Recommendation II: Rename the "Data Localization" Provision as "Government System Control" to Avoid Unintended Conflicts with Longstanding US Government Policy

A. GSA's Proposed "Data Localization" Label Conflicts with Longstanding, Cross-Agency US Government Policy

Section (d)(4)(iv) of the proposed clause imposes what GSA has characterized as a "Data localization" requirement, directing that contractors and service providers refrain from removing, transmitting, storing, or accessing Government Data outside of "agreed-upon premises or authorized services" without express written consent from the ordering agency. GDA urges GSA to reconsider both the label applied to this provision and several aspects of its implementation, for reasons set forth below.

As an initial matter, the characterization of this provision as a "data localization" requirement is deeply problematic — and not merely as a matter of terminology. Data localization mandates are among the most trade-distorting policy instruments in the digital economy, and the United States government has consistently and forcefully opposed them. The Departments of Commerce, State, Treasury, Justice, and Homeland Security, as well as the Office of the United States Trade Representative, have each — individually and collectively — advocated against data localization requirements imposed by foreign governments, recognizing that such requirements fragment global data flows, increase costs for US technology companies, undermine cloud-based service delivery, and erect barriers to US exports in the digital and AI-enabled services sectors. The United States has pursued enforceable commitments against data localization in bilateral and multilateral trade negotiations, including in the US-Mexico-Canada Agreement (USMCA), US Free Trade Agreements with Japan, Korea, Singapore, and other partners, and in the context of WTO discussions on electronic commerce.

For GSA to adopt a procurement clause that itself mandates "data localization" — using that precise terminology — would directly contradict this longstanding, whole-of-government policy posture. It would hand foreign governments a ready-made justification for their own data localization regimes, undermining US negotiators' ability to credibly challenge such requirements abroad. It would also send a damaging signal to US trading partners and international bodies that the United States no longer regards data localization as an inherently problematic policy instrument — with consequences that extend well beyond federal procurement.

B. The "Data Localization" Label Is Also a Misnomer — and Should Be Replaced

Compounding the policy concern is the fact that the label "data localization" does not accurately describe what the proposed provision actually requires. A conventional data localization requirement mandates that data be stored, processed, or accessed within the territorial boundaries of a specific country. The text of Section (d)(4)(iv), however, contains no geographic limitation whatsoever. It does not reference the territory of the United States, nor does it restrict data storage or processing to any particular jurisdiction. Instead, the provision is focused on ensuring that Government Data remains within agreed-upon premises or authorized services — a requirement that is fundamentally about government systems control, not geographic data residency.

This distinction is not merely semantic. The United States government operates systems, facilities, personnel, and missions in locations around the world. US embassies, military installations, naval vessels, and deployed aircraft operate on every continent and in international waters — all outside the territorial limits of the United States. A provision genuinely requiring "data localization" within the United States would, by its terms, prohibit US government agencies from storing or processing Government Data on those systems — an outcome that is plainly unintended and operationally untenable.

The simplest and most effective remedy is a straightforward one: **rename the provision**. A title such as **"Government Systems Control"** or **"Authorized Systems Requirements"** would more accurately describe the provision's actual operative requirements — namely, that Government Data must remain within

systems and premises that are authorized and agreed upon between the contracting parties — without invoking the legally and politically loaded terminology of "data localization." This relabeling would bring the provision into alignment with its evident purpose while eliminating the unintended policy and trade implications that the current label creates.

C. The Provision Is Unworkable as Applied to the Breadth of "Government Data" as Defined

Even setting aside the labeling concern, the operational scope of the provision as drafted raises significant workability concerns, driven in large part by the extraordinarily broad definition of "Government Data" adopted in Section (a) of the proposed clause. As defined, "Government Data" encompasses all Data Inputs and Data Outputs — including user prompts, queries, instructions, source data, documents, responses, analyses, metadata, logs, and any other content submitted to or generated by the AI system in the performance of the contract. This is an exceptionally expansive definition, and its interaction with the data handling requirements of Section (d)(4)(iv) produces consequences that appear unintended but are nonetheless far-reaching.

Consider the following illustrations of the provision's practical implications if applied as a true geographic data localization requirement:

- **US Military and Diplomatic Operations.** US military forces deployed abroad — on bases, vessels, and aircraft operating around the world — routinely process and store operational data as part of their mission. Similarly, US embassies and consular facilities maintain and process data in support of diplomatic activities worldwide. A data localization requirement applied to Government Data as defined would, by its terms, prohibit the storage or processing of any such data outside US territory — directly impairing military readiness and diplomatic operations. Even if bases and diplomatic missions themselves are narrowly defined as US territory, the movement of data on any device beyond the confines of the facility, or over terrestrial, satellite, telecom, or other digital networks would be legally impeded by this provision.

- **NOAA and International Scientific Cooperation.** The National Oceanic and Atmospheric Administration routinely shares meteorological, oceanographic, and climate data with counterpart agencies and international organizations around the world. Real-time weather data exchange with foreign meteorological services is essential to global forecasting, disaster preparedness, and aviation safety. A rigid data localization requirement would place this well-established cooperative framework in jeopardy.

- **FDA and International Drug Regulatory Cooperation.** The Food and Drug Administration has entered into information-sharing arrangements with foreign drug regulatory authorities — including the European Medicines Agency, Health Canada, and others — to facilitate coordinated review of pharmaceutical and medical device applications. These arrangements depend on the ability to share and process regulatory data across borders. A data localization mandate would disrupt these arrangements and potentially delay access to life-saving treatments.

- **NIST and International Standards Development.** The National Institute of Standards and Technology participates actively in international standards development organizations, routinely bringing technical documentation, data, and electronic devices containing stored data to meetings and working groups held outside the United States. A strict data localization requirement would constrain NIST's ability to participate effectively in these forums — undermining US influence over the development of global technical standards, including standards for AI systems themselves.

These are but a few of numerous examples that illustrate that a data localization requirement applied to all Government Data would impose cascading and unworkable constraints on agencies whose missions depend on the routine, authorized movement and processing of data across borders.

GDA urges GSA to address these concerns by: (1) renaming the provision to eliminate the "data localization" characterization; (2) clarifying that the provision is intended to ensure government control over

authorized systems, not to impose geographic data residency requirements; and (3) incorporating appropriate carve-outs or agency-specific flexibility mechanisms to ensure that the provision does not impair the operational requirements of agencies with international missions.

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We appreciate the opportunity to provide feedback on the proposed contractual clauses, which will have a significant effect not only on contractors, but also on the US government's ability to leverage innovative AI technologies in a cost-effective way from a competitive, global marketplace. We would be happy to serve as a resource as you continue to consider these important issues.

Respectfully submitted,

Joseph Whitlock
Executive Director
Global Data Alliance