



Demonstrable Evidence for Accountability – Feb 2024

Practical Data Use Risk Governance in Response to U.S. State Privacy Laws -

Problem - Since the Global Accountability Dialogue first established in 2009 the components of what it means for an organization to be accountable as part of data protection requirements, privacy and data protection regulators have called for “demonstrable accountability.”¹ The growing use of data and data driven technologies, such as Artificial Intelligence (AI), have increased the expectations of policy makers and regulators for more demonstrable accountability processes.

The expectation for demonstrable accountability is found in the assessment requirements set forth in the 12+ new state privacy laws in the United States² to weigh benefits to all stakeholders against the potential risks to the rights and interests of consumers associated with data processing activity such as profiling and model development³. New requirements to provide assessments to regulators on demand (e.g., Colorado) or annually (e.g., California) will trigger requests to show or demonstrate new accountability requirements. The immediate impact of these requests likely will be felt first in the U.S. because of the new state privacy laws.

Yet today, there is no common standard or regulatory expectation as to what these new demonstrable accountability requirements as part of risk governance processes should consist of. Some of the unknown factors include how assessment, oversight, bias and discrimination determination, and internal control requirements should be structured. This lack of clarity creates uncertainty for businesses who wish to increase their use of data as part of their strategies and inconsistencies in various regulatory approaches (i.e., regulators may step in without the involvement of business set standards).

The foundation for a solution set is a better understanding of business challenges and regulatory expectations. This understanding will serve as input to the development of a normative framework consisting of demonstrable process and procedures. This content will be developed through a multi-stakeholder engagement model.

¹In an [October 2019 Blog](#), the Global Privacy Assembly (GPPA) said that under the General Data Protection Regulation (GDPR), an accountable organization must be able to *demonstrate* its compliance.

² See [State-Assessment-Provisions-v1.0-002.pdf \(secureserver.net\)](#)

³ Similar assessments soon could be mandated by new laws governing the use of AI and the associated fair implications to people, e.g., EU [Proposed Artificial Intelligence Regulation](#) and [Canada’s Bill C-27](#) (specifically the Artificial Intelligence and Data Act (AIDA) part of C-27).

Potential Solution Outputs and Benefits:

IAF's "Assessing in Three-Dimensions" methodology will be combined with the IAF's extensive track record of developing frameworks and assessments that include associated and requisite governance and controls.

Through the multi-stakeholder convening process, the project will deliver a draft normative framework of assessments and governance controls as well as a demonstrability framework that would:

- expand business governance capability and sustainability,
- increase regulator confidence,
- enable further guidance to business by regulators.

The resulting templates and process will benefit business and regulators who, with confidence from the multi-stakeholder process, business could incorporate them into horizontal governance strategies, processes, and procedures within their business organizations and into regulatory guidance which they provide.

Project Process:

1. The IAF will develop a draft solution framework addressing key problem areas, using a range of use cases to demonstrate the prototype.
 - The IAF would incorporate relevant U.S. state laws and regulations and other developing models as part of a draft solution model.
 - This stage would be supported by individual dialogue with select business participants and regulatory authorities.
2. The draft framework would be reviewed first through a convening meeting with participating business organizations.
 - Based on feedback, subsequent involvement and review by the business community will be facilitated through virtual meetings
3. Once the business engagement and a solution framework are finalized, the IAF will convene a multi-stakeholder process engaging the business community, the regulatory community, and the NGO community. The framework will be presented and debated with the expectation that a conclusion will be reached.

A report and recommendations will be made publicly available at the conclusion of the effort. Potential additional socialization tactics would be developed and reviewed, in consultation with the participating business organizations and regulators.

Key Success Factors

- Project partner/contributor with AI governance expertise,
- Business community support:

- Capped at between 15 and 20 businesses.
- Contributions of \$3,000/\$5,000 in funding from non IAF participating business to offset IAF costs and potential travel costs for NGO participants.

Timing

- **Stage 1** – Draft Solution Framework development - March-April
- **Stage 2** – Business participant convening meetings – May – June
- **Stage 3** – Multi-Stakeholder sessions Sept - October