



Treasury Board of Canada  
Secretariat

Secrétariat du Conseil du Trésor  
du Canada

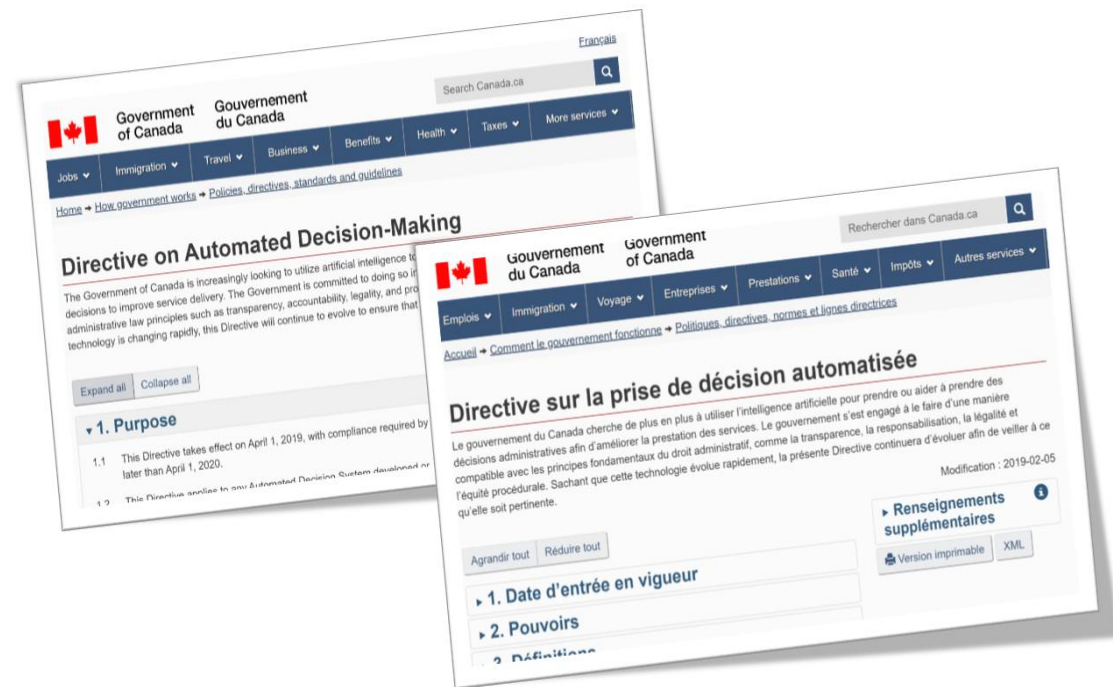
Canada

# 3<sup>rd</sup> Review of the Directive on Automated Decision-Making – What We Heard Report

**Phase 1 Stakeholder Engagement  
Summer 2022**

# Purpose

- Provide a **summary of key themes** identified in the 1<sup>st</sup> phase of stakeholder engagement.
- Outline **updates to the 3<sup>rd</sup> review's** policy recommendations and provisional amendments.

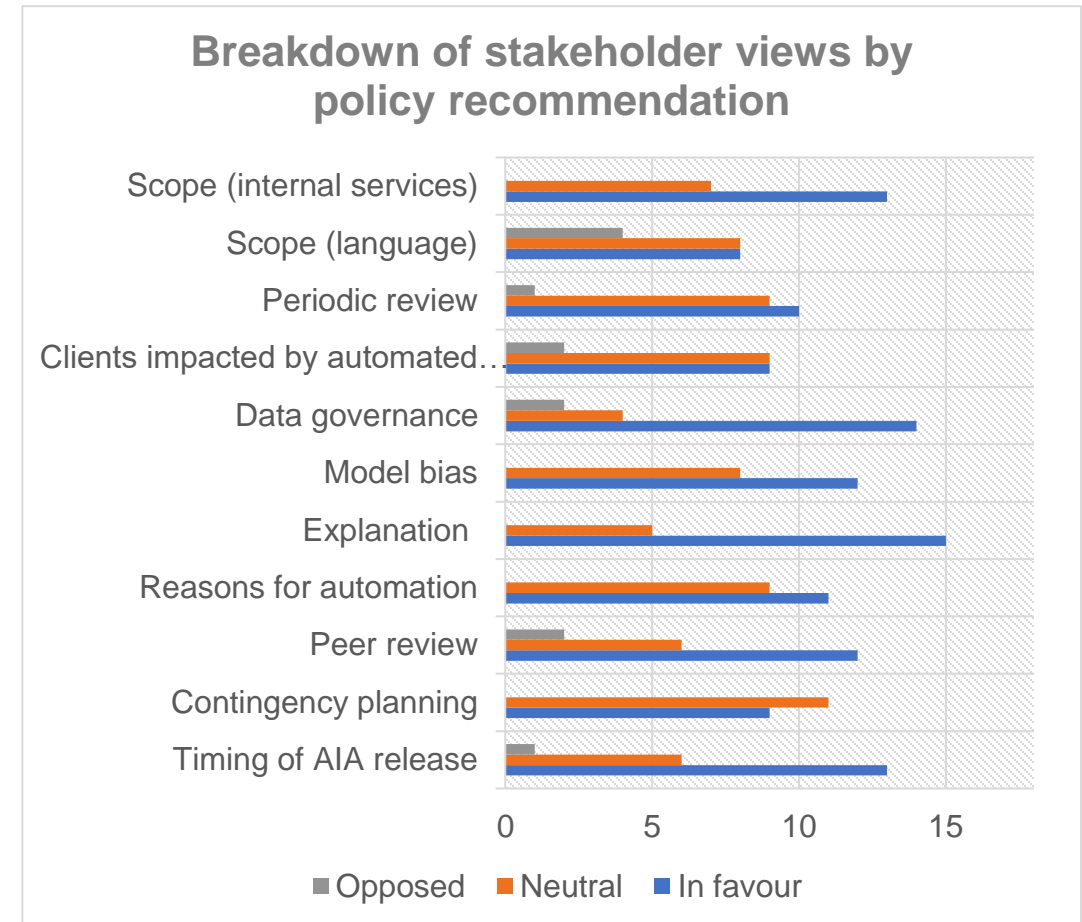


# Context

- In April 2022, TBS launched the **1st phase of stakeholder engagement** on the 3<sup>rd</sup> review of the Directive on Automated Decision-Making.
- The goal of stakeholder engagement is to **validate the policy recommendations and provisional amendments** proposed in the 3<sup>rd</sup> review and **identify additional issues** that merit consideration as part of this exercise or in future reviews.
- The 1st phase of engagement involved outreach to **federal institutions, academics, civil society organizations, and governments in other jurisdictions.**
- The 3<sup>rd</sup> review takes stock of the current state of the directive and identifies risks and challenges to the government's commitment to responsible AI in the federal public sector. It proposes **11 policy recommendations** intended to ensure automated decisions impacting federal public servants are fair and inclusive, bolster transparency and accountability, strengthen protections against discrimination and harm, and clarify requirements and operational needs.

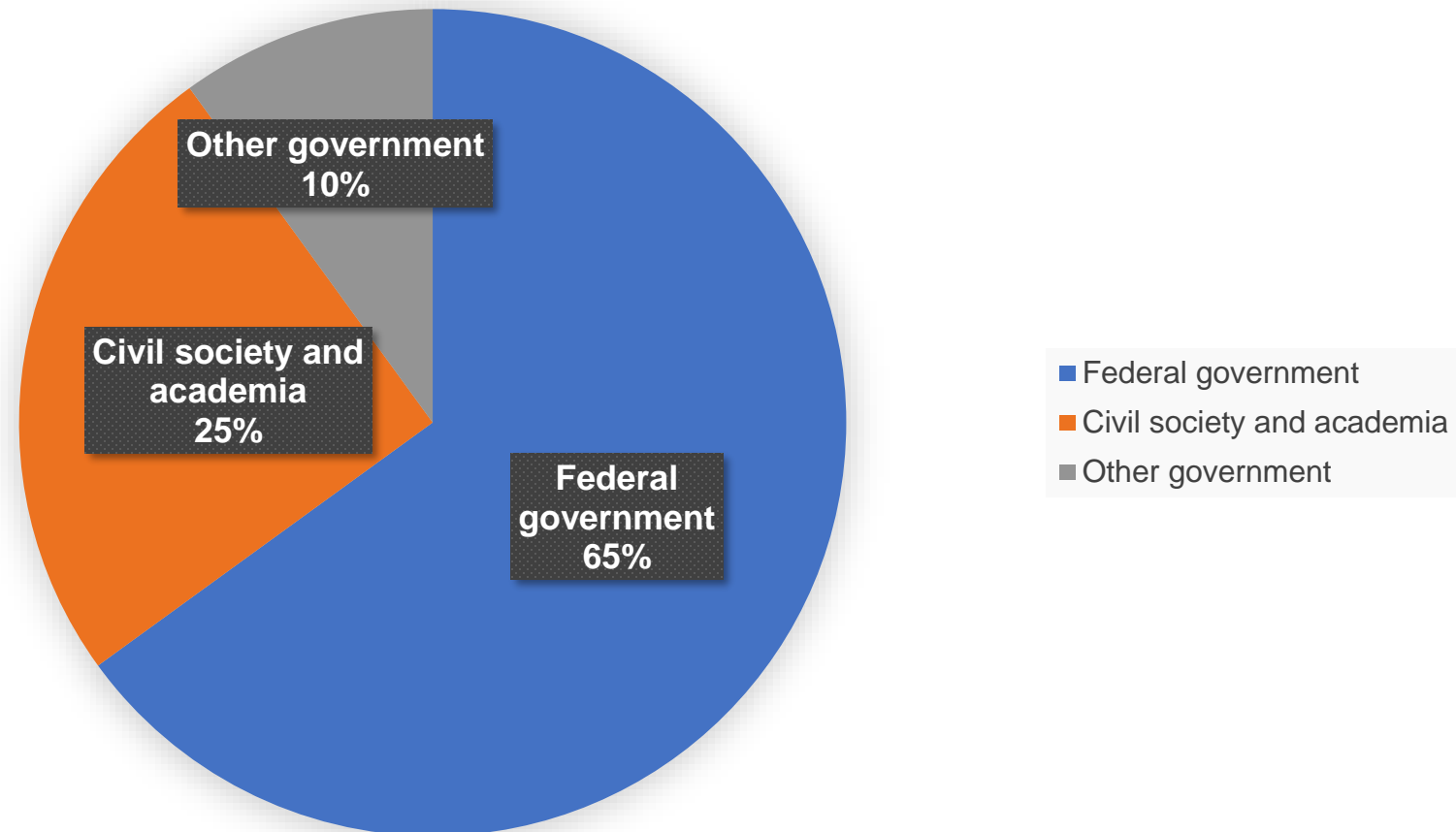
## Engagement summary

- TBS received a total of **20 submissions** from stakeholders during the 1<sup>st</sup> phase of engagement.
- Stakeholders were generally supportive of TBS's proposal. For each policy recommendation, the **majority expressed agreement or no objection**.
- Stakeholders emphasized the need for **clarity** around the scope of the directive, **appropriate language** to refer to subjects of automated decision-making, **guidance** on data and model governance, **user-friendly questions** in the Algorithmic Impact Assessment (AIA), and **effective** explanations.
- For future reviews, stakeholders called on TBS to create a **public register** of automated decision systems, strengthen **oversight** of automated decision-making in the federal government, enhance the **discoverability** and **quality** of AIAs, integrate **human rights** considerations into the directive, examine the effectiveness of existing requirements, and foster **public deliberation**.



# Participation

## Stakeholders from multiple sectors and jurisdictions participated in the first phase of engagement



## Overview of key themes

Clarify what constitutes “supporting” a decision.

Reconsider whether “client” is the most appropriate term for referring to subjects of automated decision-making.

Develop guidance to support departments with data and model governance.

Ensure that new AIA questions are user-friendly and foster consistency in responses.

Ensure that explanations are adequate, feasible, and accessible to clients and other stakeholders.

# Theme 1: Clarify what constitutes “supporting” a decision

- Most stakeholders supported TBS’s recommendation to clarify that the scope of the directive covers any automated decision system with the potential to influence an administrative decision.
- These stakeholders highlighted the need for guidance on what it means for a system to support a decision to facilitate consistent interpretation across government. This could include:
  - A definition or description of the term “support”, or
  - Illustration of the types of systems (or functions) that have the potential to be within scope.
- Some stakeholders proposed alternative terms such as “evaluate” to avoid generic language, which could be misinterpreted.
- There was concern that the amendment would significantly expand the scope of the directive, which is not the intention of this recommendation.

**Initial TBS recommendation:**

"[...] applies to any system [...] used to **support recommend**—or make an administrative decision about a client."

**TBS actions in response to feedback:**

- Clarify that the directive is intended to apply to automated systems *making assessments* related to an administrative decision.
- Develop guidelines on the scope of the directive, including in the Guideline on Service and Digital. The guidelines will provide examples of automation projects which the directive is designed to regulate.

## Theme 2: Reconsider whether “client” is the most appropriate term for referring to subjects of automated decision-making

- Most stakeholders agreed with TBS’s recommendation to recognize that administrative decisions within the scope of the directive do not just affect Canadians.
- There was concern around whether the term “clients” is an appropriate substitute for “Canadians”. Some objected or suggested alternatives such as “general public”, “people”, or “residents of Canada”. The concerns raised include:
  - The perception that the term fails to capture the relationship between the government and the people it serves.
  - The possibility that, by removing the term “Canadians”, the directive would not account for automated decisions which have an impact on Canadians (even when they are not the immediate subjects of such decisions).

### **Initial TBS recommendation:**

“The objective of this Directive is to ensure that Automated Decision Systems are deployed in a manner that reduces risks to **clients** ~~Canadians~~ and federal institutions, [...]”

### **TBS actions in response to feedback:**

- Refer not only to clients but also to Canadian society. This would help ensure consistency with the terminology of the Service and Digital policy suite on the one hand, and highlight the federal government’s unique responsibility to Canadians on the other.



# Theme 3: Develop guidance to support departments with data and model governance

- Most stakeholders supported TBS's recommendation to strengthen the governance of data inputs and outputs, and to account for models as a potential source of bias during the development of a system.
- On data governance, stakeholders suggested that TBS develop guidance on the proposed measures, while keeping the following considerations in mind:
  - Ensure harmony with applicable laws and policies (e.g., *Privacy Act*);
  - Clarify the relationship between the new measures and GC data governance frameworks;
  - Consider whether the measures should be proportionate to the impact level;
  - Consider whether retention and disposition schedules should also be required for models.
- On model bias, stakeholders noted the need for guidance that distinguishes between different types of bias (e.g., statistical bias, bias in human rights) and considers the trade-off between privacy and fairness.

## Initial TBS recommendation:

- **NEW:** "Establishing measures to ensure that data used and generated by the Automated Decision System are traceable, protected, and appropriately retained and disposed of [...]"
- "processes so that the data and information used by the Automated Decision Systems, **as well as the systems' underlying models**, are tested for unintended **data** biases [...]"

## TBS actions in response to feedback:

- Commit to developing guidelines clarifying the new measures and their relation to existing GC frameworks.
- Commit to adopting a definition of bias in alignment with the *Artificial Intelligence and Data Act*, if it becomes law.

## Theme 4: Ensure that new AIA questions are user-friendly and foster consistency in responses

- Most stakeholders expressed support for TBS's recommendation to prompt federal institutions to reflect on why they are seeking to pursue automation and whether they have considered alternative means to address their needs.
- Suggestions on this recommendation revolved around the clarity and user-friendliness of the new questions as well as the quality of responses across organizations. Stakeholders noted that TBS should:
  - Consolidate and rephrase the questions;
  - Identify ways to foster consistency in the type of information and level of detail provided in responses;
  - Consider additional questions (e.g., on how user needs are identified, the public benefits of a project);
  - Develop guidance on new (and existing) AIA questions;
  - Minimize duplication with existing AIA questions.

**Initial TBS recommendation:**

Expand the AIA to include questions concerning an institution's reasons for pursuing automation.

**TBS actions in response to feedback:**

- Consolidate and refine the new AIA questions.
- Commit to developing line-by-line guidance for the AIA.

## Theme 5: Ensure that explanations are adequate, feasible, and accessible to clients and other stakeholders

- Most stakeholders were in favour of TBS's proposed explanation criteria, which are intended to support consistent interpretation and application of the directive's explanation requirement.
- Stakeholders emphasized the importance of:
  - Ensuring that explanations provide clients with adequate information to understand an automated decision;
  - Clarifying the level of detail and type of information expected in explanations, given applicable laws;
  - Fostering accessibility of explanations to clients and public stakeholders;
  - Supporting implementation, including through testing with users;
  - Considering additional explanation criteria, including on recourse, human oversight, and the reasoning behind a decision.

### **Initial TBS recommendation:**

**NEW:** Explanations should include “information describing:

- The role of the system in the decision-making process;
- The training and client data, their source and method of collection, if applicable;
- The criteria used to evaluate client data and the operations applied to process it; and
- The output produced by the system, and any relevant information needed to interpret it in the context of the administrative decision.”

### **TBS actions in response to feedback:**

- Improve the distinction between explanations addressed to the client and those made public.
- Require that explanations include a justification of a decision.
- Integrate the proposed explanation criteria into the AIA and clarify the approach to publication.

## Other issues

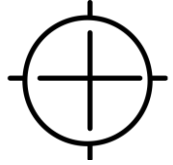
The following issues, while not prevalent in stakeholder feedback, are also worth addressing in the 3<sup>rd</sup> review:

- Departments will need time to comply with new requirements and avoid disruptions to in-flight projects.
- The absence of provisions supporting intersectional approaches to automation may limit the directive's effectiveness in ensuring fairness and inclusion in automated decision-making.
- Mandating the publication of a peer review summary does not maximize opportunities for algorithmic transparency the way publishing a full review would.
- The directive's impact areas (Appendix B) do not account for the risks of automation in the workplace, which could have significant impacts on employees. This is part of a broader need to adapt the directive and AIA to the risks of automating internal services.

### **TBS actions in response to feedback:**

- Introduce a 'grace period' to provide departments with time to comply with new requirements.
- Integrate the Gender Based Analysis Plus (GBA+) process into the requirements of the directive to help ensure equity in automation.
- Integrate accessibility considerations into the AIA to ensure that the needs of persons with disabilities are better accounted for.
- Require the full disclosure of peer reviews, while retaining the option to publish a summary.
- Recognize the equality, dignity, and autonomy of federal public servants as a key area of impact in the directive and adapt the AIA accordingly.

## What we learned



Ensure that the updated scope of the directive is clearly articulated through guidance and ongoing engagement with departments.



Minimize undue burdens on departments when introducing new policy requirements.



Ensure that adapting the periodic review mechanism to policy and operational needs does not weaken oversight of the directive and the wider federal AI landscape.



Develop guidance to support the interpretation and implementation of new measures under the directive.



Ensure that the language of the directive is inclusive and consistent with democratic norms.

# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
DADM, Section 1 (Effective Date)	<p>Amend section 1.1: "This Directive <b>was amended and</b> takes effect on <b>[release date], 2023 April 1, 2019</b>, with compliance required by no later than <b>[date 6 months following release date], 2023 April 1, 2020</b>."</p> <p>Add section: "<b>Departments operating Automated Decision Systems developed or procured prior to [release date], 2023 will have 12 months to comply with requirements in subsections 6.2.3, 6.3.1, 6.3.X [data governance], 6.3.X [GBA+], and 6.3.4 of the Directive.</b>"</p>	<p>TBS recognizes the challenge of adapting to new policy requirements while planning or executing projects that would be subject to them. In response, a 6-month 'grace period' is proposed to provide departments with time to plan for compliance with the amended directive. For systems that are already in place on the release date, TBS proposes granting departments a full year to comply with new requirements in the directive. Introducing this period would enable departments to plan for the integration of new measures into existing automated systems. This could involve publishing previously completed peer reviews or implementing new data governance measures for input and output data. During this period, these systems would continue to be subject to the current requirements of the directive.</p>
DADM, Section 4 (Objectives and Expected Results)	<p>Amend section 4.1: "The objective of this Directive is to ensure that Automated Decision Systems are deployed in a manner that reduces risks to <b>clients, Canadians and</b> federal institutions, <b>and Canadian society, and</b> leads to more efficient, accurate, consistent, and interpretable decisions made pursuant to Canadian law."</p>	<p>Many stakeholders agreed with TBS's intent to ensure that the directive uses inclusive language that accounts for all individuals or businesses who may be impacted by administrative decisions made within the federal government. Objections mainly revolved around whether the term 'client' would achieve this goal. The challenge for TBS is to find a term that not only communicates the government's commitment to inclusion and reinforces democratic accountability, but also ensures consistency with existing policy terminology.</p> <p>In response to stakeholders' concerns, TBS proposes adding a reference to Canadian society alongside clients and federal institutions. This change highlights the socially significant impacts of automated decisions, while still achieving consistency with other parts of the directive and with the Service and Digital policy suite. The definition of client in the directive's parent policy, the Policy on Service and Digital, accurately reflects the broad range of people – Canadian citizens and others – who may be subject to automated administrative decisions.</p>
DADM, Section 5 (Scope)	<p>Amend section 5.2: "This Directive applies to any system, tool, or statistical models used to <b>support recommend or</b> make an administrative decision <b>or a related assessment</b> about a client."</p>	<p>This update proposes an alternative approach to clarifying the scope of the directive. Stakeholders generally agreed with TBS that there's a need to clarify the types of use-cases or functions which fall within the purview of the directive – especially in instances involving partial automation (i.e., automation supporting a decision made by a human). The amendment introduces the concept of assessment to establish a threshold for evaluating whether cases of partial automation fall within the scope of the directive. The various ways in which a system can make an assessment about a client will be laid out in guidance.</p>

# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
DADM, Section 6 (Requirements)	Amend subsection 6.3.4: "Consulting the appropriate qualified experts to review the Automated Decision System <b>and publishing the complete review or a plain language summary of the findings prior to the system's production, as prescribed in Appendix C.</b> "	<p>While stakeholders generally agreed with TBS's recommendation to mandate the release of a summary of peer reviews, some pointed out the missed opportunity in not providing for the possibility of full disclosure. Where departments are able to publish their peer reviews in full, they should do so. This would strengthen the potential of the peer review requirement to enhance algorithmic transparency and build public trust in the use of automated decision systems in the federal government. Where full disclosure is not possible (e.g., due to the risk of divulging proprietary information or trade secrets), departments would still have the option of releasing a summary of the review's findings.</p> <p>Appendix C has also been updated to reflect this change. In response to stakeholder suggestions, TBS is also specifying that peer reviews should be published to a Government of Canada website (e.g., a department's website).</p>
DADM, Section 6 (Requirements)	Add new subsection under 6.3: " <b>Completing a Gender Based Analysis Plus during the development of the Automated Decision System, as prescribed in Appendix C.</b> "	<p>Some stakeholders have identified the need to integrate the GBA+ process into the directive. The current directive does not explicitly require departments to undertake a GBA+ for their automation projects. However, the AIA tool asks users whether they have undertaken a GBA+ for data collected for or used by the automated decision system. As it only applies the GBA+ methodology to input data, the effectiveness of this question in ensuring equitable practices in the development and use of automated decision systems may be limited.</p> <p>Establishing a dedicated requirement for GBA+ would ensure consistency in the application of the GBA+ lens to automated decision-making, and help foster fairness and inclusion in the design, development, and use of automated decision systems. The elements proposed under Appendix C would help ensure a broad application of the methodology to data, systems, decisions, and other elements of an automation project. TBS has proposed this measure for systems at impact level II-IV, considering that GBA+ results are unlikely to be significant for level I systems.</p>
DADM, Section 6 (Requirements)	Amend subsection 6.1.1: "Completing <b>and releasing the final results of</b> an Algorithmic Impact Assessment prior to the production of any Automated Decision System."	The proposed update would bring subsection 6.1.1 into closer alignment with subsection 6.1.4, which specifies how "the final results" of an AIA should be released. As stakeholders suggested, this would help avoid any confusion about whether the two subsections require the same sort of publication.

# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
DADM, Appendix A (Definitions)	Add definition: " <b>Internal service: A service where the intended client is internal to the Government of Canada. This includes federal employees.</b> "	The directive does not define internal services, many of which could become subject to the amended directive. The Policy on Service and Digital only defines external and internal enterprise services. The proposed definition draws on the definition of external services and emphasizes that clients internal to the federal government include federal employees. (There are other types of internal services such as internal enterprise services where the client is an institution rather than an individual employee.) Clarifying the meaning of this term would address stakeholder concerns and help ensure consistent interpretation and application of the amended directive.
DADM, Appendix B (Impact Assessment Levels)	Add a new impact area under each of the four impact levels: " <b>the equality, dignity, and autonomy of federal public servants</b> "	The impact scheme in Appendix B of the directive does not acknowledge the potential impacts of automation on federal public servants in the workplace. The proposed update identifies equality, dignity, and autonomy as three critical conditions of work that departments should uphold when seeking to introduce automation into the workplace. The principles draw on the Good Work Charter of the Institute for the Future of Work (IFOW), which provides an organizing framework for aspiration, alignment, and action to shape a fairer future of better work. Adding this impact area to the existing list adapts the directive's approach to impact assessment to an expanded scope, which would include internal services impacting federal public servants.
DADM, Appendix C (Impact Level Requirements)	<p>Amend the explanation measures for impact level I: "In addition to any applicable legal requirement, ensuring that a meaningful explanation is <b>published provided</b> for common decision results. <b>The explanation should provide a general description of: This involves providing information describing</b></p> <ul style="list-style-type: none"> <li>• <b>The role of the system in the decision-making process;</b></li> <li>• <del>The training and client input data, their source and method of collection, if applicable;</del></li> <li>• <b>The criteria used to evaluate input client data and the operations applied to process it; and</b></li> <li>• <b>The output produced by the system, and any relevant information needed to interpret it in the context of the administrative decision.</b></li> </ul> <p>This <b>information should be made available in plain language through the Algorithmic Impact Assessment <del>can include providing the explanation via a Frequently Asked Questions section and discoverable via on</del> a departmental website."</b></p>	<p>The proposed updates clarify that explanations for level I systems should be published in plain language as part of the AIA and made discoverable on a departmental website. This is intended to strengthen the discoverability and accessibility of explanations of common decision results.</p> <p>The proposed explanation criteria have also been adjusted to better reflect expectations for public explanations, which are intended to provide clients and public stakeholders with a general description of the system and its role in a decision-making process; data inputs and the way they are evaluated and processed; and data outputs and their relation to a decision. As with any information in the AIA, public explanations would not include any personal or sensitive information. They also do not replace explanations addressed to a client, which departments must still provide to meet legal requirements and as required for impact levels II-IV.</p>



# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
DADM, Appendix C (Impact Level Requirements)	<p>Continued - Amend the explanation measures for impact levels II-IV: "In addition to any applicable legal requirement, ensuring that a meaningful explanation is provided <b>to the client</b> with any decision that resulted in the denial of a benefit, <del>a</del> <b>or</b> service, or <b>involved a other</b> regulatory action. <b>The explanation should inform the client in plain language of:</b></p> <ul style="list-style-type: none"> <li>• <b>The role of the system in the decision-making process;</b></li> <li>• <b>The training and client data, their source and method of collection, if applicable;</b></li> <li>• <b>The criteria used to evaluate client data and the operations applied to process it; <del>and</del></b></li> <li>• <b>The output produced by the system, and any relevant information needed to interpret it in the context of the administrative decision; and</b></li> <li>• <b>A justification of the administrative decision.</b></li> </ul> <p><b>A general description of these elements should also be made available through the Algorithmic Impact Assessment and discoverable via a departmental website."</b></p>	<p>The proposed updates help clarify the distinction between public and private explanations. Explanations for systems at levels II-IV should be addressed to clients in order to enable them to understand and contest a decision, and to meet procedural legal obligations. These explanations typically concern a specific individual – the subject of an automated decision – and are therefore likely to implicate procedural rights.</p> <p>In response to stakeholder feedback, TBS has also added a new criterion that concerns the reasoning behind a decision. The initially proposed criteria focus on the role of the system in a decision-making process and the way it is used to make or contribute to a decision. In contrast, the new criterion is intended to ensure clients understand why, given the outputs of a system (and potentially the judgement of an officer), a decision was decided a certain way. (Since such justifications always pertain to a specific individual, this criterion is not being proposed for level I requirements, which relate to public explanations.)</p> <p>Drawing on the language proposed for level I explanations, TBS is also seeking to ensure that a public version of explanations provided to clients is drafted and published as part of the AIA. Providing public stakeholders with a "general description" of the same elements laid out in the proposed criteria would strengthen algorithmic transparency and accountability. It would also enhance the effectiveness of the AIA itself, which would ask users to articulate how their systems are making or supporting decisions to a public audience, further expanding opportunities for public dialogue on the use of AI in the federal government.</p>
DADM, Appendix C (Impact Level Requirements)	<p>Amend the peer review measures for impact levels II-III: "<b>Consult</b> at least one of <b>the following experts and publish the complete review or a plain language summary of the findings on a Government of Canada website:</b>"; "<b>OR</b> Publishing specifications of the Automated Decision System in a peer-reviewed journal. <b>Where access to the published review is restricted, ensure that a plain language summary of the findings is openly available.</b>" (The latter entry would be positioned at the end of the list of options.)</p> <p>Amend the peer review measures for impact level IV: "<b>Consult</b> at least two of <b>the following experts and publish the complete review or a plain language summary of the findings on a Government of Canada website:</b>"; "Publishing specifications of the Automated Decision System in a peer-reviewed journal. <b>Where access to the published review is restricted, ensure that a plain language summary of the findings is openly available.</b>"</p>	See rationale for peer review amendments (section 6).

# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
DADM, Appendix C (Impact Level Requirements)	<p>Add new section on Gender Based Analysis Plus. Requirements in this area would apply to systems at impact levels II-IV: <b>“Ensure that your Gender Based Analysis Plus addresses the following issues:</b></p> <ul style="list-style-type: none"> <li><b>Impacts of the automation project (including the system, data, and decision) on gender or other identity factors;</b></li> <li><b>Planned or existing measures to address risks identified through the Gender Based Analysis Plus.”</b></li> </ul>	See rationale for GBA+ amendments (section 6).
AIA (About the Data Section)	Add the following question: <b>“Please describe the input data collected and used by the system, its source, and method of collection. [Free text]”</b>	This question is drawn from the proposed explanation criteria, which TBS is seeking to integrate into the AIA. See the rationales for updates to explanation requirements (Appendix C).
AIA (Consultations Section)	<p>Amend the question to add new options to the lists for internal and external stakeholders: “Will you be engaging with any of the following groups? Internal Stakeholders (Strategic Policy and Planning, Data Governance, Program Policy, etc.): <b>“Digital Policy, Human Resources, TBS Office of the Chief Human Resources Officer, TBS Office of the Chief Information Officer”</b></p> <p>External Stakeholders (Civil Society, Academia, Industry, etc.): <b>“Bargaining Agents, Governments in Other Jurisdictions, International Organizations, Clients or their Representatives”</b></p>	<p>TBS is seeking to identify new internal and external stakeholders to account for use-cases involving internal services (which may be subject to the amended directive) and highlight previously missing types of stakeholders. These changes will better equip departments to identify and engage potentially relevant stakeholders within their respective institutions and outside the government on their automation projects.</p> <p>The lists are not intended to be exhaustive. They provide examples of offices and institutions that departments should consider consulting early in the project/system lifecycle to ensure alignment with applicable laws and policies and to identify best practices and lessons learned in other organizations.</p>
AIA (Risk Profile Section)	Add new question: <b>“Will the use of the system pose significant risks for persons with disabilities? [Yes/No] If yes, please describe the accessibility risks and any planned or existing mitigation measures. [Free Text]”</b>	Some stakeholders have noted the importance of identifying, assessing, and mitigating the risks of automation projects for persons with disabilities, in accordance with the requirements of the <i>Accessible Canada Act</i> . The proposed question integrates accessibility considerations into the AIA and allows departments to share analyses or plans in this regard with a broad audience.

# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
AIA (About the Decision Section)	<p>Amend the question: “Does the decision pertain to any of the categories below (check all that apply):” by adding a new option to the list:</p> <p><b>“Employment (recruitment, hiring, promotion, performance evaluation)”</b></p>	<p>The proposed option identifies employment as a key category of use-cases that would fall within the purview of the amended directive, which would apply to automation in internal services such as recruitment, hiring, promotion, and performance evaluation. While there are other types of internal services that may become subject to the directive, TBS is seeking to prioritize the assessment and mitigation of risks arising in employment contexts in the third review of the directive.</p>
AIA (Business Driver / Positive Impact Section)	<p>Add new series of questions on reasons for automation:</p> <ul style="list-style-type: none"> <li>• <b>“What user needs will the system address and how will this system meet them? If possible, describe how user needs have been identified. [Free text]”</b></li> <li>• <del>“How will the system be used to meet user needs? [Free text]”</del></li> <li>• <b>“How effective will the system be in meeting user needs? [Slightly effective; Moderately effective; Very effective]”</b></li> <li>• <b>“Please describe any improvements, benefits, or advantages you expect from using an automated system. This could include relevant program indicators and performance targets. explain why you expect the system to achieve the level of effectiveness identified above. [Free text]”</b></li> <li>• <b>“Please describe how you will ensure that the system is confined to addressing the user needs identified above? [Free text]”</b></li> <li>• <b>“Have alternative non-automated manual processes been considered? [Yes/No]”</b></li> <li>• <b>“If non-automated manual processes were considered, why was automation identified as the preferred option? [Free text]”</b></li> <li>• <b>“What is would be the consequence of not deploying the system? (Select all that apply) [Service cannot be delivered at all; Service cannot be delivered in a timely or efficient manner; Service costs are too high; Service quality is not as high; Service delivery cannot achieve performance targets; Other [free text]”</b></li> <li>• <b>“Please describe any public benefits the system is expected to have. [Free text]”</b></li> </ul>	<p>Stakeholders generally agreed with TBS’s effort to prompt departments to reflect on the necessity of using automated decision systems to meet their needs. In their comments, they mainly suggested ensuring that the questions are clear and user-friendly. The proposed updates seek to address such editorial issues, including by consolidating and rephrasing questions.</p> <p>Stakeholders also recommended expanding on the existing questions, for example by asking users to describe how their needs were identified, and to articulate the public benefits of their automation projects. Both questions have been added: the first would help distinguish between internal and external recommendations (e.g., senior management direction, recommendations from consultants or contractors), while the second would foster reflection on the public implications of automation and help reconcile user needs with the greater public good.</p>

# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
AIA (Impact Assessment Section)	<p>Replace the first two questions currently in this section of the AIA with:</p> <ul style="list-style-type: none"> <li>• <b>“Which of the following best describes the type of automation you are planning?”</b> <ul style="list-style-type: none"> <li>• <b>Full automation (the system will make an administrative decision)</b></li> <li>• <b>Partial automation (the system will contribute to administrative decision-making by supporting an officer through assessments, recommendations, intermediate decisions, or other outputs)</b></li> </ul> </li> </ul> <p><b>Please describe the role of the system in the decision-making process. [Free text]”</b></p> <p>Add the following questions:</p> <ul style="list-style-type: none"> <li>• <b>“Please describe the criteria used to evaluate client data and the operations applied to process it. [Free text]”</b></li> <li>• <b>“Please describe the output produced by the system and any relevant information needed to interpret it in the context of the administrative decision. [Free text]”</b></li> <li>• <b>“Will the system perform an assessment or other operation that would not otherwise be completed by a human? [Yes/No] If yes: Please describe the relevant function(s) of the system. [Free text]”</b></li> <li>• <b>“The impacts that the decision will have on the equality, dignity, and autonomy of federal public servants will likely be: [Little to no impact, moderate impact, high impact, very high impact] Please describe why the impacts resulting from the decision are (as per the option selected above) [Free text]”</b></li> </ul> <p>Amend the question: “Will the system be <b>making replacing human</b> decisions <b>or assessments</b> that require judgement or discretion?”</p>	<p>Some stakeholders noted the need to address potential contradictions in the AIA’s questions on the role of a system in a decision-making process. The proposed updates address this concern in accordance with TBS’s proposal to amend the language used to describe the scope of the directive. TBS proposes a consolidated question that identifies the type of automation being pursued and asks users to further describe the role of their system in decision-making. This description would form part of the public explanation required under Appendix C of the amended directive.</p> <p>The updates also introduce new questions evaluating whether a system would perform novel assessments which may not be feasible in a non-automated process, and any potential impacts on federal public servants (in alignment with the updates proposed under Appendix B). The question on novel assessments is intended to identify new processes that may not be part of an existing decision-making process. Such processes may carry unique risks and should therefore be identified as part of the AIA.</p> <p>The question on impacts on federal public servants is intended to account for the application of the amended directive to internal services impacting federal public servants. This impact area is currently missing from the list of areas identified in Appendix B of the directive and assessed in this section of the AIA.</p> <p>The questions concerning input and output data are drawn from the proposed explanation criteria. See the rationales for updates to explanation requirements (Appendix C).</p>

# Updates to proposed amendments to the directive

Instrument & section	Updated amendment (provisional text)	Rationale for update
DADM, Section 10 (References)	Amend section 10.1: " <b>Accessible Canada Act</b> "  Amend section 10.2: " <b>Policy on People Management</b> "	<p>The proposed additions to the References section are intended to complement three amendments: the expansion of the directive's scope to cover internal services, the requirement to complete a GBA+ during the development of an automated decision system, and the introduction of a question on accessibility impacts into the AIA.</p> <p>The Policy on People Management governs the organization and management of the federal public workforce. It establishes rules for the delivery of internal services in the human resources domain, many of which would fall within the purview of the amended directive (to the extent that they involve administrative decisions). These requirements would have to be factored into impact assessments for systems deployed in this domain (e.g., to support recruitment, hiring, or performance management). The Policy is therefore relevant to the effective adoption of the measures of the amended directive.</p> <p>The <i>Accessible Canada Act</i> aims to realize a barrier-free Canada by 2040. The legislation benefits all Canadians, especially persons with disabilities, through the proactive identification, removal, and prevention of barriers to accessibility in a range of areas including Information and Communication Technologies (ICT). The proposed requirement to complete a GBA+, and the new AIA question concerning the potential impact of an automation project on persons with disabilities, draw on legal obligations established in the Act. The Act's relevance as a reference point in the directive goes beyond these measures, however. The Act prioritizes accessibility in the design and delivery of programs and services, thus making it a relevant source of law for any potential use of automated decision systems in service delivery.</p>

# Suggestions for future consideration

Stakeholders provided a range of suggestions for consideration in future reviews, including:

- Develop a **public register of automated decision systems** in use within the federal government. This should be accompanied by a reporting mechanism for systems put in place prior to April 2020.
- Build **oversight capacities** to strengthen assessment of compliance with the directive.
- Establish mechanisms to enhance the **quality and discoverability of AIAs**.
- Strengthen the integration of **human rights** considerations under the directive.
- Examine the effectiveness of the **recourse** requirement in enabling clients to challenge decisions and seek redress.
- Strengthen existing **audit** measures, including for high-impact systems.
- Examine the conditions under which departments are required to publish an **updated AIA**.
- Develop **definitions** for key terms such as bias and national security systems.
- Examine ways to facilitate **public deliberation** on the development and use of automated decision systems in the federal government.

Phase 1 feedback also addressed issues that fall outside the mandate of TBS with respect to automation. These include:

- Regulating automation in **criminal justice** and **taxation**.
- Establishing an external **accountability body** for handling complaints on automated decisions.

## Next steps

- Circulate this 'What We Heard Report' to federal and public stakeholders (**August 2022**).
- Launch phase 2 of stakeholder engagement with updated proposal (**August-September 2022**).
- Engage with phase 1 stakeholders to address questions, issues, and other concerns raised in their feedback (**July-August 2022**).

Summer 2022	Fall 2022-Winter 2023
Stakeholder engagement	Policy amendment
<ul style="list-style-type: none"> <li>• Engage federal partners and external stakeholders on the 3<sup>rd</sup> review.</li> <li>• Update proposal in accordance with input, as appropriate.</li> <li>• Share 'what we heard' with senior management and the public.</li> </ul>	<ul style="list-style-type: none"> <li>• Commence TBS-OCIO gated policy stewardship process.</li> <li>• Seek senior committee endorsements and raise awareness of 3<sup>rd</sup> review.</li> <li>• Seek the approval of the Chief Information Officer of Canada and the Secretary of the Treasury Board for the amendments.</li> <li>• Publish updated directive and AIA.</li> <li>• Support departments with adapting to new requirements (ongoing).</li> </ul>