

**Checklist for Determining whether a Tool or System
is an ADS/Agency ADS as defined by Local Law 49 (2018)**

Question 1: Is the tool or program an “automated decision system” (ADS)?		YES <input type="checkbox"/> NO <input type="checkbox"/>
Legal definition¹ <i>Local Law 49 of 2018, § 1(a).</i>	Automated decision system (ADS): <u>Computerized implementations of algorithms</u> , including those derived from <u>machine learning</u> or other <u>data processing</u> or <u>artificial intelligence techniques</u> , which are used to assist in making <u>decisions</u> .	

<i>In determining whether a tool or program constitutes an ADS as defined by Local Law 49 of 2018, answer “yes” or “no” to the following questions. If answering “yes” to questions (1)(a) through (1)(c), check “yes” for Question #1 above, and proceed to Question #2.</i>	
(1)(a)	<p>Is it an algorithm? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <ul style="list-style-type: none"> A set of formal or informal rules, processes, or instructions for carrying out a specified operation or solving a problem. <p>For informational purposes only, indicate whether the algorithm was derived from any of the following:²</p> <ul style="list-style-type: none"> Machine learning <input type="checkbox"/> The algorithm derives from a process by which a software component or other computerized implementation identifies patterns or regularities from input data. Key types of <i>machine learning</i> may include, but are not limited to (in varying degrees of human interaction): <ul style="list-style-type: none"> Supervised learning (where an algorithm uses data and human feedback to learn relationships of given input to output); Unsupervised learning (where an algorithm explores input data without being given explicit output variables); and Reinforcement learning (where an algorithm learns to perform a task by trying to maximize rewards it receives for its actions). Data processing <input type="checkbox"/> The algorithm derives from an operation performed on data, such as collection, recording, organization, storage, adaption or alteration, retrieval, consultation, use, disclosure, transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure, or destruction. Artificial intelligence (AI) techniques <input type="checkbox"/> The algorithm derives from methods that simulate human thought or processes, language, and intelligence. AI techniques may include, but are not limited to: <ul style="list-style-type: none"> Natural language processing (software or a computer understanding, interpreting, and manipulating human language); Neural networks (using algorithms modeled after the human brain to recognize patterns); Regression analysis (finding relationships between two or more variables of interest by examining influence of one or more independent variables on a dependent variable); or Markov decision process (decision model for situations in which outcomes are in part random and in part under control of a decision maker). Other <input type="checkbox"/>

¹ For purposes of ADS Task Force’s work, clarification of relevant key terms that are included in Local Law 49 of 2018, but not defined in the Law (i.e., underlined terms), is provided below.

² Note, the language used in (1)(a) to describe the below terms in this subsection is provided solely as guidance to help clarify their plain language meaning for informational purposes, recognizing that in the emerging ADS field, there may be alternate and/or more technical descriptions.

(1)(b)	<p>Is it a computerized implementation of an algorithm? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <ul style="list-style-type: none"> • An algorithm that takes the form of, or is it otherwise partially or entirely operated or controlled by, software or a computer. <ul style="list-style-type: none"> ○
(1)(c)	<p>Is the algorithm used to make or assist in making a decision? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <ul style="list-style-type: none"> • A determination made by a City official/employee which may impact the actions, policies, procedures, services, programs, employment matters, contracting practices, rulemaking, or budgeting/allocation of resources, that is implemented by the City or an individual agency. • <i>Decisions</i> may be related to, but are not limited to: <ul style="list-style-type: none"> ○ Granting or denying a permission or right; ○ Assigning status or eligibility; ○ Assigning the type, level, or amount of assistance, benefit or service an individual, household, or population does/does not receive (e.g. housing, cash assistance, medical assistance, etc.); ○ Allocating resources to City programs or services; ○ Furthering civil and criminal law enforcement activities (e.g., investigation, surveillance, arrest, pre-trial detention, sentencing or corrections) ○ Responding to public safety/public health concerns (e.g., through health promotion or disease prevention techniques); ○ Assigning value to assets (e.g. property valuation); or ○ Auditing programs or entities.

If any of the above questions is answered “no”, then the system or tool under review is not considered an “automated decision system (ADS)” as defined by Local Law 49 (2018).

Question #2: Does the ADS constitute an “Agency ADS”?		YES <input type="checkbox"/> NO <input type="checkbox"/>
Legal definition <i>Local Law 49 of 2018, § 1(a).</i>	Automated decision system, agency (Agency ADS): An ADS used by an agency to make or assist in making <u>decisions</u> ³ concerning <u>rules, policies, or actions</u> implemented that <u>impact the public</u> .	

*In determining whether a tool or program constitutes an **Agency ADS** as defined by Local Law 49 of 2018, answer “yes” or “no” to the following questions. If answering “yes” to questions (2)(a) and (2)(b), check “yes” for Question #2 above.*

(2)(a)	<p>Is the ADS used by an agency to make or assist in making decisions concerning rules, policies, or actions implemented by the City or a City agency? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <ul style="list-style-type: none"> • Rules refer to regulations promulgated by a City agency, either pursuant to the City Administrative Procedure Act (CAPA), or by a federal, state or other agency where the City agency is tasked with implementation. • Policies refer to principles, procedures, or protocols adopted by an agency to guide the agency’s practices. • Actions refer to affirmative acts/steps the agency takes, as well as inaction by an agency.
(2)(b)	<p>Do/will such decisions impact the public? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <ul style="list-style-type: none"> • The term “impact” is understood as having a material impact on an individual member of the public or a population, in connection with a City agency’s use of an ADS. In determining whether an impact is material, consider, among other factors, whether the decision: <ul style="list-style-type: none"> ○ Pertains to a procedural or substantive right granted under law, regulation, or by City policy; ○ Relates to an individual’s or population’s protected status; ○ Relates to an individual’s or population’s eligibility for, or receipt or denial of a City or agency program, service, or benefit; ○ Affects whether an individual or population will, as a result of the decision, be subject to a specific City program or activity; or ○ Implicates judicial, administrative, or other forms of redress. • Programs that solely perform calculations for purposes of administrative convenience, such as adding numbers rather than performing manual addition, or that simply organize information, such as spreadsheets, shall not be considered a “computerized implementation” for purposes of ADS Task Force work.

If any of the above questions is answered “no”, then the ADS under review is not considered an “Agency ADS” as defined by Local Law 49 (2018).

³ Refer to clarification on meaning of “Decisions” provided in Question #1, at (1)(d).