



# COVID-19-Related Emergency Purchases Performance Audit

May 2023

**Financial Audit Division**  
**Office of the Legislative Auditor**  
State of Minnesota



## Financial Audit Division

The division has authority to audit organizations and programs in the state's executive and judicial branches, metropolitan agencies, several "semi-state" organizations, state-funded higher education institutions, and state-funded programs operated by private organizations.

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OLA also conducts special reviews in response to allegations and other concerns brought to the attention of the Legislative Auditor. The Legislative Auditor conducts a preliminary assessment in response to each request for a special review and decides what additional action will be taken by OLA.

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May 4, 2023

Members  
Legislative Audit Commission

Leadership of the Audited State Entities

This report presents the results of our performance audit of 18 state entities for the period January 1, 2020, through April 30, 2021. The objective of this audit was to determine if state entities had complied with significant finance-related legal requirements.

State entities do not agree with all findings, as stated in their responses. The Office of the Governor and Lieutenant Governor and the Minnesota Department of Health disagree with Finding 1 (see pages 10 and 11), and the Minnesota Department of Education disagrees with Finding 3 (see page 13). We have considered all additional information they presented and believe the evidence we obtained and the testing we performed during the course of the audit supports our conclusions.

This audit was conducted by Audit Directors Ryan Baker and Heather Rodriguez; auditors Tyler Billig, CPA; Shannon Hatch, CFE; Alec Mickelson; Erick Olsen; and Zakeeyah Taddese; and former auditor Zachary Kempen, CPA.

We received the full cooperation of all state entity staff while performing this audit.

Sincerely,



Judy Randall  
Legislative Auditor



Lori Leysen, CPA  
Deputy Legislative Auditor



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# Introduction

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The Minnesota Department of Health announced the first case of COVID-19 in Minnesota on March 6, 2020, and Governor Walz declared a peacetime emergency on March 13, 2020.<sup>1</sup> The COVID-19 pandemic presented numerous challenges to state entities, including the need to procure goods and services to address the immediate health and safety needs of their staff and to support operations statewide.

In times of disasters and emergencies, such as the COVID-19 pandemic, state entities are able to bypass certain procurement requirements in order to quickly obtain goods and services that will aid in their response. This is commonly referred to as emergency purchasing.

State law gives both the Governor and the Commissioner of the Minnesota Department of Administration the authority to make emergency purchases. The Governor can delegate their authority to individuals within a state entity, and the Commissioner of the Minnesota Department of Administration can authorize state entities to make emergency purchases on its behalf. Regardless of whether such delegation or authorization has been granted, each state entity is responsible for ensuring that it complies with all applicable laws and regulations.

We conducted this audit to determine whether state entities complied with significant finance-related legal requirements regarding emergency purchasing. We audited emergency purchases entered into by state entities in response to the COVID-19 pandemic from January 1, 2020, through April 30, 2021, and the expenditures applied against those purchases through December 31, 2021.<sup>2</sup>

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<sup>1</sup> State of Minnesota Executive Order 20-01, “Declaring a Peacetime Emergency and Coordinating Minnesota’s Strategy to Protect Minnesotans from COVID-19,” March 13, 2020.

<sup>2</sup> The Office of the Legislative Auditor began the audit scope on January 1, 2020, in order to capture any emergency purchases that state entities may have made to prepare for COVID-19 in Minnesota.



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# Report Summary

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## Conclusion

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State entities generally complied with the significant finance-related legal requirements we tested. However, we identified some specific instances of noncompliance related to obtaining and using emergency purchasing authority; managing the inventory of COVID-19 supplies and equipment; funding, payment, and support for expenditures; and final reporting on emergency purchases.

## Findings

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**Finding 1.** State entities do not have a clear understanding of the Governor's or the Minnesota Department of Administration's emergency purchasing authority. (p. 10)

**Finding 2.** The Department of Employment and Economic Development and the Office of the Secretary of State did not obtain emergency purchasing authority before bypassing required procurement processes. (p. 11)

**Finding 3.** The Minnesota Department of Education used its emergency authority—and therefore bypassed the vendor solicitation process—for a purchase that was not an emergency. (p. 13)

**Finding 4.** The Minnesota Department of Health did not maintain accurate inventory records or conduct complete physical inventories in compliance with state policy. (p. 16)

**Finding 5.** The Minnesota Department of Health did not restrict user access within the inventory management system and did not have alternative procedures in place to mitigate the resulting risk. (p. 19)

**Finding 6.** The Office of the Governor and Lieutenant Governor charged unallowable expenditures to the federal Coronavirus Relief Fund. (p. 21)

**Finding 7.** The Minnesota Department of Health, Department of Employment and Economic Development, and Office of the Secretary of State did not always pay vendors accurately or recover unused advanced payments. (p. 22)

**Finding 8.** The Minnesota Department of Health did not always have adequate supporting documentation for advanced payments to community contractors. (p. 24)

**Finding 9.** The Department of Human Services, Minnesota Department of Veterans Affairs, and Office of the Secretary of State did not always accurately pay sales and use taxes. (p. 25)

**Finding 10.** The Minnesota Department of Administration did not enforce its requirement for state entities to submit final reports on emergency purchases exceeding \$5,000. (p. 27)



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# Background

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## Audit Scope, Objectives, Methodology, and Criteria

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The Office of the Legislative Auditor (OLA) conducted this audit to determine whether state entities complied with significant finance-related legal requirements. The audit scope included all identifiable COVID-19-related emergency purchases. The period under examination included emergency purchases entered into by state entities from January 1, 2020, through April 30, 2021, with expenditures applied against those purchases through December 31, 2021.

Minnesota Management and Budget has established statewide cost and appropriation codes to identify COVID-19-related expenditures and funding sources in the state's accounting system. However, there are no codes to identify *all* emergency purchases.<sup>3</sup> As a result, we could not obtain the audit population solely from data in the accounting system. Instead, we extracted purchase data from the state's accounting system that utilized COVID-19-specific federal and state appropriation codes and reviewed emergency purchasing requests maintained by the Minnesota Department of Administration.

Through this process, we identified 18 state entities that used the COVID-19-related cost and appropriation codes or received emergency purchasing authorization. Taking these 18 entities—and 10 additional state entities with the highest statewide expenditures during the audit scope—we performed additional analysis and met with state entity staff to further define the population. Ultimately, we excluded from our scope purchases using state contracts (because the Minnesota Department of Administration completes the vendor solicitation process) and purchases below \$5,000 (because they do not require solicitations).<sup>4</sup> The final audit population included 637 purchases made by 18 state entities, as shown in Exhibit 1.

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<sup>3</sup> An emergency purchase order type exists in the state's accounting system. However, its primary purpose is to expedite the processing of purchases that bypass the human rights workforce and equal pay certificate requirements of *Minnesota Statutes* 2022, 363A.36 and 363A.44. The emergency purchase order type may not have been used for (1) purchases that did not meet dollar thresholds established by statutes, (2) contracts that were with exempted entities, or (3) vendors that had already obtained the certificates. The 16 state entities in our audit scope that utilize the state's accounting system had emergency purchases that were not coded to the emergency purchase order type.

<sup>4</sup> *Minnesota Statutes* 2022, 16C.10, subd. 6.

**Exhibit 1****COVID-19 Emergency Purchase Expenditures from  
January 1, 2020, through December 31, 2021**

State Entity	Number of Purchases	Total Expenditures
Minnesota Department of Health	469	\$349,194,434
Minnesota Housing Finance Agency	4	20,968,894
Department of Corrections	28	6,834,625
Minnesota Department of Veterans Affairs	8	5,079,510
Minnesota IT Services	21	4,634,441
Department of Human Services	54	3,482,109
Department of Employment and Economic Development	5	2,860,891
Minnesota Department of Military Affairs	16	1,580,222
Department of Public Safety	8	652,145
Office of the Secretary of State	3	459,539
Minnesota Department of Administration	9	286,570
Minnesota Department of Education	4	209,199
Minnesota State Retirement System	1	155,915
Office of the Governor and Lieutenant Governor	3	128,460
Minnesota State Lottery	1	25,485
Office of Administrative Hearings	1	23,801
Minnesota Pollution Control Agency	1	14,150
Minnesota Department of Transportation	1	8,730
Total	637	\$396,599,120

Note: This exhibit includes expenditures paid from state and federal funds.

Source: Office of the Legislative Auditor, based on data in the state's accounting system and inquiries of state entity staff.

This audit focused on ensuring state entities obtained emergency purchasing authority, safeguarded assets, received quality goods and services quickly enough to meet their emergency needs, and accurately accounted for purchases made in response to the COVID-19 pandemic. OLA designed its work to address the following questions:

- Was it necessary for the state entity to utilize the emergency process for the purchase, and did it obtain the proper authority prior to bypassing procurement requirements?
- Did the state entity obtain evidence prior to the purchase that the selected vendor was capable of providing the desired goods and services?
- Did the state entity ensure that selected vendors did not have conflicts of interest with its leadership and procurement staff?
- Did the state entity purchase the goods or services at reasonable prices?
- Did the state entity properly execute a contract with the vendor that included all appropriate provisions, when applicable?

- Did the vendor provide the goods or services within the desired timeframe and, if not, did the state entity take reasonable follow-up action?
- Did the vendor provide goods or services of sufficient quality and, if not, did the state entity resolve any issues?
- Did the state entity utilize the goods or services purchased as intended?
- Did the state entity obtain the required legislative approval to use COVID-19-related funding?
- Did the state entity accurately pay for goods or services actually received and make payments from allowable funding sources?

To answer these questions, we tested all COVID-19-related emergency purchases at each state entity with eight or fewer purchases in the audit population, and selected a sample of purchases to test at state entities with more than eight purchases in the audit population. We randomly selected all samples, except for six samples at the Minnesota Department of Health (MDH), which we selected based on our analysis. We interviewed state entity staff, reviewed documentation, researched vendors and prices, and analyzed the expenditures and funding sources used for each sample. Exhibit 2 is a summary of the number of COVID-19-related emergency purchases tested at each state entity.

## Exhibit 2

### COVID-19-Related Emergency Purchases Tested by the Office of the Legislative Auditor

State Entity	Number of Purchases	Total Expenditures
Minnesota Department of Health	66	\$194,760,787
Minnesota Housing Finance Agency	4	20,968,894
Department of Corrections	8	6,116,491
Minnesota Department of Veterans Affairs	8	5,079,510
Department of Human Services	51	3,401,136
Department of Employment and Economic Development	5	2,860,891
Minnesota Department of Military Affairs	8	809,657
Department of Public Safety	8	652,145
Minnesota IT Services	8	529,909
Office of the Secretary of State	3	459,539
Minnesota Department of Administration	8	269,446
Minnesota Department of Education	4	209,199
Minnesota State Retirement System	1	155,915
Office of the Governor and Lieutenant Governor	3	128,460
Minnesota State Lottery	1	25,485
Office of Administrative Hearings	1	23,801
Minnesota Pollution Control Agency	1	14,150
Minnesota Department of Transportation	1	8,730
Total	189	\$236,474,145

Note: This exhibit includes expenditures paid from state and federal funds.

Source: Office of the Legislative Auditor, based on data in the state's accounting system.

To test MDH's inventory of COVID-19-related supplies and equipment, we conducted a random physical inventory on 44 of 183 consumable inventory items and 3 capital assets. We also reviewed all documentation of inventory cycle counts performed by MDH and evaluated inventory management system access for all eight MDH warehouse employees by reviewing system reports and interviewing department staff.

We conducted this performance audit in accordance with generally accepted government auditing standards.<sup>5</sup> 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. When sampling was used, we used a sampling method that complies with generally accepted government auditing standards and that supports our findings and conclusions. That method does not, however, allow us to project the results we obtained to the populations from which the samples were selected.

To identify legal compliance criteria for the activity we reviewed, we examined the federal government's compliance supplement for federal awards, the United States Code of Federal Regulations, federal award letters, Minnesota Statutes, the Laws of Minnesota, contract terms and conditions, and policies and procedures established by Minnesota Management and Budget and the Minnesota Department of Administration.

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<sup>5</sup> Comptroller General of the United States, Government Accountability Office, *Government Auditing Standards* (Washington, DC, December 2018).

# Emergency Purchasing Authority

In general, making an “emergency purchase” allows state entities to bypass some of the typical state purchasing requirements, such as solicitations and execution of a contract prior to the authorization of work. By law, there are two ways that state agencies can receive authority to make an emergency purchase: receiving delegated authority from the Governor, or receiving authorization from the Commissioner of the Minnesota Department of Administration.

For either approach, state entities must demonstrate that the purchase is for an emergency need. However, the process for receiving each type of emergency purchase authority differs, as shown in Exhibit 3.

## Exhibit 3

### Summary of Emergency Authority in Minnesota

	Governor	Commissioner of the Minnesota Department of Administration
<b>Emergency statutory authority</b>	<i>Minnesota Statutes 12.36</i>	<i>Minnesota Statutes 16C.10, subd. 2</i>
<b>Definitions of situations evoking emergency authority</b>	<p>“Emergency” means an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring.</p> <p>— <i>Minnesota Statutes 12.03, subd. 3</i></p>	<p>“Emergency” means a threat to public health, welfare, or safety that threatens the functioning of government, the protection of property, or the health or safety of people.</p> <p>— <i>Minnesota Statutes 16C.02, subd. 6b</i></p>
	<p>“Disaster” means a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.</p> <p>— <i>Minnesota Statutes 12.03, subd. 2</i></p>	
<b>Documentation required from state entities to request an emergency purchase under this authority</b>	None	Request for Emergency Purchasing Authorization form

Source: Office of the Legislative Auditor.

The Minnesota Department of Administration requires state entities to submit a Request for Emergency Purchasing Authorization form to make an emergency purchase pursuant to their statutory authority. The form requires a state entity to document how the emergency meets the statutory criteria, the estimated dollar amount of the purchase, the contractor name if available, and a detailed description of the goods or services to be purchased. Staff at the Minnesota Department of Administration review the request and either approve or disapprove the purchase, or approve it with qualifications.<sup>6</sup> An example of the form is included in Appendix A.

According to the Office of the Governor and Lieutenant Governor's records, its emergency authority has only been delegated twice, and both instances were in response to the COVID-19 pandemic. As a result, the office did not have formalized procedures or forms for the process. During the COVID-19 pandemic, state entities informally brought forward their purchasing needs and provided justifications for the requests, including the impacts the purchases would have and the reasons they were emergencies. Minnesota Management and Budget and the Minnesota Department of Administration compiled recommendations for the office about the appropriate funding sources and emergency authority for the purchases. The office asked additional questions, as necessary, and created the official delegations of authority.

During the audit, some state entities had difficulty identifying whether emergency purchases were made using the Governor's or the Minnesota Department of Administration's authority. Additionally, at multiple state entities, the emergency purchase contracts did not always identify the emergency authority being used or cite the correct statutory authority, indicating state entities lacked clarity on which emergency authority they were using at the time of purchase. To better understand why this occurred, we discussed emergency authority with state entity staff.

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## FINDING 1

### **State entities do not have a clear understanding of the Governor's or the Minnesota Department of Administration's emergency purchasing authority.**

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Various state entities provided us with their understanding of the emergency authorities and their applicable circumstances. There was general belief among state entities that the Governor's authority is broad and isolated to large-scale emergencies and disasters, such as the I-35W bridge collapse or a pandemic, and the Minnesota Department of Administration's authority is narrower and typically for smaller-scale emergencies, such as a pipe bursting or a boiler breakdown. However, during the COVID-19 pandemic, only 2 of the 189 purchases we reviewed were made using the Governor's authority.

There are several reasons why this may have occurred.

- The Minnesota Department of Administration is responsible for overseeing and managing state contracts and purchases. As such, it has defined processes that state entities are accustomed to following and includes safeguards they may have wanted to retain.

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<sup>6</sup> Examples of qualifications include adding restrictions on what the state entity can purchase.



- The Minnesota Department of Administration has procurement specialists who were assigned to work alongside other state entities in the State Emergency Operations Center during the COVID-19 pandemic (see the “Purchase and Inventory of Supplies and Equipment” section for more information). Being in the same room with other state entity staff made them accessible to those needing emergency purchasing authority.
- The Minnesota Department of Administration’s limited authority to exempt state entities from the vendor solicitation process and to allow work on a contract prior to its execution may have been sufficient enough to meet their needs, so the Governor’s broader authority was not necessary.

The overlapping language of the statutes means that in peacetime emergencies, such as the COVID-19 pandemic, state agencies can use either the Governor’s or the Minnesota Department of Administration’s authority. However, the overlap makes it difficult for state entities to know if one authority should be used over the other. For this reason, we tested each purchase against the requirements of whichever authority the entity obtained.

Emergencies require swift decision making and action by state entities. Clarity around emergency purchasing authority and the factors state entities should consider when contemplating an emergency purchase could save state entities valuable time in future emergencies.

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## RECOMMENDATION

**The Office of the Governor and Lieutenant Governor and the Minnesota Department of Administration should develop emergency purchasing guidance related to each of their statutory authorities.**

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## Obtaining Prior Approval

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For all 189 purchases tested, we determined whether each state entity had received emergency purchasing authority from the Governor or the Minnesota Department of Administration prior to bypassing required procurement processes. State entities primarily used emergency authority to bypass the competitive solicitation of the purchase.

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## FINDING 2

**The Department of Employment and Economic Development and the Office of the Secretary of State did not obtain emergency purchasing authority before bypassing required procurement processes.**

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Two of 18 state entities in the audit scope did not obtain authority from the Governor or the Minnesota Department of Administration prior to making emergency purchases.

- For one of five purchases totaling \$700,000, the Department of Employment and Economic Development (DEED) directly selected a vendor to provide online skills training to Minnesotans, without first obtaining delegated authority

from the Governor to bypass the vendor solicitation process.<sup>7</sup> The vendor began providing both free and paid services on June 17, 2020; DEED did not obtain delegated authority from the Governor until July 20, 2020.<sup>8</sup>

The Minnesota Department of Administration approved DEED's broad emergency request for COVID-19-related professional and technical contracts on May 26, 2020. The request included a few examples of potential activities for which DEED could contract, including credentialed courses and remote services. DEED proceeded with the procurement process under the assumption that the Minnesota Department of Administration's approval covered the purchase of online skills training. However, the purchase was an acquisition and not a professional and technical contract. DEED realized that it did not have the necessary approval to bypass the vendor solicitation process in late June 2020 and ultimately received delegated authority from the Governor on July 20, 2020.

- The Office of the Secretary of State made three emergency purchases totaling \$459,539 without authority to bypass the vendor solicitation process. Office staff e-mailed the Minnesota Department of Administration to ask if they needed to fill out a Request for Emergency Purchasing Authorization form. The department advised that the office could proceed under the Governor's Executive Order 20-01, pursuant to *Minnesota Statutes* 12.01; however, this statute does not provide emergency purchasing authority.<sup>9</sup> The Office of the Secretary of State interpreted the Minnesota Department of Administration's response to mean that no further action was needed to make the emergency purchase.

The emergency purchase approval process allows the Governor and the Minnesota Department of Administration to deny, put conditions on, and provide alternative vendors or methods for an emergency purchase. When state entities bypass the vendor solicitation process without approval, they undermine this authority and risk obligating themselves to a purchase that could have been obtained through other means or at a lower price.

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## RECOMMENDATION

**The Department of Employment and Economic Development and the Office of the Secretary of State should obtain delegated authority to make emergency purchases before bypassing the vendor solicitation process.**

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<sup>7</sup> Minnesota Department of Administration, *Authority for Local Purchase Manual*, revised October 1, 2022, sec. 2.5. Purchases with expected expenditures exceeding \$5,000 must go through a competitive solicitation process.

<sup>8</sup> Governor Walz, Delegation of Authority (Office of the Secretary of State, July 20, 2020), <https://officialdocuments.sos.state.mn.us/Files/GetDocument/123898>, accessed January 12, 2022. The Governor's delegation of authority cited the need to "mitigate the high numbers of unemployment benefit claims and provide assistance to unemployed Minnesotans" as the reasons the purchase qualified as an emergency.

<sup>9</sup> It is likely the department intended to cite the Governor's emergency purchase authority under *Minnesota Statutes* 12.36.

## Nonemergency Purchases

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For all 189 purchases tested, we determined if the purchase was for an emergency need related to the COVID-19 pandemic. To make this determination, we had discussions with state entity staff and reviewed the descriptions of the emergency on the Request for Emergency Purchasing Authorization forms, delegations of authority, or other documentation. We considered whether the need was unexpected; if there was time to conduct required procurement processes; and, for purchases authorized by the Minnesota Department of Administration, whether the purchase was used immediately, as required by statutes.<sup>10</sup>

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### FINDING 3

**The Minnesota Department of Education used its emergency authority—and therefore bypassed the vendor solicitation process—for a purchase that was not an emergency.**

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We reviewed four purchases, totaling \$209,199, at the Minnesota Department of Education (MDE). One purchase, with \$75,195 in expenditures during the audit scope, did not meet the “immediate use” requirement of an emergency procurement.

MDE used its emergency purchase authority from the Minnesota Department of Administration to purchase a trauma information toolkit and training for use by state and county employees and professional development specialists. By using this authority, MDE asserted that the purchase was a COVID-19 emergency and that the need was so immediate that the vendor solicitation process needed to be bypassed. However, the need for the toolkit existed before the COVID-19 pandemic; the toolkit was not completed until December 2022, and it is probable that the vendor solicitation process could have taken place in the eight months between March 2020 and November 2020, as depicted in the Exhibit 4 timeline. For these reasons, we do not agree that the purchase was an emergency.

MDE staff said that they were not aware of time constraints on emergency contracts, and the professional and technical nature of the toolkit prevented it from being immediately available for use.<sup>11</sup> They also stated that the vendor solicitation process can take three to six months, which they believe would have caused a significant delay in the delivery of services.

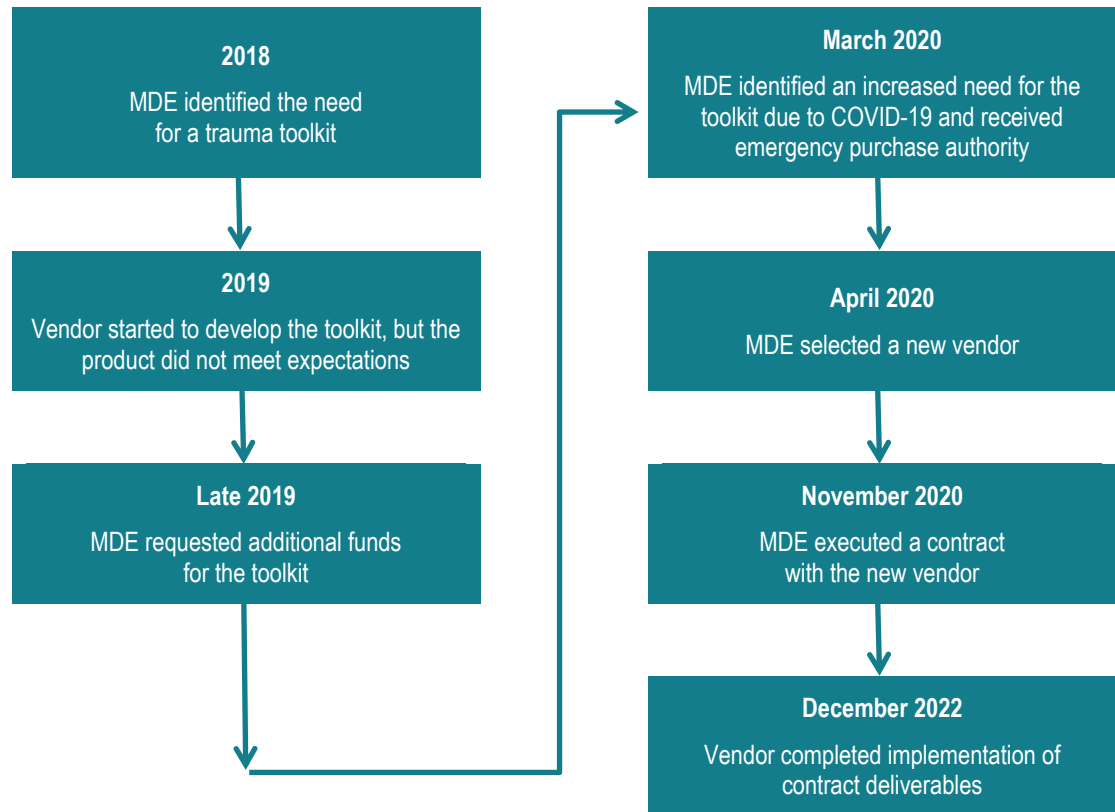
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<sup>10</sup> *Minnesota Statutes* 2022, 16C.10, subd. 2.

<sup>11</sup> *Ibid.* The statute does not describe “time constraints”; however, it does state that the Minnesota Department of Administration’s authorization is “to purchase, goods, services, or utility services directly for *immediate use*.” [Emphasis added.]

## Exhibit 4

## Minnesota Department of Education's (MDE's) Trauma Information Toolkit Timeline



Source: Office of the Legislative Auditor.

The Minnesota Department of Administration approved MDE's Request for Emergency Purchasing Authorization form. On the form, MDE listed only "COVID-19" as the circumstances leading to the emergency. If the Minnesota Department of Administration had more information, it may have denied the request.

It is important for state entities to go through the vendor solicitation process for nonemergency purchases because it provides transparency and ensures the state creates equitable opportunities and receives the best value for its contracts.

## RECOMMENDATIONS

- **The Minnesota Department of Education should only use its emergency authority to make purchases that meet an immediate need and that require exceptions to the procurement process.**
- **The Minnesota Department of Administration should not approve Request for Emergency Purchasing Authorization forms that are too general to be able to determine if the purchase meets an immediate need and requires an exception to the procurement process.**

# Inventory Management

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## Purchase and Inventory of Supplies and Equipment

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The Minnesota Department of Health (MDH) led the COVID-19 response in Minnesota. The Homeland Security and Emergency Management (HSEM) division at the Department of Public Safety is responsible for coordinating with state agencies to prepare and respond to emergencies and disasters.<sup>12</sup> As such, it supported MDH by activating the State Emergency Operations Center (SEOC). The SEOC is a centralized location for interagency coordination of expertise and resources to assist in emergencies or disasters.<sup>13</sup> Within SEOC, separate working groups were created to address specific needs. The Critical Care Working Group, led by the Commissioner of the Minnesota Department of Administration, was responsible for addressing the shortage of critical care supplies and personal protective equipment.

The state began operating a warehouse to manage the inventory of COVID-19-related supplies and equipment that were purchased by the Critical Care Working Group, donated by private entities, and allocated to the state by the Federal Emergency Management Agency. MDH was responsible for warehouse operations, including receiving inventory, staging and storing inventory, and maintaining inventory records, beginning in March 2020. Between mid-April and September 2020, the Minnesota National Guard assumed most warehouse duties, with assistance from MDH employees.<sup>14</sup> MDH resumed full warehouse management in September 2020.

“Consumable” inventory held in the warehouse includes items such as face masks, face shields, gloves, gowns, respirators, sanitizer, COVID-19 tests and testing materials, and vaccine supplies.<sup>15</sup> MDH tracks consumable items in an inventory management system that was implemented in September 2020.<sup>16</sup> MDH tracks ventilators—classified as capital assets—on a spreadsheet.<sup>17</sup>

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<sup>12</sup> *Minnesota Statutes* 2022, 12.09, subd. 1.

<sup>13</sup> *Ibid.*, subd. 4. State employees are assigned to the State Emergency Operations Center as a part of their permanent job responsibilities. They are not considered redeployed or employed by the Department of Public Safety.

<sup>14</sup> State of Minnesota Executive Order 20-13, “Authorizing National Guard Assistance to COVID-19 Response,” March 21, 2020.

<sup>15</sup> Minnesota Department of Administration, *Property Management Reporting and Accountability Policy*, issued May 1, 2014, 2-2. Consumable inventories include items purchased by an agency for reissue, reuse, or resale.

<sup>16</sup> The Minnesota Department of Health utilized a spreadsheet to track all inventory at the start of the COVID-19 pandemic. When the department realized that this was not a sufficient way to track inventory, it worked with Target Corporation to develop a new inventory system that was used until September 2020. The current inventory management system is an off-the-shelf tool that has been in place since then.

<sup>17</sup> Minnesota Department of Administration, *Property Management Policy*, 4-1. Capital assets include land, buildings, equipment with an acquisition cost of \$5,000 or more, infrastructure, art and historical treasures with an acquisition cost of \$5,000 or more, and purchased software with an acquisition cost of \$30,000 or more.

As part of our review of the goods purchased by the Critical Care Working Group and managed by MDH, we performed a count of the warehouse inventory in June 2022. The purpose was to ensure inventory records were complete and accurate, as required by the Minnesota Department of Administration's policy on property management.<sup>18</sup> We randomly tested a total of 47 inventory items: 44 of 183 consumable inventory items and 3 additional capital assets.<sup>19</sup>

Due to issues we identified in our inventory count, we also determined whether MDH was conducting physical inventories for consumable inventories at least annually and capital assets at least biennially, which is also required by the property management policy.<sup>20</sup>

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## FINDING 4

### **The Minnesota Department of Health did not maintain accurate inventory records or conduct complete physical inventories in compliance with state policy.**

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For 30 of 47 inventory items we tested, or 63.8 percent, actual quantities did not match MDH's inventory database and capital asset spreadsheet. Of those 30 inventory items, actual quantities for 12 exceeded inventory records, and actual quantities for 18 were less than inventory records.<sup>21</sup> Exhibit 5 shows the difference between our physical count of the items and MDH's inventory records. We verified significant differences with warehouse staff during the counts and had them review all results before we left. They did not raise any additional concerns with the accuracy of the counts.<sup>22</sup>

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<sup>18</sup> Minnesota Department of Administration, *Property Management Reporting and Accountability Policy*, issued May 1, 2014, 2-3.

<sup>19</sup> The Minnesota Department of Health assigned inventory numbers to each unique brand, model, and size of a particular product in the inventory database. For instance, one inventory item was medium Honeywell North half mask respirators, and another was large Rubberex Nitrile exam gloves. OLA selected an inventory item for each sample. Multiple inventory items were comingled on the warehouse floor for some samples, so we added additional inventory items, as needed, to conduct the count.

<sup>20</sup> Minnesota Department of Administration, *Property Management Policy*, 2-4.

<sup>21</sup> The value of the inventory and related discrepancies are not reported because the Minnesota Department of Health did not provide us the information during the audit.

<sup>22</sup> The Minnesota Department of Health provided the Office of the Legislative Auditor (OLA) follow-up on this finding after the formal presentation of the audit results in October 2022. It included selected results of a physical inventory the department completed after our count in June 2022. Of the 30 items OLA reported as containing errors, the department's physical inventory results also did not agree with the inventory system for 19 items, although the quantity variances were not always the same as what we found. For six items, the department's physical inventory results matched the inventory system. The department did not provide results for two items and stated that the three ventilators would be part of an inventory occurring in November and December of 2022. Although the department provided documentation approximately four weeks after the due date set by OLA, we reviewed and considered the response. However, due to the passing of time, we were not able to independently verify the department's physical inventory counts and, as a result, we made no changes to the finding.

**Exhibit 5****Minnesota Department of Health's Critical Care Supplies and Personal Protective Equipment Inventory Errors, June 2022**

Inventory Item Category	Number of Unique Inventory Items Sampled	Number of Samples with Errors	Quantity Overstated per Number of Samples		Quantity Understated per Number of Samples	
Face masks	7	5	43,227	(3)	26,650	(2)
Face shields	3	3	1,860	(2)	19,970	(1)
Gloves	6	1	400	(1)	—	—
Gowns	8	6	26,781	(3)	4,674	(3)
Respirators	4	1	120	(1)	—	—
Sanitizer	1	1	—	—	13	(1)
Testing materials	9	7	2,833	(2)	70,560	(5)
Testing materials (per case)	2	2	42	(2)	—	—
Vaccine supplies	4	1	7,200	(1)	—	—
Ventilators	<u>3</u>	<u>3</u>	<u>3</u>	<u>(3)</u>	<u>—</u>	<u>—</u>
Total	47	30	82,466	(18)	121,867	(12)

Notes: Inventory misstatements are per item—for instance, a single gown, syringe, or face shield—unless otherwise noted. Testing materials were primarily COVID-19 tests, swabs, and transport mediums. The testing material samples tracked by case only included COVID-19 tests.

Source: Office of the Legislative Auditor.

The variances OLA found can be contributed to MDH not conducting complete physical inventories, the limited number of warehouse staff, and the volume of transactions. We reviewed all documentation MDH provided regarding inventories of the warehouse. There was no documentation indicating that MDH had conducted a complete physical inventory. The warehouse manager stated, and we confirmed during the audit, that MDH had only conducted ad hoc counts of select inventory items in September 2020 and May 2021.

In April 2023, after MDH received OLA's draft report, the department provided us documentation of counts it performed when it moved inventory to a new warehouse in June 2021. This included approximately 170 inventory items. We evaluated the documentation but did not modify the finding because we do not believe it is a complete physical inventory for the following reasons.

- Only pallets, and not individual items, were counted for approximately 44, or 25.9 percent, of items.
- There was no indication that quantities in the inventory management system were updated for 53 items where (1) the inventory system did not match inventory counts, (2) the inventory system had quantities but items were not shipped from the old warehouse or received at the new warehouse, or (3) the inventory system did not have quantities but items were shipped from the old warehouse or received at the new warehouse.
- There was no documentation showing that variances were investigated.

Conducting complete physical inventory counts, and updating the inventory system accordingly, assists in the prevention and detection of fraud, waste, and abuse. Further, the state should rely on the inventory system to make purchasing decisions. If these records are not accurate, it may purchase unneeded supplies and equipment or not purchase supplies and equipment that are needed.

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## RECOMMENDATIONS

- **The Minnesota Department of Health should conduct and document a full physical inventory at least annually for its consumable inventory and at least biennially for capital assets, as required by state policy.**
  - **The Minnesota Department of Health should update its inventory management system to reflect the results of its physical inventories and investigate discrepancies between its inventory counts and the inventory management system.**
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## Inventory Management System Access

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The inventory management system plays an important role in preventing and detecting errors and fraud, whether by limiting who can access and make changes to inventory records or by assisting management in monitoring transactions.

State policy requires that, “All access to systems or data...be controlled using identification and authentication mechanisms. This access control must assign privileges to individuals based on the individual’s job classification and function [and] restrict privileges to the least needed for the individual...to perform their role.”<sup>23</sup> Additionally, “Access privileges must allow for the appropriate segregation of duties by segregating duties of individuals as necessary, to prevent malicious activity by a single individual.”<sup>24</sup> When state entities cannot segregate duties, internal control standards require that management put other safeguards in place.<sup>25</sup>

Eight MDH warehouse employees had access to the inventory management system at the time of our inventory count in June 2022. We reviewed each employee’s access rights to determine whether it was appropriate for their job duties. We also determined whether the inventory system was set up to segregate duties or, when that was not possible, whether management had implemented alternative procedures to safeguard against the risk of allowing one individual to control multiple processes.

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<sup>23</sup> Minnesota IT Services, *Identity and Access Management Standard*, version 1.6, revised October 1, 2022, [https://mn.gov/mnit/assets/Identity%20and%20Access%20Management%20Standard\\_tcm38-323781.pdf](https://mn.gov/mnit/assets/Identity%20and%20Access%20Management%20Standard_tcm38-323781.pdf), 1.

<sup>24</sup> *Ibid.*, 7.

<sup>25</sup> Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government* (Washington, DC, September 2014), 51. In September 2014, the State of Minnesota adopted these standards as its internal control framework for the executive branch.



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**FINDING 5**

**The Minnesota Department of Health did not restrict user access within the inventory management system and did not have alternative procedures in place to mitigate the resulting risk.**

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MDH assigned warehouse employees different roles in the inventory process during our audit scope.<sup>26</sup> However, all eight warehouse employees served as each other's backups and, as a result, all eight had full access to the inventory system.

The warehouse director told us that because of the small number of employees and their workload, it was necessary to cross train them to perform each other's duties. However, MDH did not have alternative procedures in place, such as periodic reconciliations or reviews of inventory system transactions, to ensure employees used their access appropriately.

Alternative procedures would safeguard the department's inventory through the detection of errors or theft if, for example, an employee stole supplies or equipment and adjusted the inventory in the system to cover up the shortage.

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**RECOMMENDATION**

**The Minnesota Department of Health should restrict user access to the inventory management system or implement alternative procedures to address incompatible access, as required by policy.**

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<sup>26</sup> Inventory-related roles included receiving goods; processing orders and shipping goods; adjusting inventory records when, for example, goods were damaged or expired, or did not match physical inventory counts; and running various system reports.



OLA

# Expenditures

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State entities leveraged both traditional and COVID-19-specific funding from various state and federal sources to make emergency purchases during the pandemic. State and federal laws establish the permissible uses of those funds. We reviewed the expenditures for all 189 purchases tested to determine whether the expenditures were allowable in accordance with applicable state and federal laws.

One of the federal laws related to Coronavirus Relief Fund expenditures specifies that “A State...shall use the funds provided...to cover only those costs of the State...that are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19).”<sup>27</sup>

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## FINDING 6

### **The Office of the Governor and Lieutenant Governor charged unallowable expenditures to the federal Coronavirus Relief Fund.**

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One of three purchases in our audit scope, with \$25,760 in expenditures, was for services related to both civil unrest and the COVID-19 pandemic. Of those expenditures, the Office of the Governor and Lieutenant Governor recorded \$13,110 to the federal Coronavirus Relief Fund. However, \$2,875 of the \$13,110 were for services related to civil unrest, which is not a permissible use of those funds.

Office staff told us they did not have documentation to support whether charges on the invoices were for civil unrest or the COVID-19 pandemic but estimated that 85 percent of the \$13,110 in expenditures was for COVID-19 services and the other 15 percent could not be determined. In response to our audit inquiries, the office later put together a list of meetings from their calendars and assessed whether the activities were related to civil unrest, COVID-19, or both; however, we could not align the documentation provided with the charges on the invoices.

Without sufficient documentation, we could not determine if the payment was allocated to allowable funding sources, so we reached out to the vendor. The vendor created documentation detailing the activities included in its invoices and a breakout of the number of hours related to civil unrest, COVID-19, and both. This allowed us to determine the portion of the invoice that was related to the COVID-19 pandemic and eligible to be charged to the federal Coronavirus Relief Fund.

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<sup>27</sup> 42 U.S. Code, sec. 801(d) (2020).

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## RECOMMENDATIONS

- **The Office of the Governor and Lieutenant Governor should only charge allowable expenditures to federal awards.**
  - **The Office of the Governor and Lieutenant Governor should strengthen internal controls to ensure it only charges allowable expenditures to federal awards and that allocated expenditures are supported by sufficient documentation.**
- 

Internal control standards direct management to design control activities, such as the complete and accurate recording of transactions and the appropriate documentation of transactions.<sup>28</sup>

We reviewed the expenditures for all 189 emergency purchases of goods and services to determine whether state entities retained documentation to support expenditures, accurately paid vendors in accordance with contract terms and conditions, and accurately recorded payments in the state's accounting system.

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## FINDING 7

**The Minnesota Department of Health, Department of Employment and Economic Development, and Office of the Secretary of State did not always pay vendors accurately or recover unused advanced payments.**

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Three of 18 state entities in the audit scope made inaccurate payments and did not recover the unused portions of prepayments, resulting in approximately \$276,195 in combined overpayments and \$59,700 in underpayments.

- We reviewed 60 randomly selected purchases at the Minnesota Department of Health (MDH) and 6 additional purchases based on our analysis, with \$194,760,767 in expenditures. Three purchases had various payment-related issues. Two purchases were underpaid by a total of \$59,700; \$59,250 because one line item was not included in the invoice total and \$450 due to the transposition of two numbers by MDH. One purchase had an approximate net overpayment of \$269,137 as a result of MDH not reconciling a prepayment with actual quantities received.
- We reviewed five purchases at the Department of Employment and Economic Development (DEED) totaling \$2,860,891. One purchase was a prepayment for 12 months of service. DEED terminated the contract after two months because the contractor could not fulfill their obligations and did not recover the 10 months of unused service, resulting in an overpayment of \$3,750.

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<sup>28</sup> Comptroller General of the United States, Government Accountability Office, *Standards for Internal Control in the Federal Government* (Washington, DC, September 2014), 45-48. In September 2014, the State of Minnesota adopted these standards as its internal control framework for the executive branch.

- We reviewed three purchases at the Office of the Secretary of State with \$459,539 in expenditures. On two purchases, the office paid for items that were not received by the counties, totaling \$3,308. The vendor shipped items directly to counties across the state and the office did not verify all items had been shipped prior to making payment.

It is important for state entities to safeguard taxpayer funds and maintain vendor trust by accurately paying for goods and services. Strengthening internal controls can assist management in the prevention and detection of inaccurate payments and ensure funds are used appropriately.

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## RECOMMENDATIONS

- **The Department of Employment and Economic Development, Minnesota Department of Health, and Office of the Secretary of State should resolve inaccurate payments and prepayments with vendors.**
  - **The Department of Employment and Economic Development should enhance internal controls over advanced payments.**
  - **The Minnesota Department of Health and the Office of the Secretary of State should enhance internal controls over vendor payments to ensure they accurately pay for goods and services actually received.**
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There were 32 community contracts in the 66 purchases we tested at MDH.<sup>29</sup> Eleven of the 32 community contracts, with expenditures totaling \$399,958 during the audit scope, had a 50/40/10 payment structure with 50 percent of the contract amount paid in advance after an orientation call, 40 percent paid after the contractor submitted a satisfactory progress report to MDH, and 10 percent paid when all contract terms were satisfactorily completed.

Due to the payment structure, MDH performed reconciliations of contractor expenditures prior to making the final payment. Using MDH's guidance on expenditure reconciliations, we reviewed the contractors' submissions to determine if the amounts paid by MDH were supported by both source documentation and proof of payment.<sup>30</sup>

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<sup>29</sup> The goal of community contracts was to provide hard-to-reach communities access to COVID-19-related information and resources. Contract categories included community coordination, community engagement, and diverse media.

<sup>30</sup> Source documentation included items such as timesheets detailing time spent on contracted activities; proof of federally approved indirect cost rates, a cost allocation plan, or a list of items included as indirect costs; mileage records and travel logs; and invoices or receipts. Proof of payment documentation included items such as accounting system payroll or financial reports showing payments; receipts; the front and back of paid checks; and bank records.

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## FINDING 8

### **The Minnesota Department of Health did not always have adequate supporting documentation for advanced payments to community contractors.**

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For 7 of the 11 community engagement contracts that had a 50/40/10 payment structure, MDH did not have adequate source documentation for approximately \$132,412 in expenditures or adequate evidence proving the contractor paid the expenditure for approximately \$65,451.<sup>31</sup> Additionally, MDH erroneously included \$110 in one contractor payment.

MDH provided multiple reasons for missing and inadequate supporting documentation. The most prevalent were that MDH decided not to require all documentation if the contractor was satisfactorily meeting deliverables, and they deemed documentation sufficient if it showed at least the amount being claimed in expenditures. For example, MDH accepted timesheets if the overall hours met or exceeded those applied against the contract, even if they did not detail the number of hours spent to meet contract deliverables.

Although MDH had multiple methods for monitoring the community contracts, requiring detailed and complete evidence of contractor's expenditures and payments is necessary to ensure that funds are only used for contracted activities.<sup>32</sup>

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## RECOMMENDATION

### **The Minnesota Department of Health should ensure it receives detailed and complete support of contractor's expenditures and payments during its reconciliation of advanced payments.**

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*Minnesota Statutes 297A* establishes the state's general sales and use tax requirements, provides general tax exemptions, and establishes the taxable location.<sup>33</sup> As the entity that coordinates state and local taxes, the Department of Revenue (Revenue) also

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<sup>31</sup> Source documentation and proof of payment were required for most expenditures. As a result, an expenditure may be included as an unsupported amount in both categories. Examples of inadequate documentation included expenditures that did not have any support; receipts and credit notes that were created by the contractor; timesheets that did not detail the amount of time worked on contracted activities; invoices for travel that did not include the trip details; payroll reports that showed what should have been paid to employees but not proof that it was paid; and bank records that did not support the reported expenditure.

<sup>32</sup> In addition to financial reconciliations, the 11 community contracts with payment advancements required additional monitoring, such as progress reports (typically submitted when at least 50 percent of deliverables were complete and at final completion), and weekly or biweekly calls. We verified that MDH received nearly all contractually required reports.

<sup>33</sup> Examples of taxable locations include the physical point-of-sale, the delivery address of the product or service, the billing address of the customer, or the address where services were performed.

provides supplemental guidance to assist businesses with tax compliance.<sup>34</sup> We used this guidance and state law as the basis for our review of whether sales taxes were correctly paid or withheld on the 189 purchases tested.

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## FINDING 9

### **The Department of Human Services, Minnesota Department of Veterans Affairs, and Office of the Secretary of State did not always accurately pay sales and use taxes.**

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Three of 18 state entities did not properly handle sales and use taxes. Combined, they underpaid approximately \$116,602 in taxes to Revenue. Two state entities underpaid by approximately \$117,544, and one state entity overpaid by approximately \$942.

- We reviewed 51 randomly selected purchases at the Department of Human Services (DHS) totaling \$3,401,136. DHS did not pay \$108,634 in sales and use taxes to Revenue for 42 purchases of taxable personal protective equipment and other goods.<sup>35</sup> According to DHS, this occurred primarily due to a business practice change where the department now pays tax directly to vendors, rather than paying it to Revenue.
- We reviewed eight purchases at the Minnesota Department of Veterans Affairs (MDVA) totaling \$5,079,510. MDVA did not pay \$8,910 in use tax to Revenue for two purchases of latex gloves and isolation gowns to protect against COVID-19. Staff told us the latex gloves and isolation gowns were tax exempt because they were for general use. However, on the Request for Emergency Purchasing Authorization forms it submitted to the Minnesota Department of Administration, MDVA indicated that the purchases were needed specifically to protect against COVID-19. According to state statutes, the purchase of protective equipment is taxable if the equipment is for protection against disease.<sup>36</sup>
- The Office of the Secretary of State overpaid approximately \$942 in use taxes to Revenue for the three purchases we tested. The net overpayment resulted from two errors. The office overpaid taxes based on the billing address instead of the shipping address because staff did not understand the tax implications for this shipping arrangement.<sup>37</sup> Additionally, the office underpaid taxes on delivery charges because the goods and delivery charges were billed separately.<sup>38</sup>

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<sup>34</sup> Department of Revenue, *Minnesota Sales and Use Tax Business Guide*, <https://www.revenue.state.mn.us/book/export/html/10021>, accessed September 15, 2022.

<sup>35</sup> *Minnesota Statutes* 2022, 297A.62; and 297A.63.

<sup>36</sup> *Minnesota Statutes* 2022, 297A.67, subd. 8. The statutes exempt general use clothing from taxation but exclude protective equipment designed “as protection of the wearer against...disease...but not suitable for general use” from the exemption.

<sup>37</sup> *Minnesota Statutes* 2022, 297A.668, subd. 2(c).

<sup>38</sup> *Minnesota Statutes* 2022, 297A.61, subd. 7.

Underpaid taxes reduce the funds available for statewide redistribution; overpaid taxes reduce the amount of funds state entities have available to meet their operational and programmatic requirements. Management's implementation of internal controls can safeguard against these risks by having appropriate policies and procedures in place to ensure the entity is compliant with tax requirements.

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## **RECOMMENDATIONS**

- **The Department of Human Services, Minnesota Department of Veterans Affairs, and Office of the Secretary of State should resolve inaccurate sales and use tax payments with the Department of Revenue.**
  - **The Department of Human Services, Minnesota Department of Veterans Affairs, and Office of the Secretary of State should strengthen internal controls to ensure they accurately pay sales and use tax.**
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# Final Reporting

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The Minnesota Department of Administration's purchasing manual required state agencies to submit a final report for each emergency purchase approved by the department that exceeded \$5,000. The manual stated that:

The report shall fully document the actions taken, why the competitive bid process could not be utilized, how the scope of work was minimized to what was immediately necessary, and the total costs of the goods and services procured under the emergency authority.<sup>39</sup>

We discussed this requirement with the Office of State Procurement within the Minnesota Department of Administration to learn how they enforce the final reporting requirement.

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## FINDING 10

**The Minnesota Department of Administration did not enforce its requirement for state entities to submit final reports on emergency purchases exceeding \$5,000.**

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As previously discussed, state entities are required to submit an Emergency Purchase Authorization form to the Minnesota Department of Administration in order to obtain approval to bypass typical procurement processes.<sup>40</sup> The department stated that they consider this form the final report and have, therefore, never required state entities to submit a separate report. We disagree that an authorization form detailing *proposed* actions and costs qualifies as a final report of *actual* actions and final costs.

The Minnesota Department of Administration cannot effectively monitor emergency purchase activity without final reports. The department could use these reports to determine if qualifications they put on the approvals were met, and to evaluate whether purchases stayed within the scope and dollar amount of the original purchases proposed on the approved Emergency Purchase Authorization forms or if deviations were reasonable and necessary.<sup>41</sup>

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## RECOMMENDATION

**The Minnesota Department of Administration should enforce its requirement for state entities to submit final reports on emergency purchases.**

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<sup>39</sup> Minnesota Department of Administration, *Authority for Local Purchase Manual*, revised October 2018, sec. 1.6.1.4, 4. The department updated the manual in October 2022. While it retains the requirement for the agency to submit a final report, it no longer restricts it to procurements exceeding \$5,000 or lists the details that must be included.

<sup>40</sup> *Ibid*, sec. 1.6.1.3.1, 4. An agency head or delegate can declare an emergency if there is not enough time to obtain emergency authorization from the Minnesota Department of Administration in advance. However, the agency must notify the department when this occurs.

<sup>41</sup> The Minnesota Department of Administration can add qualifications to emergency purchase authorizations. Examples include adding additional restrictions on what the state entity can purchase, requiring additional authorizations if individual purchases exceed a threshold, and requiring a solicitation process if certain requirements are not met or if the need extends beyond a specific time period.



OLA

# List of Recommendations

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- The Office of the Governor and Lieutenant Governor and the Minnesota Department of Administration should develop emergency purchasing guidance related to each of their statutory authorities. (p. 11)
- The Department of Employment and Economic Development and the Office of the Secretary of State should obtain delegated authority to make emergency purchases before bypassing the vendor solicitation process. (p. 12)
- The Minnesota Department of Education should only use its emergency authority to make purchases that meet an immediate need and that require exceptions to the procurement process. (p. 14)
- The Minnesota Department of Administration should not approve Request for Emergency Purchasing Authorization forms that are too general to be able to determine if the purchase meets an immediate need and requires an exception to the procurement process. (p. 14)
- The Minnesota Department of Health should conduct and document a full physical inventory at least annually for its consumable inventory and at least biennially for capital assets, as required by state policy. (p. 18)
- The Minnesota Department of Health should update its inventory management system to reflect the results of its physical inventories and investigate discrepancies between its inventory counts and the inventory management system. (p. 18)
- The Minnesota Department of Health should restrict user access to the inventory management system or implement alternative procedures to address incompatible access, as required by policy. (p. 19)
- The Office of the Governor and Lieutenant Governor should only charge allowable expenditures to federal awards. (p. 22)
- The Office of the Governor and Lieutenant Governor should strengthen internal controls to ensure it only charges allowable expenditures to federal awards and that allocated expenditures are supported by sufficient documentation. (p. 22)
- The Department of Employment and Economic Development, Minnesota Department of Health, and Office of the Secretary of State should resolve inaccurate payments and prepayments with vendors. (p. 23)
- The Department of Employment and Economic Development should enhance internal controls over advanced payments. (p. 23)
- The Minnesota Department of Health and the Office of the Secretary of State should enhance internal controls over vendor payments to ensure they accurately pay for goods and services actually received. (p. 23)
- The Minnesota Department of Health should ensure it receives detailed and complete support of contractor's expenditures and payments during its reconciliation of advanced payments. (p. 24)

- The Department of Human Services, Minnesota Department of Veterans Affairs, and Office of the Secretary of State should resolve inaccurate sales and use tax payments with the Department of Revenue. (p. 26)
- The Department of Human Services, Minnesota Department of Veterans Affairs, and Office of the Secretary of State should strengthen internal controls to ensure they accurately pay sales and use tax. (p. 26)
- The Minnesota Department of Administration should enforce its requirement for state entities to submit final reports on emergency purchases. (p. 27)

# Appendix A: Request for Emergency Purchasing Authorization Form



## REQUEST FOR EMERGENCY PURCHASING AUTHORIZATION

This form facilitates a request to authorize the purchase of goods and/or services pursuant to Minnesota Statute 16C.10, Subd. 2.

### Instructions:

- If time allows, submit this form prior to authorizing any purchase of GOOD AND/OR SERVICES (See below for emergencies impacting **FIXED PROPERTY**).  
**NOTE:** If there is an imminent threat to public health, public welfare, or public safety that threatens the function of government, protection of property, and/or the health or safety of people, complete this form immediately **AFTER** addressing the imminent issue.
- For Emergencies related to Good and/or Services send this signed form to ALL three (3) contacts listed below:  
 Luke Jannett [Luke.Jannett@state.mn.us](mailto:Luke.Jannett@state.mn.us)  
 Rachel Dougherty [Rachel.Dougherty@state.mn.us](mailto:Rachel.Dougherty@state.mn.us)  
 AND  
 Betsy Hayes [Betsy.Hayes@state.mn.us](mailto:Betsy.Hayes@state.mn.us)
- For Emergencies that may include or impact **FIXED PROPERTY** (land and/or buildings) send this signed form to BOTH contacts listed below with a Carbon Copy "CC" to ALL three (3) contacts detailed above:  
 Eric Radel [Eric.Radel@state.mn.us](mailto:Eric.Radel@state.mn.us)  
 Wayne Waslaski [Wayne.Waslaski@state.mn.us](mailto:Wayne.Waslaski@state.mn.us)

Agency Name:	Document Date: Estimated Date of Contract Execution: Estimated Date of Contract Completion:
Agency Contact:	Agency Contact Phone Number:
Agency Contact Email:	Estimated Dollar Amount: \$
Contractor(s) Name(s):	
Minnesota Statutes 16C.10, Subd. 2 defines emergency as "...a threat to public health, welfare, or safety that threatens the functioning of government, the protection of property, or the health or safety of people."	
<b>Description of Emergency (Part 1):</b> (Check all that apply - <b>at least one</b> is required) <input type="checkbox"/> Threat to public health <input type="checkbox"/> Threat to public welfare <input type="checkbox"/> Threat to public safety	<b>Description of Emergency (Part 2):</b> (Check all that apply - <b>at least one</b> is required) <input type="checkbox"/> Threatens function of government <input type="checkbox"/> Threatens protection of property <input type="checkbox"/> Threatens health or safety of people
Describe the emergency, how it meets the above criteria, include the circumstances leading to the emergency:	

Provide a detailed description of the good and/or service to be purchased:

<p><b>AGENCY HEAD OR AUTHORIZED DELEGATE</b></p> <ol style="list-style-type: none"> <li>1. I agree this is an emergency per 16C.10, Subd.</li> <li>2. I acknowledge the risks associated with allowing the vendor to begin work without a fully executed contract and will direct the agency to ensure timely execution of a contract(s).</li> <li>3. I understand approval of this emergency purchasing authorization relieves the agency of the solicitation process per Minn. Stat.16C.10, Subd 2, however, there still may be applicable contract requirements that must be met depending on the nature of the purchase.</li> </ol> <p><b>Signature:</b> _____</p>	<p><b>ADMINISTRATION DEPARTMENT</b></p> <p><input type="checkbox"/> Approved without qualifications</p> <p><input type="checkbox"/> Approved with qualifications</p> <p style="padding-left: 20px;"><input type="checkbox"/> Emergency could have been prevented</p> <p style="padding-left: 20px;"><input type="checkbox"/> Other _____</p> <p><input type="checkbox"/> Disapproved</p> <p style="padding-left: 20px;"><input type="checkbox"/> Not an emergency</p> <p style="padding-left: 20px;"><input type="checkbox"/> Other _____</p> <p><input type="checkbox"/> Work began prior to request – 16C violation</p> <p><b>Signature:</b> _____</p>
<b>Title:</b> Agency Head or Authorized Delegate	<b>Date Received in Administration:</b>
<b>Signature Date:</b>	<b>Date Action Taken by Administration:</b>

Reminder: If you carry insurance with the Risk Management Division and the damages may exceed 50% of your deductible please complete a Property/Liability Loss notice which can be found on their web site at <https://mn.gov/admin/government/risk/insurance/>. Once the form is completed you can submit the claim to the Risk Management Division using the submit button on the form or you can email it to [Claim.rmd@state.mn.us](mailto:Claim.rmd@state.mn.us). If you have any questions you can contact the Risk Management Division at [risk.management@state.mn.us](mailto:risk.management@state.mn.us) or you can call their 24/7 emergency claims line at 651-201-2594.

Source: Minnesota Department of Administration, "Request for Emergency Purchasing Authorization," July 20, 2022.

May 2, 2023

Judy Randall  
Legislative Auditor  
Office of the Legislative Auditor  
Room 140 Centennial Building  
658 Cedar Street  
Saint Paul, MN 55155-1603

Dear Ms. Randall,

Thank you for the opportunity to review and comment on the report titled “COVID-19-Related Emergency Purchases.” The Minnesota Department of Employment and Economic Development (DEED) values any opportunity to improve its processes and service delivery, and thanks the OLA team for its work on this report.

The impact of the COVID-19 pandemic on DEED and other state agencies cannot be overstated, and any program evaluation of that period must be centered in the unprecedented circumstances that pertained. Throughout the pandemic, DEED and other state agencies worked around the clock to deliver services to our customers and respond to the challenges of the pandemic – all while the state enterprise was adapting to remote work and profound uncertainty. Staff had to manage massive increases in work volume, adapt to remote business processes, and resolve numerous emergency needs as the state supported Minnesotans through the pandemic.

Despite these challenges, the transactions evaluated in the report saw payment accuracy rates of over 99.8%, and as is clear in the report, all transactions were lawful and consistent with Minnesota Statutes. That our teams were able to accomplish this despite the unprecedented demands placed upon them speaks to their professionalism, diligence, and dedication to the people of Minnesota.

While it is our most sincere hope that Minnesota never again confronts a challenge like the COVID-19 pandemic, we nevertheless appreciate the opportunity to review this component of DEED’s response to an unprecedented event. Thank you again for your team’s work.

Sincerely,

Evan Rowe  
Deputy Commissioner



OLA





**Commissioner Jodi Harpstead**  
**Minnesota Department of Human Services**  
**Elmer L. Andersen Building**  
**Post Office Box 64998**  
**St. Paul, Minnesota 55164-0998**

May 2, 2023

Judy Randall, Legislative Auditor  
Office of the Legislative Auditor  
Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155

Dear Ms. Randall:

Thank you for the opportunity to review and comment on the draft report issued by your office, titled *COVID-19-Related Emergency Purchases*. The report appropriately acknowledges the numerous challenges encountered by the Minnesota Department of Human Services (DHS) and other state agencies during the COVID-19 pandemic. For DHS, the immediate health and safety needs of clients and staff drove our need to invoke emergency purchases procedures.

We were pleased that you found DHS generally complied with the significant finance-related legal requirements that your staff tested. We agree with your finding to resolve sales and use tax payments with the Department of Revenue. DHS corrected this by remitting the identified taxes to the Department of Revenue on September 27, 2022, shortly after your staff shared their discovery. We also are revising our processes to develop a contingency plan when emergency purchase orders are needed and will include a supervisory review of related invoices to verify our tax obligations.

We appreciated your staff's professionalism and dedicated efforts during this audit. Our policy and practice is to follow up on all audit findings to evaluate our progress toward resolution. If you have further questions, please contact Gary L. Johnson, Internal Audits Office director, at (651) 431-3623.

Sincerely,



Jodi Harpstead  
Commissioner



OLA

May 2, 2023

Ms. Judy Randall  
Office of the Legislative Auditor  
Centennial Building, Room 140  
658 Cedar Street  
Saint Paul, MN 55155

Dear Ms. Randall:

Thank you for the opportunity to review and comment on the findings and recommendations from the recent audit of COVID-19-Related Emergency Purchases.

The COVID-19 pandemic was a global disaster that forced state government to quickly adapt and overcome numerous challenges: the breakdown of global supply chains, a rapid transition to remote work, and my redeployment, as Commissioner, along with other high-level agency leadership, to serve in the State Emergency Operating Center (SEOC) and other critical positions in our partner agencies for an unknown period. The emergency needs of the State were of a nature, scale, and severity never experienced in our lifetimes.

The statutory authority in Minnesota Statutes, chapters 12 and 16C, provided state agencies with the necessary emergency authority to quickly adapt and successfully execute authorized and legal purchases that protected and saved countless lives of Minnesotans. The emergency purchasing procedures developed under this statutory authority provided state agencies with the guidance needed to respond rapidly, and in a legal manner, at the height of the pandemic and throughout the State's pandemic response.

As noted in your report, State agency staff across the executive branch generally complied with applicable requirements. In assessing the report, any perceived confusion did not thwart the legal purchasing of necessary supplies and services. This was possible due to the well-known, established procedures of the Office of State Procurement, the support of the SEOC, and the strong partnerships across State government. We are incredibly proud of our hard-working team members in providing their dedicated service to the State during this unprecedented time.

Admin takes its responsibility to ensure compliance with legal requirements seriously and we are pleased that the audit did not identify any fraud, waste, or abuse. We acknowledge your recommendations in the report and will take them under consideration.



✉ admin.info@state.mn.us

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📍 50 Sherburne Avenue  
Saint Paul, MN 55115

We appreciate the opportunity to work with you and your staff throughout this audit. We value the work of your office and the professionalism of your staff. If you have any questions or need additional information, please contact Stacie Christensen at 651-201-2500.

Sincerely,

A handwritten signature in black ink that reads 'ARobertsDavis'.

Alice Roberts-Davis  
Commissioner



April 19, 2023

Judy Randall  
Legislative Auditor  
Office of the Legislative Auditor  
140 Centennial Building 658 Cedar Street  
St. Paul, MN 55155

Dear Ms. Randall,

Thank you for the opportunity to respond to the Office of the Legislative Auditor's ("OLA") audit of COVID-19-Related Emergency Purchases. The Minnesota Department of Education (the "Department" or "MDE"), appreciates the time and effort that was put into the review of these programs, as well as the collegial and collaborative process through which OLA engaged MDE.

The Department takes its responsibility to administer emergency purchases and all procurement activities seriously. As recognized in this report, the COVID-19 pandemic presented numerous challenges to state entities, including the need to procure goods and services to address the immediate health and safety needs of staff, students and school districts and to support operations statewide.

MDE continues to believe that the purchase identified in the report was an emergency purchase. While the need for the trauma toolkit existed prior to the start of the COVID-19 pandemic, the pandemic accelerated the need for the toolkit. Given the impact of COVID-19 on our schools and students, MDE saw an immediate need to contract with the Minnesota Association for Children's Mental Health to create trainings and supports for those who work with families to help create trauma-informed resources and address the mental health needs of staff, students and families due to COVID-19.

By utilizing the allowable emergency procurement process, MDE was able to identify a vendor, execute a contract, and start critical work in a timeframe that would ordinarily cover only the vendor solicitation process.

MDE will continue to only use its emergency authority to make purchases that meet an immediate need and that require exceptions to the procurement process. In this case, MDE continues to believe that it was critical that this work start as soon as possible as the effects of trauma on children and families from the pandemic were felt immediately.

Again, MDE would like to thank the dedicated employees of the Office of the Legislative Auditor who prepared this report. The opportunity to evaluate and review the Department's work is appreciated, and MDE hopes this process will help MDE better serve Minnesota's public schools, our students, and their families. If you have any questions or need additional information, please contact Denise Anderson, our Chief Financial Officer.

Sincerely,

A handwritten signature in black ink, appearing to read "Willie L. Jett II", with a stylized flourish at the end.

Willie L. Jett II  
Commissioner



*Protecting, Maintaining and Improving the Health of All Minnesotans*

May 2, 2023

Ms. Judy Randall  
Legislative Auditor  
Office of the Legislative Auditor  
658 Cedar St. Room 140  
Centennial Office Building  
St. Paul, MN 55155-1603

Dear Ms. Randall:

Thank you for the opportunity to respond on behalf of the Minnesota Department of Health (MDH) to the findings and recommendations of the COVID-19-Related Emergency Purchases audit. I am proud of the work done by our employees and partners under the intense pressure of the global COVID-19 pandemic. I am pleased that your audit confirmed the integrity of our work and did not identify any unallowable or questioned costs, or any evidence of fraud, waste, or abuse related to the Minnesota Department of Health. This outcome is even more impressive when one considers the pace and volume of work done during the response – as well as the life-and-death stakes of that work.

Before addressing the specific content of your audit, I will emphasize some important context. There was no established playbook or standard operating procedures designed to adequately address the kind of crisis Minnesota and the rest of the world faced in March 2020. In fact, many of the challenges Minnesota faced in that time and in the months that followed could scarcely have been imagined before the crisis hit. We were in a race against time, especially in the early days of the pandemic. Emergency purchasing authority was critical to our agency's ability to respond quickly and effectively during the pandemic. It helped us save lives. Minnesota was competing against the other 49 states, the federal government, and against countries around the world for critical equipment and supplies. It was the most turbulent market we have ever experienced. We also were dealing with an unprecedented volume of work. More than 80% of the expenditures audited by your office were made by MDH. Despite these extraordinary demands, and the authority to expedite contracting, our agency worked diligently to establish and maintain internal control processes and internal reviews to make sure we got what we paid for. This reflects the commitment of our employees, as well as their professionalism and skill.

The Governor deployed the National Guard to leverage its logistical expertise to stand up warehousing operations in record time to manage the receipt, storage, and redistribution of

millions of supplies being purchased by the strategic sourcing team at the State Emergency Operations Center (SEOC). MDH went from not operating a warehouse facility in 2019 to shipping out more than 22 million inventory items and managing more than 17 million items on site in the first three months of warehouse operations. The level of activity was so intense that we needed to grow the size of our initial warehouse by expanding into additional space or relocating to new space four times in the first nine months of operations.

As the pandemic unfolded, it became apparent that some communities were at elevated risk of infection, hospitalization, and death. Our normal channels of communication and education were not sufficient in reaching these communities amid the chaotic information environment of the pandemic. To boost our ability to get Minnesotans the information they needed, we worked with media outlets and community groups we had not worked with before and that had not worked with the state. I am proud to note that our work with cultural, faith, and disability communities became a strength of our response.

Minnesotans can take pride in the work of their public servants and of the speed at which they were able to operationalize strategies to detect and mitigate the spread of the SARS-CoV-2 virus. It was a whole-government response working under extraordinary conditions that included the redeployment of hundreds of state employees into new response-related jobs to do things state government had not done before, on a massive scale, with an enormous sense of urgency and responsibility - all while those state employees were trying to deal with the pandemic's impacts on their own lives and those of their families.

With our COVID-19 response winding down and the federal Public Health Emergency coming to an end, we are now operating in more normal conditions under state procurement and contracting policies and procedures. Commensurate with this return to normal operating conditions, I am pleased to report that all of the recommendations made by your office specific to MDH have already been or are currently being addressed.

The specific findings and recommendations are addressed below.

### **Finding 1**

**State entities do not have a clear understanding of the Governor's or Minnesota Department of Administration's emergency purchasing authority.**

*Recommendation:*



*The Office of the Governor and Lieutenant Governor and the Minnesota Department of Administration should develop emergency purchasing guidance related to each of their statutory authorities.*

*Response:*

MDH disagrees with this finding and its conclusion that there was confusion about authority for making purchases by those most directly involved with and responsible for the decisions. I am proud that, in the face of extraordinary conditions, all of our emergency purchases were made in compliance with the law and guidance from the Department of Administration. The proportion of emergency purchases made by MDH demonstrates that we were committed to both following the law and acting expeditiously under the circumstances. Most important – to the very essence of why emergency purchasing, and contracting authority is necessary – there is no indication from your report that any purchases or contracts were slowed down by any perceived lack of understanding of the emergency authorities.

#### **Finding 4**

**The Minnesota Department of Health did not maintain accurate inventory records or conduct complete physical inventories in compliance with state policy.**

*Recommendations:*

- The Minnesota Department of Health should conduct and document a full physical inventory at least annually for its consumable inventory and at least biennially for capital assets, as required by state policy.
- The Minnesota Department of Health should update its inventory management system to reflect the results of its physical inventories and investigate discrepancies between its inventory counts and the inventory management system.

*Response:*

As mentioned earlier, MDH was not operating a warehouse under normal circumstances. We went from no warehouse in 2019 to shipping out more than 22 million inventory items and managing more than 17 million items on-site within the first 3 months of warehouse operations in 2020

MDH did conduct complete physical inventories in June 2021 and again in June 2022 (at the time of your audit). We updated the inventory management system at those times. We did not, however, retain the forms used for recording the physical inventory nor did we retain documentation that changes were recorded in the inventory management system, when

applicable. Upon verification of the inventory amounts and ensuring the inventory management system reflected accurate numbers, the forms were recycled.

At the time of your audit the warehouse team was processing more than 200 daily orders for test kits, totaling more than 32,000 test kits each day. On the day of your warehouse audit, our staff were in the middle of staging COVID tests for packing and shipping. The inventory management system is not set up to account for inventory in the various stages between picking, packing, and shipping, accounting for most of the variances you identified.

Our warehouse is now operating under more normal conditions. Purchasing decisions are now informed in part, by inventory on hand. Full physical inventories will be conducted in accordance with policies.

MDH, as its proportion of emergency purchases demonstrates, is well-positioned to emphasize that all emergency purchases were made lawfully.

### **Finding 5**

**The Minnesota Department of Health did not restrict user access within the inventory management system and did not have alternative procedures in place to mitigate the resulting risk.**

#### *Recommendation:*

The Minnesota Department of Health should restrict user access to the inventory management system or implement alternative procedures to address incompatible access, as required by policy.

#### *Response:*

As mentioned in the previous finding, MDH was not operating a warehouse before the COVID-19 pandemic. We did not have the luxury of time to be methodical in our planning for warehouse operations. We determined there was a need for redundancy in roles and capabilities in the inventory management system due to the warehouse being under-resourced for the volume of inventory we were managing during the height of the pandemic. Because of this, MDH implemented a procedure to address the associated risk. However, this process was not documented for your team to review. We have since documented the alternative procedures to address incompatible access and we plan to perform a risk assessment of employee access to ensure the procedure implemented, appropriately mitigates the risks.

## **Finding 7**

**The Minnesota Department of Health, Department of Employment and Economic Development, and Office of the Secretary of State did not always pay vendors accurately or recover unused advanced payments.**

### *Recommendations:*

- The Department of Employment and Economic Development, Minnesota Department of Health, and the Office of the Secretary of State should resolve inaccurate payments and prepayments with vendors.
- The Minnesota Department of Health and the Office of the Secretary of State should enhance internal controls over vendor payments to ensure they accurately pay for goods and services actually received.

### *Response:*

The Department of Health has corrected the underpayments with both entities, and we are working with the one vendor regarding the overpayment to recoup the funds.

The department continues to improve its internal controls through employee training.

## **Finding 8**

**The Minnesota Department of Health did not always have adequate supporting documentation for advanced payments to community contractors.**

### *Recommendation:*

The Minnesota Department of Health should ensure it receives detailed and complete support of contractor's expenditures and payments during its reconciliation of advance payments.

### *Response:*

As noted in footnote 26, the department received nearly all contractually required reports from its contracted partners. For the 73 contracts using the 50-40-10 payment structure, if MDH did not receive all required reports, payment was either withheld or in some cases recouped. The department relied on these reports, along with weekly meetings with community partners, to ensure contract deliverables were met for all payments that were made.

For each contract under the 50-40-10 payment structure, payment was only made when a satisfactory report was received, and deliverables were met. If deliverables were not met, or if

MDH received no financial documentation whatsoever of the contract activity, payment was withheld. In cases when no financial documentation could be provided for a portion of the funds or the contractor did not spend all the contract funds paid by MDH for the required activities, MDH required that contractors pay back funds to MDH.

It is important to note that we employed this payment structure only during the initial months of the pandemic to a small population of contracts, as a strategy to get information about COVID-19 out to communities as quickly as possible to reduce infection rates and save lives. By the end of 2020, we had transitioned to reimbursing community contractors for expenses rather than using advanced payments. This issue has been resolved.

I appreciate the opportunity to respond to your recommendations and the opportunity to work with you and your staff throughout the audit. The extraordinary circumstances of the pandemic required new approaches to meet the needs of the crisis, but I am grateful for the ways in which the department staff remained attentive to the values and expectations of non-emergency procedures. I am pleased that we were able to deliver on these historic challenges and expectations without your office identifying any unallowable or questioned costs nor indication of fraud, waste, or abuse. If you have any questions or need additional information, please contact me.

Sincerely,

A handwritten signature in black ink, reading "Brooke A. G" followed by a long horizontal flourish.

Brooke Cunningham, MD, PhD  
Commissioner  
Minnesota Department of Health  
P.O. Box 64975  
St. Paul, MN 55164-0975

Enclosure:



STATE OF MINNESOTA DEPARTMENT OF VETERANS AFFAIRS  
OFFICE OF THE COMMISSIONER, LARRY HERKE



20 West 12th Street • St. Paul, MN, 55155 • (651) 296-2562  
Fax: (651) 296-3954 • [MinnesotaVeteran.org](http://MinnesotaVeteran.org) • 1-888-LinkVet

April 27, 2023

Ms. Judy Randall, Legislative Auditor  
State of Minnesota  
Office of the Legislative Auditor  
Room 140, Centennial Building  
658 Cedar Street  
St. Paul, Minnesota 55155

Dear Ms. Randall,

We appreciate the opportunity to respond to the finding and recommendation included in the COVID-19 Related Emergency Purchases audit. We view the service performed by your Office as a valuable opportunity for independent assessment of our processes. Additionally, we appreciate the staff resources and professional analysis dedicated to this review.

The report is wonderful recognition of the hard work and dedication of the state's civil servants in responding to the COVID-19 global pandemic. MDVA is committed to continuous improvement in all areas, and our Agency response to the finding in the report is provided on the following page.

Again, we found the information provided helpful and important as we work to fulfill our mission of "serving Minnesota Veterans and their families." Please extend our appreciation to the audit managers and staff responsible.

Sincerely,

/s/ Brad Lindsay

Brad Lindsay, Interim Commissioner  
Minnesota Department of Veterans Affairs

*An Equal Opportunity Employer*

This document will be made available upon request in alternative formats by contacting the MDVA Office for Diversity, Inclusion and Equity at 612-548-5961 or at [diversity.mdva@state.mn.us](mailto:diversity.mdva@state.mn.us).

**Finding #9 Recommendation**

*The Department of Human Services, Minnesota Department of Veterans Affairs, and the Office of the Secretary of State did not always accurately pay sales and use tax.*

The MDVA is in the process of resolving the two identified use tax under payments with the Department of Revenue. The MDVA anticipates completion of the reconciliation by June 30, 2023.

Responsible Staff: Dave Bellefeuille, Senior Administrative Officer  
Anticipated Completion Date: June 30, 2023



# STATE OF MINNESOTA

Office of Governor Tim Walz  
Lt. Governor Peggy Flanagan

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Blvd. ♦ Saint Paul, MN 55155-1611

May 2, 2023

Judy Randall  
Legislative Auditor  
Room 140 Centennial Office Building  
658 Cedar Street  
St. Paul, MN 55155-1603

Dear Ms. Randall,

Thank you for the opportunity to review and comment on the findings and recommendations from the recent audit of the State's COVID-19 Related Emergency Purchases. This report spans a historic time in Minnesota's history. Because two years have passed since the end of the audit timeframe, some context is important. Minnesota detected its first case of the novel coronavirus on March 6, 2020. The World Health Organization declared the SARS CoV2 virus a pandemic on March 11. President Trump declared a national emergency on March 13, and the Governor declared a statewide peacetime emergency that same day. Soon thereafter, State employees began working remotely; they had to quickly adopt and transition to using new digital tools and ways to collaborate to get essential work complete. Under these unprecedented circumstances, State agencies worked together to utilize existing authorities to ensure that the State was able to, among other things, procure personal protective equipment, hire additional professionals who could assist with the COVID-response effort, and enter contracts for testing and vaccinations. The work of State agencies helped save lives, protect communities, and preserve the State's health care system's capacity.

We appreciate and value the thorough and professional review conducted by the OLA's staff. That work shows that all tested emergency purchases were made lawfully under Minnesota statutes.

Throughout the audit process, we have appreciated the OLA's collaborative work with our office to identify opportunities to improve. Below are our office's responses to the audit findings cited in the report:

***Finding 1. State entities do not have a clear understanding of the Governor's or Minnesota Department of Administration's emergency purchasing authority.***

**Response:** We question the OLA's conclusion that State entities did not have a clear understanding of the underlying emergency purchasing authority. Importantly, the report shows that all tested emergency purchases were made lawfully under Minnesota statutes. This is evidence that when it came to making the decisions on what and how to make emergency purchases, there was no confusion among State agencies. In fact, the report shows that nearly all purchases were made using the established emergency purchasing procedures developed by the

Department of Administration, and authorized under Minnesota Statutes, Chapter 16C. There were only two times when the Governor used his emergency purchasing authority. When that happened, requests from State agencies were reviewed by the Governor's Office, in consultation with other agencies and legal counsel, and evaluated on a case-by-case basis.

We also question whether additional guidance to address potential misunderstandings about purchasing authority can, or should, be developed. That recommendation seems to conflict with the Legislature's decision to enact broad and overlapping authorities to address emergencies. Rather than prescribing specific types of emergency purchases, the Legislature authorized the State to address emergencies based on their unique characteristics under both Chapter 16C and Minnesota Statutes section 12.36. Moreover, there is no indication in the report that any lack of understanding materially affected the State's response to address the COVID-19 pandemic.

Finally, we question whether all staff should be expected to remember particular purchasing processes for transactions that occurred over two years ago. Even if some individuals could not recall the emergency purchases processes, the documents that evidence those transactions not only show that the purchases were authorized by law, but they were approved using established authorities, at incredible speed, and during an unprecedented time.

***Finding 6. The Office of the Governor and Lieutenant Governor charged unallowable expenditures to the Coronavirus Relief Fund.***

**Response:** As we mentioned in our exit meeting with your office, there are other allowable expenditures that can still be charged to the Coronavirus Relief Fund. The Governor's Office has already removed the \$2,875 from being charged to the Coronavirus Relief Fund and MMB is working with the federal government to replace it with other allowable expenditures.

Sincerely,

A handwritten signature in black ink, appearing to be 'CS' or similar initials, written in a cursive style.

Chris Schmitter  
Chief of Staff





**STATE OF MINNESOTA**  
Office of Minnesota Secretary of State  
Steve Simon

Judy Randall  
Legislative Auditor  
Minnesota Office of the Legislative Auditor  
140 Centennial Building  
658 Cedar Street  
St. Paul, MN 55155

Dear Ms. Randall:

Thank you for the opportunity to preview and respond to the portions of the COVID-19 Related Emergency Purchase Audit related to the Office of the Secretary of State (OSS). The OSS rarely engages in large-scale purchasing, and to our knowledge has never engaged in the scope and scale of purchasing on behalf of counties, cities, and towns that it did in response to the pandemic.

When it became clear that the COVID-19 pandemic was going to impact the operation of the 2020 election, the OSS began coordinating with counties, municipalities, and the Minnesota Department of Health immediately to determine how to improve the safety of polling places for Minnesota voters and election workers. Early in these discussions county partners identified as a critical challenge the inability to locally source needed sanitization and personal protection supplies, and asked the OSS to work with the State Emergency Operation Center (SEOC) to procure necessary supplies. Ultimately, the OSS, in partnership with the Department of Administration and the SEOC, procured and distributed to county and local governments more than:

- 53,000 KN95 masks
- 360,000 surgical-style disposable masks
- 15,000 face shields
- 9,000 packs of alcohol wipes (nearly a half a million individual wipes)
- 9,000 bottles of disinfectant
- 8,000 gallons of hand sanitizer
- 2,900 sanitization stations

These supplies were used by the nearly 30,000 election judges at polling places and the more than 1.3 million Minnesotan's who voted in person on Election Day.

With this audit of COVID-19 procurement, the OSS is mentioned in four findings, two of which deal specifically with the need to ensure that the proper emergency purchasing authority is obtained from the Department of Administration. While OSS staff were erroneously informed by the Department of Administration that they did not need to complete the emergency purchasing authorization, the OSS worked closely with the Department of Administration in all aspects of the procurement process. The Department of Administration and SEOC's assistance in sourcing and coordinating the procurement of needed sanitation supplies was critical to ensuring the safe administration of the 2020 election.

With respect to finding seven, the OSS acknowledges that it paid for a small number of items that the OSS could not confirm were received by counties - and that the OSS should have taken possession of unallocated items. But context is important. The items the OSS could not confirm were received consisted of one box of hand sanitizer and one box of face shields. The OSS also acknowledges that it did not take possession of 64 cardboard hand-sanitizer stand boxes (of 3,000 total) that were manufactured to OSS specifications, but which we intentionally did not allocate to a county. These stands were made of corrugated cardboard, and printed with graphic designs specified by the OSS. Because the stands were produced and printed to OSS specifications and required lead time for production, the OSS ordered a small quantity more than the counties requested in case counties discovered damage in storage between the primary and the general election. In other words, these extra stands were intended solely as backups in case a particular county needed more. The OSS should have taken possession of those remaining stands that were not needed by counties or municipalities.

I appreciate the Office of Legislative Auditor's attention to detail in this review. OSS staff have already taken steps to correct the OSS's overpayment of taxes with the Department of Revenue, as well as steps to implement the other recommendations regarding internal controls for any future potential emergency purchasing.

Sincerely,

A handwritten signature in black ink that reads "Steve Simon". The signature is written in a cursive, flowing style.

Steve Simon

## Financial Audit Staff

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Lori Leysen, *Deputy Legislative Auditor*

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For more information about OLA and to access its reports, go to: [www.auditor.leg.state.mn.us](http://www.auditor.leg.state.mn.us).

To offer comments about our work or suggest an audit, evaluation, or special review, call 651-296-4708 or e-mail [legislative.auditor@state.mn.us](mailto:legislative.auditor@state.mn.us).

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OLA | OFFICE OF THE  
LEGISLATIVE AUDITOR



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