

Department of Consumer and Worker Protection

Enforcement of Local Law 144 – Automated Employment Decision Tools

Report 2024-N-6 | December 2025

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine whether the New York City Department of Consumer and Worker Protection has designed and implemented an effective system to enforce compliance with Local Law 144. The audit covered the period from July 2023 through June 2025.

About the Program

Companies are increasingly using automated tools to assist in making employment decisions. This technology can be used in a variety of ways, such as quickly scanning résumés for key words to select the most qualified candidates, scanning a candidate's online presence, and analyzing video interviews to evaluate a candidate's behaviors and mannerisms. While the use of these tools can benefit companies by saving time and money and improving the candidate's experience, it also comes with risks. For instance, it can amplify existing biases and create novel sources of bias, and there is often a lack of transparency about the system's capabilities and limitations.

To address some of these concerns, the New York City (NYC) Council passed Local Law 144 of 2021 (LL144 or the Law). Under the Law, employers and employment agencies must:

- Conduct a bias audit of the automated employment decision tool (AEDT) no more than 1 year prior to its use.
- Provide a summary of the results of the most recent bias audit available on their website.
- Properly notify candidates that an AEDT will be used, how it will be used, and the data that will be collected.

The NYC Department of Consumer and Worker Protection (DCWP) is responsible for enforcement of key consumer protection, licensing, and workplace laws that apply to businesses in NYC. DCWP is tasked with enforcing LL144 and can impose civil penalties between \$500 and \$1,500 per day for violations. DCWP entered into a memorandum of understanding (MOU) with the NYC Office of Technology and Innovation (OTI) to receive technical assistance and formalize the procedures by which OTI will support DCWP in carrying out its duties pursuant to LL144, such as through an Enforcement Workbook.

DCWP officials highlight a unique challenge in identifying non-compliance, as LL144 requires posting of bias audits and disclosures to candidates if an employer determines it needs to comply with LL144. DCWP officials explained that, if an employer does not take these steps, it's difficult to identify non-compliance. As a result, DCWP officials stated that stakeholder education combined with complaint-based enforcement is the most effective way to enforce compliance with LL144.

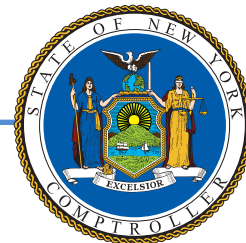
Key Findings

- DCWP's AEDT complaint process is ineffective in ensuring that all complaints related to non-compliance with LL144 are routed to DCWP. Furthermore, despite DCWP's initial stakeholder education, additional educational outreach has not been performed. By relying on an ineffective complaint process and no additional or more recent outreach, DCWP's approach to enforcing LL144 will not address the difficulty in identifying non-compliance, especially in instances where employers do not take steps toward complying, such as posting bias audits.
- Despite receiving only two AEDT complaints during the audit's scope, DCWP did not investigate whether the complaint intake process worked.

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- DCWP surveyed websites and bias audits of 32 companies and identified just a single issue of non-compliance. However, DCWP’s review did not use the formal procedures created by OTI, as part of DCWP’s MOU, nor did it address all requirements of LL144. We reviewed the same companies and identified at least 17 instances of potential non-compliance under LL144.
 - Although DCWP officials lack technical expertise to evaluate AEDT use, DCWP officials did not consult with OTI when making determinations about AEDTs.

Key Recommendations

- Implement processes to ensure that AEDT complaints are properly handled and routed.
- Implement mechanisms to ensure that AEDT complaints received by 311 are properly routed to DCWP.
- Conduct research and testing to determine the reasons for the low number of complaints related to AEDTs and take steps to address these factors.
- Ensure DCWP’s bias audit reviews address all potential non-compliance, including using existing OTI resources, such as the Enforcement Workbook.
- Create and implement a process to improve enforcement actions by identifying potential non-compliance with LL144 through research and other leads in addition to complaints.
- Ensure OTI’s expertise is used to evaluate the technical functionality of suspected AEDT tools to support DCWP’s enforcement.



**Office of the New York State Comptroller
Division of State Government Accountability**

December 2, 2025

Vilda Vera Mayuga
Commissioner
Department of Consumer and Worker Protection
42 Broadway
New York, NY 10004

Dear Commissioner Mayuga:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Enforcement of Local Law 144 – Automated Employment Decision Tools*. This audit was performed pursuant to the State Comptroller’s authority under Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

This audit’s results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
DCWP	NYC Department of Consumer and Worker Protection	<i>Auditee</i>
311	NYC 311 system for requesting information and submitting complaints	<i>Key Term</i>
311 Representatives	311 Call Center Representatives	<i>Key Term</i>
ACLU	American Civil Liberties Union	<i>Advocacy Organization</i>
AEDT	Automated employment decision tool	<i>Key Term</i>
AEDT Vendor	A company that sells AEDT tools, which can include companies that create the tool	<i>Key Term</i>
AI	Artificial intelligence	<i>Key Term</i>
CCHR	City Commission on Human Rights	<i>Agency</i>
CSU	DCWP's Consumer Services Unit	<i>Auditee Division</i>
DOE/NYCPS	NYC Department of Education/NYC Public Schools	<i>Agency</i>
EEOC	U.S. Equal Employment Opportunity Commission	<i>Federal Agency</i>
FTC	Federal Trade Commission	<i>Federal Agency</i>
LL35	Local Law 35 of 2022	<i>Law</i>
LL144 or Law	Local Law 144 of 2021	<i>Law</i>
MOU	Memorandum of understanding	<i>Key Term</i>
OLPS	DCWP's Office of Labor Policy and Standards	<i>Auditee Division</i>
OTI	NYC Office of Technology and Innovation	<i>Agency</i>
Procedures	OTI's Technical Assistance Procedures Manual	<i>Key Term</i>
Rules	Rules of the City of New York	<i>Rules</i>

Background

Companies are increasingly using automated tools to assist in making employment decisions. This technology can be used in a variety of ways, such as quickly scanning résumés for key words, scanning a job candidate’s online presence, and analyzing video interviews to evaluate a candidate’s behaviors and mannerisms. In January 2023, the Chair of the U.S. Equal Employment Opportunity Commission (EEOC) stated that 83% of employers, including 99% of Fortune 500 companies, now use some form of automated tool as part of their hiring process. While the use of these tools can save companies time and money and improve the candidate’s experience, it also comes with risks. For instance, it can amplify existing and create new biases, and there is often a lack of transparency about the system’s capabilities and limitations.

The NYC Council passed Local Law 144 of 2021 (LL144 or Law) to regulate potential bias and discrimination in automated employment decision tools (AEDTs) used in hiring and promotion in NYC. Under the Law, an AEDT is any computational process—derived from machine learning, statistical modeling, data analytics, or artificial intelligence—“that issues simplified output, including a score, classification, or recommendation, that is used to substantially assist or replace discretionary decision-making for employment decisions” that impact individuals. Reportedly, one of the first laws of its kind in the nation, the purpose of the Law is to promote transparency and accountability in the use of these tools by requiring employers to conduct bias audits and provide notice to candidates when they are used. The NYC Department of Consumer and Worker Protection (DCWP) can impose civil penalties between \$500 and \$1,500 per day for non-compliance. According to the Law, employers and employment agencies must:

- Conduct a bias audit of the tool no more than 1 year prior to the tool’s use and annually thereafter.
- Provide a summary of results from the most recent bias audit available on their website.
- Properly notify candidates that an AEDT will be used, how it will be used, and what data will be collected.

DCWP was tasked with enforcing LL144. DCWP is responsible for the enforcement of key consumer protection, licensing, and workplace laws that apply to businesses in NYC. DCWP officials stated that across all its responsibilities, DCWP received 29,468 complaints in 2024, completed approximately 2,100 mediations, collected \$15.2 million in civil penalties, and secured \$12.1 million in restitution for New Yorkers. The vast majority of these complaints are processed by two of DCWP’s divisions: one focused on consumer complaints—Consumer Services Unit (CSU), under the General Counsel—and the other on worker complaints—Office of Labor Policy and Standards (OLPS).

DCWP tasked two attorneys within its General Counsel office with primary responsibility for enforcement of LL144 and resolving related complaints. To file an AEDT complaint, an individual can call NYC’s 311 system (311) or go to DCWP’s website. DCWP officials also noted complaints can be submitted by email, fax, or

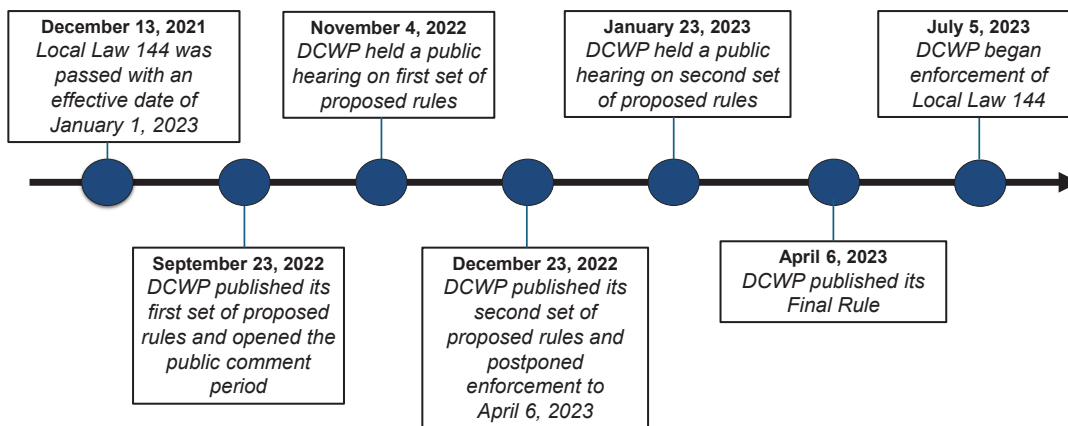
a phone call. Although OLPS is responsible for resolution of other types of worker complaints received by DCWP, OLPS does not have a formal role in enforcement of LL144.

DCWP also entered into a memorandum of understanding (MOU) with the Office of Technology and Innovation (OTI), the City’s IT agency, for technical assistance in enforcing the Law.

DCWP Rulemaking

LL144 requirements went into effect on January 1, 2023. However, partially in response to public feedback from its first set of proposed rules for the Law, DCWP continued its rulemaking process to clarify the Law’s requirements and the enforcement date was postponed to July 5, 2023 (see Figure 1).

Figure 1 – Timeline of Local Law 144 Enforcement



LL144 Rule Definitions

In its finalized rule, which updated the Rules of the City of New York (Rules), DCWP further clarified the definition of an AEDT by defining “substantially assist or replace discretionary decision-making” as any of the following:

- To rely solely on a simplified output (e.g., score, tag, classification, ranking), with no other factors considered.
- To use a simplified output as one of a set of criteria where the simplified output is weighted more than any other criterion in the set.
- To use a simplified output to overrule conclusions derived from other factors, including human decision-making.

Effectively, unless the system replaces human decision-making or is the main factor in hiring or promotion, it does not fall under the scope of the Rules established by DCWP.

Further, the Rules define “machine learning, statistical modeling, data analytics, or artificial intelligence” as a group of mathematical, computer-based techniques:

- That generate a prediction, meaning an expected outcome for an observation, such as an assessment of a candidate’s fit or likelihood of success, or that generate a classification, meaning an assignment of an observation to a group, such as categorizations based on skill sets or aptitude; and
- For which a computer at least in part identifies the inputs, the relative importance placed on those inputs, and, if applicable, other parameters for the models in order to improve the accuracy of the prediction or classification.

While employment tools can be developed using various techniques, DCWP officials informed us that not all automated employment tools fit the criteria of LL144, and they would need to investigate how each tool is developed and used by employers to determine if the tool meets the criteria to fall under the scope of the Law.

Bias Audits and Disclosure Requirements

The Law requires employers and employment agencies in NYC to conduct an annual bias audit by an independent auditor before use of an AEDT, publish the results of the most recent bias audit and the AEDT’s distribution date (i.e., the date the employer began using the AEDT) on their website, and provide notice to applicants and employees who are subject to screening by the AEDT at least 10 business days before use of the tool. Under LL144, annual bias audits must be conducted across sex categories, race/ethnicity categories, and intersectional categories of sex and race/ethnicity. LL144 defines race and sex using categories established by federal regulations and enforced by the EEOC.

LL144 does not require employers to take specific action if they find an AEDT tool has produced biased or discriminatory outcomes. Nevertheless, employers would still be required to comply with federal, State, and local laws that prohibit discrimination in employment. If a bias audit determines an AEDT tool is biased, other laws and agencies (such as the City Human Rights Law and the City Commission on Human Rights [CCHR]) could be involved to address potential discrimination.

Bias audits and disclosures are required if the employer determines it needs to comply with LL144—meaning that it uses an AEDT in hiring and promotion in NYC. DCWP officials explained that if an employer does not take these steps, it is difficult to superficially identify non-compliance, such as by only reviewing whether a bias audit is posted on an employer’s website. They also explained that, because hiring practices are typically not transparent, there is no efficient method for determining which employers and employment agencies are using AEDTs in NYC.

Audit Findings and Recommendations

DCWP has an ineffective system to address compliance with NYC's LL144. DCWP's AEDT complaint process may not accurately reflect the number of complaints individuals have tried to submit related to non-compliance with LL144. For example, nine of our 12 test calls to 311 to file an AEDT complaint were not connected to DCWP, and the instructions for filing complaints through DCWP's website are unclear. DCWP's complaint intake processes are also ineffective in ensuring that all complaints related to non-compliance with LL144 are routed to DCWP.

DCWP officials indicated that DCWP received only two complaints during our audit and noted several possibilities for the low number of complaints received, including potential low interest by New Yorkers as well as the Law's preventive effect. However, DCWP did not investigate whether the complaint intake process worked appropriately as a potential explanation for the low number of complaints.

DCWP officials highlighted a unique challenge in identifying non-compliance, as LL144 requires posting of bias audits and disclosures to candidates only if an employer determines it needs to comply with LL144. DCWP officials explained that if an employer does not take these steps, it's difficult to identify non-compliance. As a result, DCWP officials stated that stakeholder education combined with complaint-based enforcement is the most effective way to enforce compliance with LL144. Despite DCWP's initial stakeholder education, additional educational outreach has not been performed. By relying on an ineffective complaint process and not performing additional or more recent outreach, DCWP's approach to enforcing LL144 will not address the difficulty in identifying non-compliance, especially in instances where employers do not take steps toward complying, such as posting bias audits.

While DCWP is aware that research, such as periodically reviewing posted bias audits, can be a useful tool to measure potential non-compliance, officials do not believe such research is worth the resource commitment. DCWP reviewed LL144 compliance of companies listed in publications on LL144 by Cornell University and the American Civil Liberties Union (ACLU). However, even when research is used as a starting point, DCWP's review did not address all requirements of LL144. Whereas DCWP identified only one instance of potential non-compliance in its review of 22 companies, our review of these same companies identified at least 17 instances of potential non-compliance. Part of DCWP's review was incomplete because DCWP did not utilize formal procedures developed by OTI to assist in navigating LL144's specific rules to ensure full compliance. Furthermore, even when DCWP investigated complaints, limited steps were taken to validate the underlying facts of the complaint.

DCWP's AEDT Complaint Process

DCWP's complaint intake process is ineffective in ensuring that all complaints related to non-compliance with LL144 are routed to DCWP. NYC's 311 system was used the most by individuals to submit AEDT complaints, but individuals can also file a complaint through DCWP's website. However, issues with both methods can make it difficult for someone to successfully file a complaint. Calls to 311 are

often misdirected, and the instructions for filing complaints via DCWP’s website are unclear. As a result, the number of AEDT complaints actually submitted may be underreported.

Complaints Received Through 311

In NYC, people can call 311, and 311 Call Center Representatives (311 Representatives) will determine the most appropriate agency to assist them by performing keyword searches of the 311 knowledge management system. The system contains information and knowledge articles on a variety of topics as well as instructions on how to process complaints. According to DCWP officials, their main avenue for receiving complaints is through 311, which is overseen by OTI.

Until May 2025—nearly 2 years after enforcement began—there was no process in place for 311 Representatives to create and send an electronic record of the complaint to DCWP for follow-up or have an option to submit the complaint on the 311 website. Prior to May 2025, calls to 311 regarding AEDT complaints had to be transferred directly to DCWP, unlike many other types of DCWP complaints.

Routing of 311 Complaints

We have limited assurance that AEDT complaints are being adequately transferred from 311 to DCWP. We performed 12 test calls to 311 between August and September 2024, using keywords related to filing a complaint about an employer’s use of AEDTs. Of the 12 calls, 311 Representatives transferred us to DCWP in only three instances (25%). In one instance, the 311 Representative indicated that they did not have DCWP’s direct phone number. Officials from CSU, who handle intake for the General Counsel, explained that CSU’s hotline number is not listed on 311 or the DCWP website, and consumers must reach out to DCWP by calling 311.

In eight instances (67%), 311 Representatives referred us to the NYS Department of Labor, and in one instance (8%), they instructed us to refer the complaint directly to the employer rather than any oversight agency. While OTI and DCWP officials set up the keywords that should direct 311 Representatives to the AEDT knowledge article, the results of our testing indicate that 311 Representatives are not effectively routing AEDT complaints to DCWP. We requested that OTI provide a walkthrough of the 311 knowledge management system to see how the 311 Representatives use the system. However, OTI did not provide such a walkthrough. Without observing how the 311 Representatives actually access knowledge articles, it’s unclear whether the 311 Representatives’ use of keywords is an effective way to access the appropriate AEDT knowledge article to direct the caller to DCWP.

DCWP Records of 311 Complaints

According to OTI officials, between January 2023 and September 2024, 311 Representatives transferred 10 calls related to AEDTs to DCWP. We asked for details on these phone calls, but rather than provide us with the data, officials directed us to the 311 Call Center Inquiry dataset, which is publicly available on

NYC Open Data. This dataset included 17 inquiries related to AEDTs that were made between July 5, 2023 and June 4, 2025. However, only two of these inquiries were part of the previously mentioned 12 test calls we made. The remaining 10 test calls were not recorded in the data as AEDT complaints. Additionally, we found that the dataset did not have sufficient information to determine whether inquiries were actually transferred to DCWP. Neither the “Agency” column, which should record the agency associated with the specific topic, nor the “Call Resolution” column, which should record how the call ended or was resolved, contained any information. Therefore, we were unable to determine whether these calls were appropriately transferred to DCWP. Significantly, DCWP officials told us that, as of May 2025, they had not received any 311 calls related to AEDTs. Neither DCWP nor OTI could provide details about the resolution of these calls, so we have no assurance that these complaints were addressed.

Complaints Received Through DCWP’s Website

In addition to calling 311 directly, AEDT complaints can be filed on DCWP’s website through a complaint portal. While DCWP’s website has worker and consumer complaint portals, DCWP instructs the public to file AEDT complaints via its consumer portal—even though AEDT relates to worker concerns. Despite the instructions, DCWP can also receive complaints via its worker portal.

We reviewed DCWP’s website and determined neither of the complaint portals on DCWP’s website includes an option to label the complaint as an AEDT complaint, which can cause confusion, especially because DCWP directs individuals to the consumer complaint portal that lists consumer-related complaints (e.g., furniture sales). Rather, DCWP officials explained to us that an individual should select “Other” on the consumer portal when submitting an AEDT complaint. According to DCWP officials, they did not add an option for AEDT complaints because they did not see a sufficient need to justify diverting IT resources from other critical projects. However, it is unclear what level of IT resources is needed to add an additional complaint category to DCWP’s existing systems.

While DCWP officials agree that AEDT complaints would be more appropriately labeled as worker complaints, they explained that complaints related to the use of AEDTs should still be submitted through DCWP’s own consumer portal. However, there is no information on the DCWP website that clearly instructs individuals to select the “Other” option when submitting an AEDT complaint. Without clear instructions, an applicant may not be able to successfully submit a complaint to DCWP.

Routing of Website Complaints

DCWP’s consumer and worker portals are not connected and do not share information. Two separate divisions handle the intake of complaints received through these portals. CSU handles complaints submitted through the consumer portal, while OLPS processes complaints received through the worker portal.

When AEDT complaints are received through the worker portal, OLPS staff are expected to acknowledge receipt to the complainant and forward the complaint to General Counsel. However, there was no specific AEDT complaint training to OLPS staff on how to handle AEDT complaints should OLPS inadvertently receive them.

Nevertheless, before LL144 took effect, DCWP officials created an email template for OLPS to use when responding to AEDT complaints or AEDT inquiries. The template directs individuals to either check DCWP's worker website for updates and information about LL144 or visit 311's AEDT webpage. However, the specific link to DCWP's website does not directly take the individual to the AEDT webpage.

Furthermore, the template does not provide clear instruction for individuals to follow DCWP's preferred process to submit a complaint. As discussed, for almost 2 years after enforcement began, 311's AEDT webpage directed people to call 311. We also found that, based on our test calls, calling 311 to file an AEDT complaint did not usually result in the complaint being routed to DCWP. We encourage DCWP to update its template to provide clear instructions on how to successfully file a complaint.

Tracking and Internal Routing of Complaints

General Counsel officials, who were assigned responsibility for enforcing LL144, do not maintain or track all complaints received by DCWP. Complaints received by OLPS are recorded in its intake database, but those General Counsel officials do not have access to this database, so they must rely on referrals from OLPS staff. In addition, complaints received through the consumer portal, accessible to General Counsel, are not categorized as AEDT, but as "Other," which includes complaints other than AEDT complaints. DCWP's lack of formal tracking makes it more difficult to standardize complaint processing, similar to the processes DCWP uses for other complaint types.

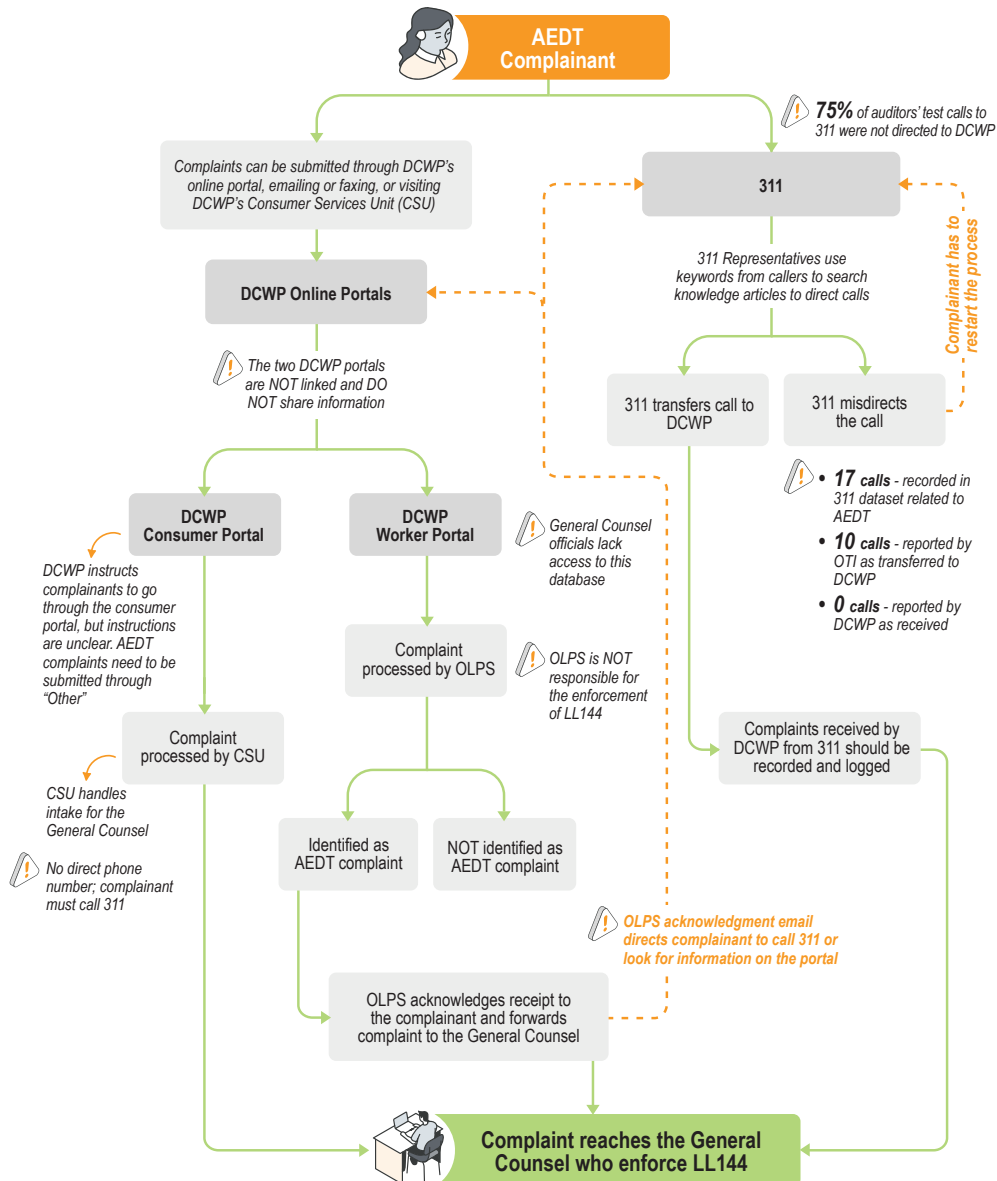
About 3 months before enforcement of LL144 began, OLPS received a complaint regarding AEDTs and LL144. The intake staff used the email template to respond, but DCWP did not provide us with any records showing that General Counsel officials followed up on the complaint after enforcement began. Instead, DCWP responded to the individual stating that the Law would not be enforced until July 5, 2023 and that the individual could file a complaint with CCHR if the issue involved unlawful discrimination due to an employer's use of an AEDT.

Further, not all complaints are properly routed to the General Counsel for tracking and review. In addition to the 17 calls transferred from 311 to DCWP—for which DCWP did not have a record of receipt—there was at least one instance where OLPS received an AEDT complaint but did not route it to General Counsel. In December 2024, OLPS received a complaint that the intake staff responded to using the email template but did not refer it to General Counsel for review. When we asked OLPS officials why, officials stated that the complaint was not related to AEDT or LL144 and that the email template was used incorrectly. However, because General Counsel staff are responsible for reviewing AEDT complaints and LL144, they should

have determined its relevance rather than OLPS staff. We also note the complaint included concerns about discrimination within a mobile app used in hiring for short-term jobs.

DCWP should take steps to ensure all AEDT complaints, whether submitted through 311 or DCWP’s website, are properly handled and routed. In addition, DCWP should formally track all AEDT complaints starting at intake through complaint resolution. Without taking necessary steps to improve its complaint processing, DCWP does not have assurance that all AEDT complaints are received. As noted in Figure 2, while complaints can be made using different methods, each pathway has several risks that can prevent DCWP from receiving all AEDT complaints.

Figure 2 – AEDT Complaint Pathways



DWCP's AEDT Investigation and Enforcement

DCWP officials stated that stakeholder education combined with complaint-based enforcement is the most effective way to enforce compliance with LL144. DCWP's approach to enforcing compliance with LL144 relies on an ineffective complaint process that does not effectively account for the fact that LL144 non-compliance may not be easily identifiable. DCWP officials have not formally investigated the reasons for the low number of complaints, nor have they developed tools to address risks, such as when an employer uses an AEDT and does not post a bias audit.

Furthermore, DCWP's reviews of bias audits do not identify all non-compliance and even when DCWP investigated complaints, limited steps were taken to validate the underlying facts of the complaint. While DCWP is aware that research, such as periodically reviewing posted bias audits, can be a useful tool to measure potential non-compliance, officials do not believe such research is worth the resource commitment. Without taking action to improve its own review of bias audits and using alternatives to complaint-based enforcement, DCWP lacks assurance regarding the level of compliance with LL144.

Reliance on Complaints

DCWP officials stated that stakeholder education combined with complaint-based enforcement is the most effective way to ensure compliance with LL144. However, as previously noted, the AEDT complaint routing process is ineffective and DCWP may not be receiving all AEDT complaints. Regarding stakeholder education, as previously discussed, AEDT information is available on 311's and DCWP's websites. In May 2023, DCWP held three public roundtables for 139 business advocates, 17 industry advocates, and five civil/worker rights advocates. In addition to the roundtables and information on its website, DCWP also created a FAQ guide when enforcement started. However, DCWP has not held any additional public roundtables or presentations or issued other communications to the public on AEDTs despite considering stakeholder education a key factor to effective compliance with LL144.

Despite relying on complaints to ensure compliance with LL144 and having received only a minimal number of complaints since the Law took effect, DCWP officials have not formally investigated the possible reasons for the low number of complaints. Instead, DCWP officials noted several possibilities for the low number of complaints received, including potential low interest by New Yorkers and the Law's preventive effect. We encourage DCWP to investigate the possible reasons for the low number of complaints.

Lastly, there are multiple risks with DCWP's reliance on complaints to enforce LL144. In addition to the challenges with the intake and routing process of AEDT complaints, non-compliance with LL144 may not be easily identifiable, as noted by DCWP officials. If an employer does not disclose that it is using an AEDT and does not post a bias audit, neither DCWP nor the job candidate would know whether an AEDT has been used and, therefore, whether a bias audit should have been performed and

posted. However, by relying on an ineffective complaint process and not performing additional or more recent outreach, DCWP’s approach to enforcing LL144 will not address the difficulty in identifying non-compliance, especially in instances where employers do not take steps toward complying, such as posting bias audits. DCWP needs to develop additional tools to address this risk.

Alternatives to Complaint-Driven Enforcement

Throughout the audit, DCWP officials stated that the most effective way to enforce LL144 is through the investigation of complaints. However, DCWP officials acknowledged that web research can be another tool to measure potential non-compliance even though they questioned the effectiveness of such an approach. DCWP officials reviewed 32 company websites—including 22 employers and 10 vendors selling AEDTs—identified in publications from Cornell University and the ACLU that raised questions of non-compliance with LL144. DCWP’s review resulted in the issuance of two “demand” letters informing the employers of likely non-compliance. As a result, DCWP recognizes that there are viable alternatives to complaint-driven enforcement, but it does not regularly or independently take such steps.

Other types of research can also help identify potential non-compliance. Federal agencies, such as the EEOC and Federal Trade Commission (FTC), have publicly available information including legal filings and complaints that may relate to AEDT tools. Auditors reviewed recent EEOC cases to determine if any AEDT vendors or AEDT users were involved in employment discrimination cases. One vendor is involved in a class action lawsuit alleging that its artificial intelligence (AI)-based applicant screening tools discriminate against job applicants. The lawsuit claims that the tools are biased and violate federal and California state anti-discrimination laws. Although the lawsuit was filed in California, this vendor also does business in NYC, meaning any business using such a tool in NYC may have to follow LL144 requirements.

DCWP officials told us they were also aware of an FTC complaint regarding an AEDT vendor that sells AI hiring tools, but DCWP did not take any action regarding potential non-compliance with LL144. According to the FTC complaint, the AEDT vendor’s AI pre-hire assessment tool is used by at least eight major employers. We reviewed each employer’s website and found that five were hiring for positions in NYC, but none of the companies had a bias audit posted on their websites. While this is not proof of non-compliance with LL144, it is a potential lead for inquiry. Furthermore, the vendor itself indicated it had been using an AEDT since August 2024 but had not posted a bias audit as of June 2025. Violations for failing to post a bias audit for this amount of time could result in \$152,000 in fines under LL144.

While DCWP has discretion in how it approaches enforcement of LL144, the Law does not require a complaint to be filed before DCWP can take action. When we asked DCWP officials if they had considered employing any of these steps, they stated that it would be impossible to know if an employer was using such tools in

a way that fits the definition of AEDT. They also stated that they do not believe it would be an efficient use of their time to conduct such research when there are no complaints regarding the use of these tools. However, such steps can help DCWP better measure and assess compliance. Because the use of AI is rapidly developing, DCWP should take advantage of available opportunities to enhance its enforcement of LL144.

Collaboration With the Office of Technology and Innovation

DCWP entered into an MOU with OTI to formalize OTI's support to DCWP in fulfilling its responsibilities under LL144. OTI created a Technical Assistance Procedures Manual (Procedures) to assist DCWP in its enforcement efforts. DCWP lacks any other formal enforcement procedures.

According to the Procedures, when DCWP opens an enforcement action¹ requiring OTI support, DCWP should notify OTI and proceed with sharing relevant case data and documents. OTI would then complete steps to support DCWP and document the results in an "Enforcement Workbook," including:

- An analysis to assist in determining if a given tool meets the definition of an AEDT.
- Determination of whether a bias audit meets relevant requirements.

Ultimately, DCWP makes the final decision of whether a tool meets the criteria of an AEDT and whether a bias audit meets the criteria to be considered valid. Of note, OTI will only assist if DCWP requests assistance; however, DCWP did not refer any cases to OTI for technical assistance.

DCWP's Review of Potential AEDT Use

To gauge compliance with LL144, DCWP officials reviewed 32 company websites—including 22 employers and 10 vendors selling AEDTs—identified in publications from Cornell University and the ACLU that raised questions of non-compliance with LL144. For each company, DCWP officials reviewed whether:

- The bias auditor was independent.
- The bias audit included calculations for selection rates and impact ratios.
- The bias audit used historical data.
- The company had a bias audit clearly and conspicuously posted.
- The bias audit was completed within 1 year.

DCWP's review did not identify all potential non-compliance. According to DCWP's review of these companies' websites, 11 were vendors of AEDTs and 21 were employers using AEDTs. However, we found that 10 were vendors and 22 were

¹ "Enforcement action" is not defined in the Procedures and it is unclear whether OTI and DCWP share the same definition.

employers. For the 22 employers, we performed a similar review of the bias audits to determine if DCWP’s review was accurate. Our review only used information that was publicly available. When reviewing the websites and bias audits identified in these publications, DCWP did not consult with OTI or use the Enforcement Workbook, which contains a comprehensive list of questions to assist in analyzing bias audits. Instead, DCWP officials told us they only surveyed the websites, transparency notices, and applicable bias audits from 32 companies to get an understanding of the level of compliance. See the following table for details.

Comparison of DCWP’s and State Auditor’s Bias Audit Review

	DCWP Count of Potential Non-Compliance	State Auditor’s Count of Potential Non-Compliance
Bias audit not conducted by an independent auditor	1	3
Bias audit did not properly include calculations for the selection rate and impact ratio	0	5
Bias audit did not properly explain the use of historical data	0	9

*The above table excluded comparisons of information posted on the company websites (e.g., posting of the bias audit and annual audit posting requirement), as the information available to DCWP at the time of its review may have changed by the time of our review.

Bias Audits Performed by Independent Auditors

According to LL144, “bias audit” means an impartial evaluation by an independent auditor, and according to the Rules, an “independent auditor” means a person or group that is capable of exercising objective and impartial judgment on all issues within the scope of a bias audit of an AEDT. At a minimum, an independent auditor cannot be the developer or the employer using the tool.²

As noted in the table above, we found that three employers did not have an audit conducted by an independent auditor, whereas DCWP found auditor independence was unknown for only one employer. The bias audit for that employer explicitly stated that it “conducted a bias audit of its artificial intelligence selection tool on October 18, 2023.” For the other two employers, while an independent auditor authored their bias audit reports, it was stated that the AEDT vendor selling the tool performed the actual bias testing.

2 An auditor is not an independent auditor of an AEDT if the auditor:

- Is or was involved in using, developing, or distributing the AEDT;
- At any point during the bias audit, has an employment relationship with an employer or employment agency that seeks to use or continue to use the AEDT or with a vendor that developed or distributes the AEDT; or
- At any point during the bias audit, has a direct financial interest or a material indirect financial interest in an employer or employment agency that seeks to use or continue to use the AEDT or in a vendor that developed or distributed the AEDT.

Bias Calculations

According to the Rules, where an AEDT selects candidates for employment or promotion to move ahead in the process or classifies them into groups, a bias audit must:

- Calculate the selection rate for each category.
- Calculate the impact ratio for each category.
- Ensure that the calculations separately calculate the impact of the AEDT on sex; race/ethnicity; and intersectional categories of sex, ethnicity, and race.
- Ensure that the calculations are performed for each group, if an AEDT classifies candidates for employment or employees being considered for promotion into specified groups.
- Indicate the number of individuals the AEDT assessed that are not included in the required calculations because they fall within an unknown category.

DCWP's review indicated that the bias audits for all 22 employers—one of which was improperly identified as a vendor—included calculations for selection rates and impact ratios. However, five companies, whose audits stated applicants were assigned into three tiers, provided these calculations for only the top and middle tiers vs. the bottom tier, but not calculations for each group. Furthermore, these tiers were not adequately explained and it is unclear which individuals belong in which tier.

Use of Historical Data in Bias Testing

According to the Rules, a bias audit must use historical data of the AEDT's use by the employer. If such data is not available, the Rules outline steps for using other appropriate data.³ In either case, the summary of the bias audit results must include the source and explanation of the data used to conduct the bias audit.

Although DCWP indicated that all 22 bias audits it reviewed used historical data, we identified nine instances where the bias audits did not adequately include the source and explanation of the data used. In one instance, the bias audit did not include any explanation of the data used. For the other eight, the bias audits did not sufficiently describe how historical data was used in order for us to determine compliance.

³ The historical data used to conduct a bias audit may be from one or more employers or employment agencies that use the AEDT. However, an individual employer or employment agency may rely on a bias audit of an AEDT that uses the historical data of other employers or employment agencies only in the following circumstances: if such employer or employment agency provided historical data from its own use of the AEDT to the independent auditor conducting the bias audit or if such employer or employment agency has never used the AEDT.

Posting Bias Audits

According to DCWP’s review of the 22 employers, four did not post the results of their bias audit clearly and conspicuously on their website—two of which removed the bias audit from their website and two of which did not have the bias audit in a clear and conspicuous place on their website. However, as of November 2024, we found eight employers that did not have their bias audit posted clearly and conspicuously on their website. We note that it is possible that these employers changed their websites and/or stopped using the AEDTs during the time between DCWP’s and our review. However, DCWP should periodically monitor employer websites and bias audits to ensure continued compliance with LL144.

As a result of their review, DCWP officials sent “demand letters” to two employers describing the posting requirement. It is unclear why DCWP officials only sent letters to two instead of all four employers, and DCWP did not provide sufficient evidence to show why this was the case.

In the two demand letters, DCWP provided the employers with information on LL144 and requested that they provide evidence of their compliance with the Law, which the employers provided to DCWP. However, DCWP did not explicitly address all non-compliance issues it found specific to the companies in these letters. Besides not posting its bias audit, one employer did not have an independent auditor conduct its bias audit; however, DCWP’s letter did not address this. Instead, the letter advised the employer that it had an obligation to comply with all requirements of LL144. DCWP marked auditor independence as unknown for this employer.

Other potential non-compliance issues involved these two companies. As of January 2025, the bias audit posted for one employer still showed it was not performed by an independent auditor and that the testing was performed in 2023 (new audits must be performed annually based on use). The second employer also had an outdated bias audit posted on its website, which expired 3 days before DCWP contacted the company regarding its compliance with posting the bias audit. In its review, DCWP did not question the recency of the bias audit. DCWP officials stated they do not have a process for monitoring the dates of bias audits. We encourage DCWP to develop a process to facilitate such monitoring.

Despite acknowledging their own review as limited and our finding of additional potential non-compliance, General Counsel officials indicated that they did not plan to do any further work on their review of the 32 company websites. Additionally, they responded that while we noted some discrepancies that may warrant further review, DCWP’s review of the bias audits did not reveal widespread non-compliance. DCWP should investigate and address the potential non-compliance identified in this report, including the 17 instances noted above. We also encourage DCWP to use alternatives to complaints, as their complaint intake process does not always result in DCWP receiving AEDT complaints. This could include using publicly available information and other available resources.

DCWP’s Review of New York City’s Use of AEDTs

LL144 is one of two laws in NYC that regulate automated decision-making tools. Local Law 35 of 2022 (LL35) requires NYC agencies to publicly report on their use of algorithmic tools defined as:

“Any technology or computerized processes derived from machine learning, artificial intelligence, predictive analytics, or other similar methods of data analysis, that is used to make or assist in making decisions about and implementing policies that materially impact the rights, liberties, benefits, safety or interests of the public, including their access to available city services and resources for which they may be eligible.”

This definition is similar to the definition of AEDT in LL144, although the Rules’ definition is more specific.

According to DCWP officials, they reviewed the 2022 LL35 Report to determine whether the description of any “algorithmic tools” reported by other City agencies might fall under the definition of an AEDT under LL144. Specifically, they reviewed the descriptions of tools in the LL35 Report to determine whether they were used in hiring.

DCWP officials found that under LL35, the NYC Department of Education (DOE)—now named New York City Public Schools (NYCPS)—reported that they use two algorithmic tools related to teacher promotions. According to its website, Education Analytics—the vendor for these tools—provides annual growth model results that measure how much teachers and schools contribute to student growth. These results consider factors like prior test scores, language status, special education needs, and socioeconomic status. A teacher whose students significantly outperform their predicted performance gets a higher score, while a teacher whose students fall short gets a lower score.

Regardless of the similarity of LL35 and LL144’s definitions, DCWP determined that the tools used by NYCPS did not meet the criteria to be considered an AEDT as specified by its rulemaking. According to the Rules, “Machine learning, statistical modeling, data analytics, or artificial intelligence” means a group of mathematical, computer-based techniques:

- i. That generate a prediction, meaning an expected outcome for an observation or that generate a classification, meaning an assignment of an observation to a group; and
- ii. For which a computer at least in part identifies the inputs, the relative importance placed on those inputs, and, if applicable, other parameters for the models in order to improve the accuracy of the prediction or classification.

DCWP officials told us that the tools did not use a computer-based technique that met the above criteria, specifically the second part. However, they did not provide evidence they reviewed system documentation to determine whether the tool itself identified an input or weight. Instead, DCWP officials asked DOE questions about

the tool and stated they reviewed a website that described the tool. DCWP did not request OTI's technical assistance in reviewing its understanding of the tool itself. In response to these findings, DCWP officials explained that, initially, they believed NYC agencies were required to follow LL144; however, they later learned, based on guidance from the NYC Law Department, that Local Law 144 does not apply to City agencies. Notwithstanding, DCWP officials indicated that NYC agencies should still try to satisfy the policy goals advanced by the Law and, therefore, DCWP plans to engage with any agency that is non-compliant.

DCWP Enforcement Steps

Out of the two AEDT complaints DCWP's General Counsel staff received, one complaint did not fall within the jurisdiction of NYC and no additional steps were required. DCWP reviewed the remaining complaint because the business operates in NYC although the individual and the employment was not based in NYC.

DCWP took limited steps to validate the underlying facts of the complaint—culminating in a request for the alleged employer to complete a sworn declaration that the employer's hiring tool did not fall under the criteria of LL144. The complaint was then closed after receiving the sworn declaration that the hiring tool, which is marketed as leveraging AI in hiring, was used only to record interviews for review by human hiring officers. Notably, DCWP did not take any other independent steps such as reviewing or observing the software, interviewing the individuals who use the software, or further interviewing the complainant (aside from the initial information provided). These additional steps could have provided more information to evaluate the individual's complaint. DCWP should use such steps in resolving AEDT complaints.

Recommendations

1. Implement processes to ensure that AEDT complaints are properly handled and routed.
2. Implement mechanisms to ensure that AEDT complaints received by 311 are properly routed to DCWP.
3. Publish clear instructions to the public on how to file online complaints and clarify instructions provided in the AEDT template.
4. Provide cross-divisional training to DCWP employees on how to handle AEDT complaints.
5. Create and implement written policies and procedures to ensure consistent and proper handling of AEDT complaints received by DCWP.
6. Formalize tracking of all AEDT complaints including information collected at intake and the complaint's resolution.
7. Conduct research and testing to determine the reasons for the low number of complaints related to AEDTs and take steps to address these factors.
8. Ensure OTI's expertise is used to evaluate the technical functionality of suspected AEDT tools to support DCWP's enforcement.

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9. Create and implement a process to improve enforcement actions by identifying potential non-compliance with LL144 through research and other leads in addition to complaints.
 10. Ensure DCWP's bias audit reviews address all potential non-compliance, including using existing OTI resources, such as the Enforcement Workbook.
 11. Create and implement a process to monitor compliance with the annual bias audit requirement.
 12. Investigate and address the potential non-compliance with LL144 identified in this report.
 13. Improve enforcement steps by ensuring complaints are addressed by a range of investigative techniques, including interviews with company officials and individual complainants, as well as demonstrations of AEDT tools and reviewing system documentation.

Audit Objective, Scope, and Methodology

The objective of our audit was to determine whether DCWP has designed and implemented an effective system to enforce compliance with LL144. The audit covered the period from July 2023 through June 2025.

To accomplish our objective and assess related internal controls, we interviewed officials from DCWP, OTI, and CCHR. We reviewed applicable criteria including LL144, the Rules, and DCWP publications. Additionally, we reviewed policies and procedures, including the MOU between DCWP and OTI, and the Procedures, which OTI created to assist DCWP with enforcement action.

We reviewed 311's knowledge article regarding AEDT to understand how 311 Representatives would identify and route AEDT complaints. We also conducted test calls to 311 to determine if 311 Representatives properly routed AEDT complaint calls to DCWP. We also reviewed LL35 to understand the definition of algorithmic tools and the criteria for NYC agencies to publicly report on their use of algorithmic tools and compared the definition to AEDT and criteria for NYC agencies to report on their use of AEDT tools in LL144. We analyzed the methodology and results of DCWP's review of 32 companies identified by Cornell or by the ACLU based on published bias audits. In addition, we visited the websites of these companies regarding posted bias audits and notifications. We conducted internet research to identify potential non-compliance with LL144, including reviews of recent EEOC cases and FTC complaints to determine if any AEDT vendors or AEDT users were identified.

We obtained data from the 311 Call Center Inquiry dataset on NYC Open Data and assessed the reliability of that data by reviewing existing information, interviewing officials knowledgeable about the system, and tracing to source data. We determined the data was accurate but incomplete for our audit purposes. However, as there was no other appropriate data and this is the data that DCWP and OTI officials rely on, we used this data in conjunction with other audit evidence to support our findings. Certain other data in our report was used to provide background information. Data that we used for this purpose was obtained from the best available sources, which were identified in the report. Generally accepted government auditing standards do not require us to complete a data reliability assessment for data used for this purpose.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III of the General Municipal Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

As is our practice, we notify agency officials at the outset of each audit that we will be requesting a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. Agency officials normally use the representation letter to assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. They further affirm either that the agency has complied with all laws, rules, and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors. However, officials at the NYC Mayor's Office of Operations have informed us that, as a matter of policy, mayoral agency officials do not provide representation letters in connection with our audits. Therefore, we lack assurance that the information provided to us during the course of our audit was reliable, accurate, and complete.

Reporting Requirements

We provided a draft copy of this report to DCWP officials for their review and formal comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report. DCWP officials generally agreed with the report's recommendations and indicated actions they have taken or will take to implement them. Our responses to certain comments are embedded within DCWP's response as State Comptroller's Comments.

Within 180 days after final release of this report, we request that the Commissioner of the Department of Consumer and Worker Protection report to the State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments and State Comptroller's Comments



Vilda Vera Mayuga
Commissioner

September 26, 2025

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BY EMAIL

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Re: DCWP Response to Draft Audit Report, 2024-N-6

Dear Kenrick Sifontes,

We write in response to your Draft Audit Report, 2024-N-6, transmitted on August 28, 2025, regarding the New York City Department of Consumer and Worker Protection (“DCWP”)’s enforcement of Local Law 144 of 2021 (“LL 144”).

DCWP licenses more than 45,000 businesses in more than 40 industries and enforces key consumer protection, licensing, and workplace laws that apply to countless more.

DCWP’s efforts to prepare for, and enforce LL 144, included significant collaboration with the NYC Office of Technology and Innovation (“OTI”), multiple rounds of rulemaking incorporating stakeholder feedback, and a robust education effort consisting of multiple presentations to various stakeholders and the creation of educational materials for DCWP’s website and NYC’s 311 webpage.

DCWP believes the Draft Audit Report misapprehends DCWP’s efforts related to enforcement and complaint intake, misunderstands DCWP’s partnership with OTI, and oversimplifies the laws and rules concerning bias audit reviews. Moreover, the Draft Audit Report fails to properly consider the scope of the resources that would be necessary to conduct a broad-based investigation of all employers and employment to determine



whether they use AEDTs and comply with the law. That said, as described below, DCWP is willing to adopt many of the Comptroller’s recommendations.

State Comptroller’s Comment – We did not misapprehend, misunderstand, or oversimplify DCWP’s efforts, partnership, or laws and rules. The recommendations in the report do not require broad investigations of all employers; rather, they are tangible steps toward improving DCWP’s current enforcement activities.

Complaint-Based Enforcement of LL 144

Throughout the Draft Audit Report, the auditors imply that DCWP relied solely on complaints to enforce LL 144. This is a mischaracterization of DCWP’s enforcement efforts, and minimizes DCWP’s extensive efforts related to stakeholder education, and review of bias audits. In fact, the Draft Audit Report seems to contradict itself, saying both that DCWP relied solely upon complaint-based enforcement, and acknowledging that DCWP conducted a bias audit review.

State Comptroller’s Comment – There is no contradiction. DCWP officials stated that they use complaint-based enforcement and that their sole bias audit review was an exercise to “get a sense of the level of compliance with LL 144.” Furthermore, as noted on page 14 of the report, DCWP has not conducted any additional stakeholder education since May 2023 when it held three outreach webinars. The report also did not mischaracterize or minimize DCWP’s efforts, as DCWP officials stated in their response that DCWP’s one-time review of bias audits did not flag issues that would require “in-depth” analysis (see page 34 of the report).

LL 144 applies to all non-governmental employers and employment agencies that make employment decisions in NYC. Since employer and employment agency hiring practices are not typically transparent, there is no efficient method for determining which employers and employment agencies are using AEDTs in NYC. This issue is compounded by LL 144’s definition of AEDT, which includes that the tool must be used to substantially assist employment decisions. This means that where a tool uses machine learning, statistical modeling, data analytics, or artificial intelligence, the exact same tool could meet the definition of an AEDT for one employer and not meet the definition of AEDT for another employer, depending on whether such employers use it to substantially assist employment decisions.

The Draft Audit Report notes that “DCWP tasked two attorneys within the General Counsel office with primary responsibility for enforcement of LL 144 and resolving related complaints.” But those attorneys have many other responsibilities spread throughout DCWP’s portfolio. And DCWP did not receive any additional resources dedicated to the enforcement of LL 144. Thus, DCWP must be judicious in how it allocates resources to LL 144, among the dozens of laws it enforces. With those considerations in mind, and because of the incredible resources that would be required to systematically identify businesses using AEDTs, DCWP decided that stakeholder education, combined with complaint-based enforcement was the best method for ensuring



compliance with the law. Robust advocate engagement during the rulemaking process, along with past agency experience receiving complaints related to the dozens of laws DCWP enforces, gave the agency additional confidence that complaint-based enforcement would be the most efficient and effective method of enforcement if non-compliance with the law was prevalent. But that is not all DCWP has done.

Importantly, after receiving only one complaint¹ through the first year of enforcement, DCWP undertook a review of 32 company websites identified by Cornell University and the ACLU, to gauge compliance with the law, and found few apparent issues of non-compliance.

State Comptroller's Comment – The law requires certain employers and employment agencies to conduct a bias audit of tools whose use meets certain requirements, no more than 1 year prior to the tool's use and annually thereafter. DCWP does not currently know the level of compliance with this provision and has made limited efforts to gauge compliance with it. Reviewing 32 companies that complied with the requirement to produce a bias audit is thus not a good measure of compliance as it only assesses if the audits performed meet the stated requirements. It misses the broader issue of whether organizations that are required to produce a bias audit are doing so—a challenge that DCWP officials noted but have not sufficiently addressed. Moreover, as noted in DCWP's response and the findings of this report, the review of bias audits was not an in-depth review and missed significant issues.

Throughout the Draft Audit Report, the auditors imply that DCWP should have done more to investigate the low number of complaints related to AEDTs, or should have undertaken efforts to affirmatively research and investigate employers and employment agencies in NYC. The Draft Audit report fails to acknowledge the scope of the resources that would have been necessary to take such efforts, and the impact of the diversion of such resources from DCWP's other enforcement work.

State Comptroller's Comment – DCWP did not take sufficient steps to identify the reasons for receiving a low number of complaints and to mitigate them as appropriate. DCWP officials expressed confidence that any complaints would be received through 311 or their own systems, though we identified significant weaknesses in these complaint processes (as noted on pages 10 and 11 respectively). Furthermore, despite acknowledging in its response the inability of job applicants to even know when an AEDT was used, DCWP suggests that the lack of outreach from advocates indicates that difficulties are not widespread. It is unclear how DCWP expects individuals to report AEDT issues to advocates if they lack the ability to know when such tools are used.

In 2024 alone, DCWP received 29,468 complaints, completed approximately 54,000 inspections, conducted approximately 1,000 investigations, resolved approximately 2,100 mediations, collected \$15.2 million in civil penalties, and secured \$12.1 million in restitution for New Yorkers. The Draft Audit Report does not mention that the attorneys in DCWP's General Counsel Division have resource-intensive portfolios of work, including extensive responsibilities related to implementing new laws regarding hotel licensing and broker fees, and that DCWP did not receive



any additional resources dedicated to the enforcement of LL 144. This is necessary context, especially since many of the recommendations suggest DCWP should adopt resource intensive work to identify *potential* investigation targets, which would necessarily require diverting staff from critical agency work protecting consumers and workers from *known* violators.

State Comptroller's Comment – It is unclear how DCWP concludes that known violators exist without committing appropriate resources to investigations. An investigation, by its nature, is to determine what happened (i.e., if a violation occurred). The mere act of an investigation does not guarantee a violation would be identified. Many of the recommendations specifically address improvements to DCWP's existing enforcement, including its investigations.

Given the lack of individual or advocate complaints through any channel,² and the general compliance seen in the bias audit review, DCWP had no reason to suspect compliance with LL 144 was a widespread problem in NYC. With no such indication, DCWP had no reason to divert resources from enforcement of other consumer or worker protection laws to conduct more widespread or in-depth investigations related to LL 144.

State Comptroller's Comment – As noted earlier, DCWP did not take sufficient steps to identify the reasons for receiving a low number of complaints and to mitigate them appropriately. DCWP officials expressed confidence that any complaints would be received through 311 or their own systems, though we identified significant weaknesses in these complaint processes (as noted on pages 10 and 11 respectively). Furthermore, despite acknowledging in its response the inability of job applicants to even know when an AEDT was used, DCWP suggests that the lack of outreach from advocates indicates there are no widespread difficulties. It is unclear how DCWP expects individuals to report AEDT issues to advocates if they lack the ability to know when such tools are used.

¹ DCWP acknowledges that the Draft Audit Report identifies possible issues in 311's routing of AEDT complaints. DCWP will work with OTI to ensure that, going forward, any potential issues are remedied and AEDT complaints are properly routed to DCWP. Notably, 311 is now able to accept electronic service requests for AEDT complaints, which are systemically routed to DCWP. In addition, in July 2025, OTI sent a refresher training on AEDTs to its 311 Call Center Representatives.

² Although DCWP receives the vast majority of complaints through 311, the DCWP website, and the Consumer Services hotline, DCWP also regularly receives inquiries from elected officials, the press, and advocacy organizations. These inquiries can come to the agency through a variety of channels including the DCWP Executive Office, the External Affairs Division, and the Press Office.



Collaboration with OTI

As noted in the Draft Audit Report, DCWP and OTI collaborated to develop resources and a protocol for OTI to support DCWP's enforcement of LL 144.

DCWP and OTI never intended to require OTI consultation as a necessary step in all investigations. Instead, OTI provides technical support and expertise to DCWP when necessary to assist DCWP in enforcement of LL 144. For example, DCWP may consult OTI during an investigation for assistance with understanding whether the specifications of a given tool suggest that a computer identifies the inputs to consider, when the record provided by the employer is ambiguous as to this point. Similarly, OTI developed the workbooks for DCWP to use in investigations, when necessary. The workbooks break down the requirements of the law and rules into individual questions that help determine whether a tool fits the definition of an AEDT, and whether a bias audit meets all requirements. These workbooks are helpful on complex cases, but are not necessary to use in all circumstances. For example, when it is clear that a tool is not used by an employer to assist with employment decisions, it is not necessary to answer all workbook questions since DCWP can quickly determine the tool is not an AEDT.

In many instances, a non-technical factual question determines whether further review, investigation, or enforcement action is warranted. For example, determining whether an employer uses a tool at all to assist decision making, whether a complaint is within DCWP's jurisdiction, or whether a notice is posted clearly and conspicuously does not require any technical expertise. In such cases, DCWP does not need OTI's support to determine next steps.

The auditors' conclusion that DCWP should have consulted with OTI on the specific cases DCWP reviewed, including NYCPS, employers in NYC, and during the bias audit review, indicates a fundamental misunderstanding of the requirements of the law and the extent to which technical assistance is necessary to determine compliance. DCWP has worked closely with OTI for years on LL 144. DCWP would not hesitate to consult OTI any time a question related to LL 144 required technical expertise, regardless of whether the question was related to an independent review, a complaint, or an active investigation. DCWP did not consult OTI on these matters because they involved non-technical factual questions that did not require OTI expertise.

State Comptroller's Comment – We did not imply that the law requires DCWP to consult with OTI. However, DCWP recognized the need for OTI's technical expertise and entered into an MOU with OTI for technical assistance. Despite this MOU, DCWP did not refer any cases to OTI for technical assistance or use the enforcement workbooks created by OTI.

DCWP Receipt of Complaints

The Draft Audit Report suggests that “the number of AEDT complaints actually submitted *may* be underreported.” (Emphasis added). The Draft Audit Report further suggests that DCWP should



have investigated the reasons for the low number of complaints. However, as noted above, given the lack of individual or advocate complaints through any channel, DCWP had no reason to suspect complaints were not being properly routed. As such, DCWP had no reason to divert resources from enforcement of other consumer or worker protection laws to launch an investigation into why there were not more complaints in this area. In fact, as acknowledged throughout the Draft Audit Report, a fundamental difficulty with enforcing this law, and a reasonable and logical explanation for the low number of complaints, is the inability of a job applicant or employee to know when an AEDT is actually being used to make a hiring decision.

311 Complaints

The Draft Audit Report claims that auditors “requested a walkthrough of the 311 knowledge management system by OTI to see how the 311 Representatives use the system,” but “OTI did not provide such a walkthrough.” OTI notes that there was only one request for a live demonstration that resulted in dialogue, including a request that a Confidentiality Agreement be executed. According to OTI, after the Confidentiality Agreement was finalized, it provided the auditors with screenshots from the OTI-maintained CRM system that demonstrated what a 311 Call Center Representative sees during a call. After responding to several follow-up questions, there was no additional request made for a live walkthrough. But, in any event, according to OTI, a live demonstration would not have provided any additional information. Also, 311 Call Center Representatives are expected to process a voluminous number of calls daily and such a meeting would be counterproductive to the completion of their tasks.

State Comptroller’s Comment – We requested a walkthrough with 311 Representatives multiple times during the audit, but OTI did not provide one. We reported in our preliminary findings and draft report that a walkthrough had not been provided. Without a walkthrough, we lack assurance whether 311 Representatives use AEDT keywords, as described.

Notably, as of May 2025, 311 can receive electronic AEDT complaints. Such complaints are submitted through the 311 website, and systemically transmitted to DCWP’s systems. Since launching, DCWP has only received one AEDT related complaint submitted electronically through 311. This suggests that the ability to submit complaints electronically through 311 was not a factor contributing to the low number of AEDT related complaints. It also suggests that any alleged difficulties of 311 in identifying or transferring AEDT related complaints to DCWP was not a factor contributing to the low number of AEDT related complaints.

State Comptroller’s Comment – We commend DCWP for implementing improvements to how it receives complaints through 311. However, DCWP conflates 311 complaints received electronically with those processed by 311 Representatives. Our audit identified difficulties when 311 Representatives identify or transfer AEDT complaints. As a result, DCWP may not have received all AEDT complaints that it should have received.



DCWP Website and Complaint Portal

Meanwhile, 311 issues are distinct from how DCWP accepts complaints through its online complaint portal. The Draft Audit Report suggests the process for submitting a complaint through DCWP's website could be confusing because complainants may mistakenly go to the worker protection pages of the DCWP website to submit complaints. The auditors fail to acknowledge that the webpage to file a worker complaint with DCWP's Office of Labor Policy and Standards ("OLPS") clearly lists all of the laws that OLPS is responsible for enforcing, and the OLPS complaint module requires selecting the applicable law when submitting a complaint. In addition, the Job Hunters page of the OLPS website provides information on LL 144 and clearly links to the proper portal to submit a complaint. As such, workers have the information necessary to determine where on the DCWP website they should submit a complaint. Notably, DCWP recently received two AEDT complaints through the DCWP complaint portal, suggesting workers were able to identify the proper channel for submitting complaints through the DCWP website.

State Comptroller's Comment – We refer readers to Figure 2, "AEDT Complaint Pathways," on page 13 of the report, which illustrates the challenges individuals encounter when attempting to submit complaints through the DCWP website.

Moreover, if a complaint is submitted through the worker complaint portal, rather than the consumer complaint portal, OLPS staff would forward such complaint to the General Counsel Division. The Draft Audit Report incorrectly states that OLPS failed to refer AEDT complaints to the General Counsel Division for review. In fact, OLPS e-mailed the General Counsel Division all AEDT related complaints it received on the day of receipt.³

State Comptroller's Comment – This statement that OLPS emailed all AEDT-related complaints to the General Counsel Division on receipt is incorrect. For example, as noted on page 12 of our report, OLPS received a complaint that was potentially related to an AEDT. However, OLPS did not forward that complaint to the General Counsel for review.

The Draft Audit Report also criticizes the DCWP complaint portal for not including an AEDT specific complaint type. DCWP's on-line complaint portal allows the public to submit complaints directly to DCWP for any reason. While the portal includes specific modules (*i.e.*, question sets) for some complaints, those modules were created for high-volume complaint types that tend to require very specific information. The modules require IT development and programming that must be prioritized alongside all agency IT requests. When considering whether to create a complaint module for a specific complaint type or category, DCWP considers how frequently complaints are received in a specific area, and whether there are any key follow up questions that could be asked in a tailored question set. In this case, DCWP did not develop a complaint module for AEDT complaints because we did not see sufficient need to justify diverting the IT resources from other critical projects.



DCWP Reviews and Investigations

NYCPS Tools

As part of DCWP's collaboration with OTI prior to the effective date of LL 144, OTI flagged the Local Law 35 of 2022 (LL 35) algorithmic reporting requirement as a potential source of tools used by City agencies that could fit the definition of an AEDT. Notably, contrary to the implication of the Draft Audit Report, LL 35 contains a much broader definition of covered tools, so DCWP needed to conduct additional review to determine whether any given tool fit the definition of an AEDT.

State Comptroller's Comment – The report noted a similarity in definitions between LL35 and LL144 regardless of any requirements unique to LL144. Moreover, DCWP officials considered the definitions under LL35 were similar enough to LL144 that DCWP used the LL35 report as a starting point to identify potential AEDT use by City agencies. Thereafter, based on advice from the NYC Department of Law, DCWP interpreted LL144 to exclude City agencies.

After identifying two tools in the LL 35 report used by NYC Public Schools (NYCPS)⁴ to measure teacher performance (NYCPS tools), DCWP researched publicly available information about them and noted that the inputs and weights of the inputs used by the NYCPS tools appeared to be determined by NYCPS and the teacher's union, not by computers.

State Comptroller's Comment – We reviewed the publicly available information used by DCWP for its review. However, the information provided was insufficient to determine whether the tool identified inputs and weights, a feature that is one aspect of the AEDT definition. Furthermore, OTI's technical support was not utilized by DCWP to identify relevant technical details such as how the tool was developed and how inputs and weights were identified.

In addition to this independent research, DCWP discussed the NYCPS tools with NYCPS staff who indicated that the NYCPS tools used static algorithms, and that inputs and weights of inputs were not determined by computers. Rather, they are determined by law, and collective bargaining

³ DCWP disagrees that the complaint noted in the Draft Audit Report alleging that an employment app was discriminatory was an AEDT related complaint that was improperly handled. Importantly, not every use of technology involves machine learning, statistical modeling, data analytics, or artificial intelligence. The details of that complaint suggested potential discrimination based on whether a user uploaded a picture. There was no indication in the complaint that any machine learning, statistical modeling, data analytics, or artificial intelligence was involved, or that notices were not properly provided. As such, that complaint was not related to AEDTs. Notably, DCWP's response to the complainant included information about how to contact CCHR with a discrimination complaint.

⁴The NYC Department of Education is now known as NYC Public Schools.



agreement. Based on this research and information from NYCPS staff, DCWP concluded that the NYCPS tools did not fit the definition of an AEDT because the inputs used by the NYCPS tools were not, even in part, determined by computers.

State Comptroller's Comment – Significantly, based on emails between DCWP and NYCPS, NYCPS officials stated the tool was not AI. However, AEDT tools do not have to be AI for LL144 to apply. Furthermore, it is unclear what distinction DCWP officials make with the phrase “static algorithms” as this phrase or its suggested meaning is not found in either LL144 or the rules. As recommended in our audit report, OTI's technical expertise can be utilized to evaluate how these suspected tools function.

The Draft Audit report suggests that DCWP should have consulted with OTI regarding whether the NYCPS tools are AEDTs and should have reviewed system documentation for the tools. But whether a tool uses a computer to identify inputs is a factual question that was directly answered by NYCPS, and supported by DCWP's independent research. As such, there was no need for technical expertise from OTI to reach this conclusion. Nor was there a need to review system documentation. DCWP undertook these steps, even though, as the Draft Audit Report points out, LL 144 does not apply to City agencies.

State Comptroller's Comment – At the time DCWP undertook steps related to NYCPS' use of the tools, DCWP officials believed that the Law applied to City agencies.

DCWP Complaint Investigations

Prior to the commencement of the audit, DCWP received only one AEDT complaint, which was related to a position outside DCWP's jurisdiction in New Jersey. Even though the complaint was out of jurisdiction, DCWP decided to engage with the employer, and demanded compliance with LL 144 for any employment decisions related to NYC positions. Ultimately the employer indicated that they were not using the tool in question in NYC, and had discontinued use in the rest of the country, so DCWP closed the investigation. The Draft Audit Report does not appear to acknowledge DCWP's efforts related to this complaint.

During the course of the audit, DCWP received another AEDT complaint, which was related to a position outside DCWP's jurisdiction in Long Island. Again, even though the complaint was out of jurisdiction, DCWP decided to engage with the employer, and demanded compliance with LL 144 for any employment decisions related to NYC positions. The Draft Audit Report incorrectly asserts that DCWP accepted the employer's conclusion that its hiring tool did not fall under the criteria of LL 144. That is not the case. Instead, counsel for the employer represented that the business uses the software in question solely for the purpose of recording video interviews, does not use any technology to review or assess the interviews, and that after watching the videos, decisions are made solely by human decisionmakers. The employer provided a sworn declaration from a senior human resources official to this effect. DCWP then concluded that such use of the software was not an AEDT under the law and rules. The Draft Audit Report suggests that DCWP



should have conducted further fact-finding and investigation on this matter. However, since the employer’s response included sufficient information for DCWP to conclude they were not using an AEDT under the law, such additional investigation would have only been necessary if DCWP had reason to believe the employer’s counsel and senior official were perjuring themselves or obscuring crucial information.

State Comptroller’s Comment – We stand by our audit findings. In DCWP’s response, officials describe relying on the employer’s statements as the only evidence to support their conclusion. In fact, a cursory review of the developer’s website would suggest that this tool may have the capabilities that fall under LL144.

Bias Audit Reviews

As discussed in the Draft Audit Report, DCWP reviewed the websites of 32 companies identified in public reports published by the ACLU and Cornell University. DCWP’s review of these companies was not an in-depth investigation of each company. Instead, DCWP surveyed publicly available information to get a sense of the level of compliance with LL 144. At the time of review, DCWP had no indication that these companies were bad actors. In fact, the existence of LL 144 notices or bias audits on their websites suggested an effort to comply with the law, rather than subvert it. Nonetheless, DCWP undertook a review to identify non-compliance.

As part of the review, DCWP identified two companies that did not post their bias audits clearly and conspicuously on their websites. DCWP sent both companies letters, and both moved their bias audits to the employment sections of their websites.

The auditors note some discrepancies between the findings of DCWP’s review, and their own review as part of this audit. Specifically, the auditors suggest that some bias audits had issues related to required calculations, auditor independence, and the explanation of historical data. The issues flagged by the auditors are more complex than described in the Draft Audit Report, and would require an in-depth analysis of the bias audits and investigation of the companies relying upon them to reach a conclusion. For example, the Draft Audit Report raises issues about bias audits’ use of historical data. DCWP’s rules require that a bias audit disclose the “source and explanation of the data used.” A bias audit would be compliant with this rule by disclosing that it used historical data from multiple employers, without identifying each individual employer that provided the data. That said, it is possible that individual companies relying upon a multi-employer bias audit are out of compliance if they did not provide their own historical data, if any, to the auditor. To determine compliance in such cases, DCWP would have to investigate individual employers. But, as noted above, DCWP’s reviews of these bias audits were not in-depth investigations into each company. Instead, they were reviews of the bias audits to flag apparent non-compliance.

Recommendations



DCWP is not opposed to implementing many of the auditors' recommendations related to enhancing technology for receiving complaints, and improving policies, procedures, and trainings related to complaint intake, investigations, and enforcement.

However, DCWP disagrees with some aspects of the recommendations, and responds to each recommendation below:

Recommendation 1: Implement processes to ensure that AEDT complaints are properly handled and routed.

DCWP response: DCWP already has protocols in place to ensure that AEDT complaints are properly handled and routed. However, DCWP will review its protocols to ensure clarity and consistency.

DCWP can adopt this recommendation.

Recommendation 2: Implement mechanisms to ensure that AEDT complaints received by 311 are properly routed to DCWP.

DCWP response: DCWP already has protocols in place to ensure that AEDT complaints received by 311 are routed to DCWP. DCWP will collaborate with 311 to address any potential issues flagged during this audit to ensure complaints received by 311 are properly referred to DCWP.

DCWP can adopt this recommendation.

Recommendation 3: Publish clear instructions to the public on how to file online complaints and clarify instructions provided in the AEDT template.

DCWP response: The DCWP website already provides instructions directing the public to file an AEDT related complaint using the complaint portal. However, DCWP will review instructions across all platforms and in the AEDT template to ensure clarity and consistency.

DCWP can adopt this recommendation.

Recommendation 4: Provide cross-divisional training to DCWP employees on how to handle AEDT complaints.

DCWP response: DCWP can adopt this recommendation.

Recommendation 5: Create and implement written policies and procedures to ensure consistent and proper handling of AEDT complaints received by DCWP.

DCWP response: DCWP is not opposed to implementing several of the auditors' recommendations related to enhancing technology for receiving complaints, and improving policies, procedures, and trainings related to complaint intake, investigations, and enforcement.



DCWP can adopt this recommendation.

Recommendation 6: Formalize tracking of all AEDT complaints including information collected at intake and the complaint’s resolution.

DCWP response: DCWP is not opposed to implementing several of the auditors’ recommendations related to enhancing technology for receiving complaints, and improving policies, procedures, and trainings related to complaint intake, investigations, and enforcement.

DCWP can adopt this recommendation.

Recommendation 7: Conduct research and testing to determine the reasons for the low number of complaints related to AEDTs and take steps to address these factors.

DCWP response: This recommendation assumes that the low number of complaints is indicative of a widespread problem that needs to be addressed. While we plan to further enhance the complaint process through the use of technology, training, and policies, we are not confident that this work will lead to an increase in complaints related to LL 144, and do not agree that steps are needed to “address” the low number of complaints. As we have previously expressed, we know from our past experience enforcing dozens of laws that advocates for protected communities are not shy in reaching out to our External Affairs team to voice complaints and concerns about laws being broken and/or how the agency enforces such laws. Particularly given the extent of the comments from advocates during the rulemaking process related to LL 144, we feel confident that if advocates were encountering difficulties, particularly widespread difficulties, with the complaint process, they would have escalated those issues to our External Affairs team, or other senior leadership at DCWP.

State Comptroller’s Comment – As noted earlier, despite acknowledging in its response the inability of job applicants to know when an AEDT was used, DCWP suggests that the lack of outreach from advocates indicates there are no widespread difficulties. It is unclear how DCWP expects individuals to report AEDT issues to advocates if they lack the ability to know when such tools are used.

DCWP rejects this recommendation but notes that implementing other recommendations from this audit will mitigate concerns regarding misrouting of complaints.

Recommendation 8: Ensure OTI’s technical expertise is used to evaluate the technical functionality of suspected AEDT tools to support DCWP’s enforcement.

DCWP response: DCWP has worked closely with OTI for years on LL 144 and would not hesitate to consult OTI any time a question related to LL 144 required technical expertise.

DCWP can adopt this recommendation.

Recommendation 9: Create and implement a process to improve enforcement actions by



identifying potential non-compliance with LL144 through research and other leads in addition to complaints.

DCWP response: DCWP already supplements complaint-based enforcement action by identifying potential noncompliance with LL 144 through other means, including research, as evidenced by DCWP’s review of 32 publicly available bias audits. To the extent that this recommendation suggests that DCWP allocate additional resources to such research, DCWP notes that we have seen no evidence of widespread non-compliance to warrant such allocation. As previously explained to the auditors, since employer and employment agency hiring practices are not typically transparent, there is no efficient method for determining which employers and employment agencies are using AEDTs in NYC. Notably, DCWP attorneys have many other responsibilities spread throughout DCWP’s portfolio, and DCWP did not receive any additional resources dedicated to the enforcement of LL 144. Thus, DCWP must be judicious in how it allocates resources to LL 144, among the dozens of laws it enforces.

DCWP rejects this recommendation to the extent it suggests DCWP must commit additional resources to identifying potential noncompliance with LL 144 through research and leads other than complaints.

State Comptroller’s Comment – [By rejecting our recommendation, DCWP will not address the weakness in its LL144 enforcement processes.](#)

Recommendation 10: Ensure DCWP’s existing bias audit reviews address all potential non-compliance, including using existing OTI resources, such as the Enforcement Workbook.

DCWP response: DCWP may review bias audits to determine targets for investigation. Where a target is identified, DCWP will use existing OTI resources, including the Enforcement Workbook, to investigate potential non-compliance, whenever DCWP determines such resources are necessary. As noted above, consultation with OTI and use of all available resources is not necessary in all cases. DCWP can adopt this recommendation to the extent using such resources is necessary.

State Comptroller’s Comment – [This recommendation is applicable when bias audits are relevant.](#)

Recommendation 11: Create and implement a process to monitor compliance with the annual bias audit requirement.

DCWP response: DCWP can adopt this recommendation and monitor continued compliance with respect to businesses DCWP has engaged with regarding AEDT use.

Recommendation 12: Investigate and address the potential non-compliance with LL 144 identified in this report.

DCWP response: As discussed in detail above, DCWP disagrees with many of the auditors’ findings, implications, and suggestions regarding specific matters reviewed by the auditors. DCWP may review some potential non-compliance with LL 144 identified in this report but will not adopt



this recommendation in full.

State Comptroller's Comment – DCWP is responsible for fully enforcing LL144. DCWP should review all areas of potential non-compliance identified in the report.

Recommendation 13: Improve enforcement steps by ensuring complaints are addressed by a range of investigative techniques, including interviews with company officials and individual complainants, as well as demonstrations of AEDT tools and reviewing system documentation.

DCWP response: DCWP is responsible for enforcement of dozens of laws in NYC, and uses a range of investigative techniques to ensure effective enforcement. DCWP can adopt this recommendation, but notes that each investigation is different, and some investigations may not require the techniques identified.

Thank you for the opportunity to respond to the Draft Audit Report to clarify and correct the issues discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Vilda Vera Mayuga". The signature is stylized and fluid. To the right of the signature, there are three short horizontal dashes.

Vilda Vera Mayuga
Commissioner

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