



# Minnesota Frontline Worker Pay Program

## Performance Audit

June 2024

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

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June 11, 2024

Legislative Audit Commission Members

Nicole Blissenbach, Commissioner  
Department of Labor and Industry

Paul Marquart, Commissioner  
Department of Revenue

Tarek Tomes, Commissioner and Chief Information Officer  
Minnesota Information Technology Services

Matt Varilek, Commissioner  
Department of Employment and Economic Development

This report presents the results of our performance audit of the Minnesota Frontline Worker Pay Program for the period May 2022 through December 2022. The objectives of this audit were to determine if the state agencies involved with the program's administration complied with significant finance-related legal requirements.

The departments of Labor and Industry (DLI) and Revenue (DOR), and Minnesota Information Technology Services (MNIT) did not agree with all findings, as stated in their responses at the end of the report. We have considered all information presented by DLI, DOR, and MNIT, and believe the evidence we obtained and the testing we performed during the course of the audit supports our conclusions. DLI also raised concerns regarding our survey of employers, stating that the survey methodology was not in accordance with generally accepted government auditing standards. These standards require us to "obtain sufficient, appropriate evidence to provide a reasonable basis for addressing the audit objectives and supporting [our] findings and conclusions."<sup>1</sup> Specifically, "auditors may test [evidence] reliability by obtaining supporting evidence, using statistical testing, or obtaining corroborating evidence."<sup>2</sup> We believe that it was prudent to obtain corroborating information from employers to help determine applicants' eligibility, rather than rely solely on the responses provided by applicants who would financially benefit from the program.

This audit was conducted by Ryan Baker, CFE (Audit Director); Holly Runia (Audit Team Lead); Joe Sass, CISA (IT Audit Coordinator); and auditors Ria Bawek; Nicole Heggem; Crystal Nibbe, CFE; and Emily Wiant; with assistance from David Kirchner (Program Evaluation Manager). We received the full cooperation of all four agencies while performing this audit.

Sincerely,



Judy Randall  
Legislative Auditor



Lori Leysen, CPA  
Deputy Legislative Auditor

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<sup>1</sup> Comptroller General of the United States, Government Accountability Office, *Government Auditing Standards, 2018 Revision* (Washington, DC, Technical Update April 2021), 8.90.

<sup>2</sup> *Ibid.*, 8.102(c).



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# Report Summary

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## Conclusions

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We concluded that the Department of Labor and Industry (DLI), the agency tasked with overseeing and implementing the Minnesota Frontline Worker Pay Program, did not comply with requirements for the program. The more significant instances of noncompliance related to payments to ineligible individuals.

We also audited certain activities conducted by state entities that provided services to support DLI and the program. We concluded that the Department of Revenue (DOR) did not verify adjusted gross income for all applicants, and Minnesota Information Technology Services (MNIT)—in partnership with DLI—did not comply with the state’s Official Records Act.<sup>1</sup> However, we concluded that the Department of Employment and Economic Development (DEED) did comply with program requirements.

The list of findings below and the full report provide more information about these findings and our associated recommendations.

## Findings and Recommendations

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### Recommendation

The Legislature should consider the amount of risk the state is willing to accept when establishing programs quickly and with eligibility conditions that rely on self-attestation. (p. 12)

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**Finding 1.** The departments of Labor and Industry and Revenue approved frontline worker payments to applicants who were not eligible and to applicants whose eligibility we could not determine. (p. 14)

### Recommendations

- The Department of Revenue should recoup payments made to ineligible applicants.
  - The departments of Labor and Industry and Revenue should determine whether those applicants whose eligibility could not be determined were actually eligible for a frontline worker payment.
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<sup>1</sup> *Minnesota Statutes* 2023, 15.17, subd. 1.

**Finding 2.** The Department of Labor and Industry approved frontline worker payments to individuals whose applications contained fraud indicators without investigating whether the applicants were legitimate. (p. 20)

**Recommendations**

- The Department of Revenue should recoup payments made to applicants who received a payment using the identity of another individual.
  - The Department of Labor and Industry should thoroughly review all applications with fraud indicators to determine whether frontline worker payments were made to ineligible applicants.
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**Finding 3.** The Department of Revenue did not verify the adjusted gross income for all applicants. (p. 23)

**Recommendation**

The Department of Revenue should use additional methods to verify adjusted gross income for those applicants that did not have a tax return on file in Minnesota for tax years 2020 or 2021.

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**Finding 4.** The Department of Labor and Industry and Minnesota Information Technology Services did not ensure that the contractor and subcontractors retained frontline worker pay data in accordance with contract provisions.

The Department of Labor and Industry and Minnesota Information Technology Services did not ensure that the retention of frontline worker pay applicant data was required by the Department of Labor and Industry's records retention schedule or contracts with third parties. (p. 26)

**Recommendations**

- The Department of Labor and Industry and Minnesota Information Technology Services should ensure data retention requirements are included in all contracts.
  - The Department of Labor and Industry and Minnesota Information Technology Services should ensure data is appropriately retained in accordance with contract provisions.
  - The Department of Labor and Industry and Minnesota Information Technology Services should ensure the state retains data necessary for making program decisions and requires the same data be destroyed by third parties upon completion of their contract obligation.
  - The Department of Labor and Industry should include the retention of data collected by contractors and subcontractors in its records retention schedules for its programs.
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# Background

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## Minnesota Frontline Worker Pay Program Overview

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In 2022, Minnesota enacted into law the Minnesota Frontline Worker Pay Program. The program was intended to provide payments to frontline workers whose work put them at risk of contracting COVID-19 during the peacetime emergency declared by the Governor in Executive Order 20-01.<sup>2</sup> The Minnesota Frontline Worker Pay Program was designed to provide up to \$1,500 in compensation, depending on the number of eligible applicants, to individuals who worked in one or more “frontline sectors” during the COVID-19 pandemic and met the eligibility requirements specified in law.<sup>3</sup> Due to the large number of eligible applicants, the maximum benefit paid to an individual was \$487.45.<sup>4</sup>

The Minnesota Frontline Worker Pay Program was funded by a state appropriation of \$500 million for benefit payments and an appropriation of \$11.65 million for administrative costs. Of the \$500 million in state dollars appropriated by the Legislature, the state paid 1,025,619 applicants a total of \$499,937,981.55. The state made payments in one of two ways: (1) via automated clearing house (ACH) or (2) with a prepaid debit card. The state paid 94 percent of these payments via ACH and the remaining 6 percent via prepaid debit cards, which required activation by the recipients. As of April 2024, recipients had not activated 8,182 (12 percent) of the prepaid debit cards, totaling \$3,988,315.90.<sup>5</sup>

The Department of Labor and Industry (DLI) provided overall administration of the Minnesota Frontline Worker Pay Program and had the primary responsibility for determining eligibility of individuals who applied for frontline worker pay. DLI was assisted by the departments of Employment and Economic Development (DEED) and Revenue (DOR), Minnesota Information Technology Services (MNIT), and a contractor and subcontractors, as shown in Exhibit 1.

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<sup>2</sup> *Laws of Minnesota 2022*, chapter 50, art. 1, sec. 2.

<sup>3</sup> *Ibid.*, subd. 2, defines frontline sectors that are eligible for frontline worker pay. Examples of frontline sectors include long-term care and home care, health care, emergency responders, courts and corrections, and child care.

<sup>4</sup> Department of Labor and Industry, *Minnesota Frontline Worker Pay Legislative Report* (issued March 2023), 10, [https://www.dli.mn.gov/sites/default/files/pdf/Minnesota\\_Frontline\\_Worker\\_Pay\\_Legislative\\_Report\\_March\\_2023\\_updated.pdf](https://www.dli.mn.gov/sites/default/files/pdf/Minnesota_Frontline_Worker_Pay_Legislative_Report_March_2023_updated.pdf), accessed May 11, 2024.

<sup>5</sup> U.S. Bank issued prepaid debit cards to applicants who chose that form of payment. U.S. Bank charges a \$2 monthly fee for any debit card that has not been used for 90 consecutive days. If a Minnesota resident does not activate their debit card within three years, U.S. Bank will turn over the unused funds to the state as unclaimed property.

**Exhibit 1**  
**Summary of Entity Responsibilities**

Entity	Primary Responsibilities
Department of Labor and Industry	<ul style="list-style-type: none"> <li>• Overall administration of program</li> <li>• Determining eligibility of applicants               <ul style="list-style-type: none"> <li>○ Verifying accuracy of employment</li> <li>○ Verifying identity</li> </ul> </li> <li>• Processing applicant appeals</li> <li>• Developing a fraud prevention plan with MNIT</li> <li>• Conducting fraud analysis</li> </ul>
Department of Employment and Economic Development	<ul style="list-style-type: none"> <li>• Determining eligibility of applicants               <ul style="list-style-type: none"> <li>○ Verifying that applicants had not received more than 20 weeks of unemployment benefits</li> </ul> </li> <li>• Processing appeals related to unemployment insurance</li> </ul>
Department of Revenue	<ul style="list-style-type: none"> <li>• Determining eligibility of applicants               <ul style="list-style-type: none"> <li>○ Verifying adjusted gross income</li> </ul> </li> <li>• Conducting fraud analysis</li> <li>• Calculating and processing applicant payments</li> <li>• Recouping applicant payments made in error</li> </ul>
Minnesota Information Technology Services	<ul style="list-style-type: none"> <li>• Assisting DLI in selecting Submittable as the contractor</li> <li>• Developing a fraud prevention plan with DLI</li> <li>• Monitoring contractor's and subcontractors' performance</li> </ul>
Submittable	<ul style="list-style-type: none"> <li>• Application administration and support</li> <li>• Payment processing</li> </ul>
Partner Hero	<ul style="list-style-type: none"> <li>• Applicant support</li> </ul>
Authenticate	<ul style="list-style-type: none"> <li>• Identity verification</li> </ul>
Veriff	<ul style="list-style-type: none"> <li>• Identity verification</li> </ul>
U.S. Bank	<ul style="list-style-type: none"> <li>• Payment processing</li> </ul>

Source: Office of the Legislative Auditor.

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# Audit Scope, Objectives, Methodology, and Criteria

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We conducted this audit to determine whether DEED, DLI, DOR, and MNIT complied with significant finance-related legal requirements. The audit scope included eligibility determinations for individuals who received a frontline worker payment, review of data retention, and security testing of Submittable's application system.<sup>6</sup> The period under examination went from May 9, 2022, through December 30, 2022.

## Eligibility

This part of the audit focused on how well each state agency administered the Minnesota Frontline Worker Pay Program in accordance with eligibility requirements defined in law. We designed our work to address the following question:

- Did the Department of Employment and Economic Development, Department of Labor and Industry, Department of Revenue, and Minnesota Information Technology Services comply with significant legal requirements to accurately determine eligibility and remit payments for the Minnesota Frontline Worker Pay Program?

We interviewed staff at each state agency to gain an understanding of the procedures used to determine eligibility for the Minnesota Frontline Worker Pay Program. We also reviewed state legal requirements related to the program, and we used these requirements as the basis for our compliance testing. We tested whether each department determined eligibility for the program correctly, using the data and information that was available at the time of their review. As needed, we obtained this data from the relevant state agencies, Submittable, and the subcontractors who were responsible for maintaining the information.

We performed testing of the overall eligibility requirements specified in Minnesota law. We also performed targeted reviews of applications based on research and data analysis performed by our audit team. These focus areas included applications using disposable e-mail domains, high-risk routing numbers, duplicate identification numbers, non-Minnesota residential and employment addresses, identities of deceased individuals, and other fraud indicators.

## Third-Party Contracts and Security Testing

This part of the audit focused on whether Submittable and the subcontractors appropriately retained identity verification data, whether the state's contract with Submittable contained required provisions, and whether the responsible state agencies

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<sup>6</sup> Submittable does business as Submittable Holdings, Inc. We refer to the company as Submittable throughout the report.

and third parties assessed the application software and control environment for security flaws and weaknesses. We designed our work to address the following question:

- Did the Department of Labor and Industry and Minnesota Information Technology Services comply with significant legal requirements related to third-party contracts and the security testing of third parties?

To gain an understanding, we interviewed staff at each state agency and reviewed contracts and supporting documentation provided by the agencies, Submittable, and subcontractors Authenticate and Veriff.<sup>7</sup> We requested identity verification data from both subcontractors to verify the identities of the individuals applying for frontline worker pay. We reviewed the state's contract with Submittable to ensure it contained all appropriate provisions in accordance with MNIT's standards. Finally, we determined whether the responsible state agencies appropriately assessed Submittable's application software for security flaws and weaknesses, in accordance with MNIT's standards.

We conducted this performance audit in accordance with generally accepted government auditing standards.<sup>8</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. In circumstances where we used a statistically valid sample, we projected results to the populations from which the samples were selected.

To identify legal compliance criteria for the activity we reviewed, we examined Minnesota statutes and laws, contract terms and conditions, and procedures established by DEED, DLI, DOR, and MNIT.

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<sup>7</sup> Authenticate's legal business name is Authenticating.com LLC. We refer to the company as Authenticate throughout the report. Veriff's legal business name is Veriff OÜ. We refer to the company as Veriff throughout the report.

<sup>8</sup> Comptroller General of the United States, Government Accountability Office, *Government Auditing Standards, 2018 Revision* (Washington, DC, Technical Update April 2021).

# Eligibility

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## Eligibility Criteria

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To be eligible for frontline worker pay, state law required that an individual must have met the following criteria:

- Be employed for at least 120 hours in Minnesota in one or more frontline sectors during the time period beginning March 15, 2020, and ending June 30, 2021.
- For the hours worked under the clause above, was not able to telework due to the nature of the individual's work and worked in close proximity to individuals outside of the individual's household.
- Met the following adjusted gross income (AGI) requirements:
  - For individuals employed in an occupation with direct COVID-19 patient care responsibilities, the individual's AGI for tax years 2020 or 2021 was less than \$350,000 for a married taxpayer filing a joint return and \$175,000 for all other filers; or
  - For all other individuals not employed in an occupation with direct COVID-19 patient care responsibilities, the individual's AGI for tax years 2020 or 2021 was less than \$185,000 for a married taxpayer filing a joint return and \$85,000 for all other filers.
- Did not receive an unemployment benefit insurance payment or serve a nonpayable week for more than 20 weeks on a cumulative basis for the weeks between March 15, 2020, and June 26, 2021.<sup>9</sup>

The Minnesota House of Representatives and the departments of Labor and Industry (DLI) and Revenue (DOR) posted communications on their websites outlining the program's eligibility requirements. As required, DLI also published a notice of the eligibility requirements that employers were to use to communicate the requirements to their employees.<sup>10</sup>

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<sup>9</sup> *Laws of Minnesota 2022*, chapter 50, art. 2, sec. 2, subds. 3(a) and (b).

<sup>10</sup> *Ibid.*, subd. 7(a).

## Application Process

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DLI, with assistance from Minnesota Information Technology Services (MNIT), contracted with a third-party vendor, Submittable, to develop the Minnesota Frontline Worker Pay Program eligibility quiz and application. DLI worked with the Department of Employment and Economic Development (DEED), DOR, and MNIT to craft the language in the application. Submittable also used two subcontractors, Authenticate and Veriff, to assist in performing identity verification of applicants.

DLI developed a fraud prevention plan and incorporated fraud prevention strategies throughout the Minnesota Frontline Worker Pay Program, with the assistance of DEED, DOR, MNIT, and Submittable. The plan included fraud prevention strategies and procedures in the design of the program, design of the application, review of applications and appeal forms submitted, and review of fraud indicators in the applications.<sup>11</sup> For example, the program was designed to include a 45-day application window and a 15-day appeal period to reduce the amount of time for bad actors to submit large quantities of applications or false documentation during the appeal period.<sup>12</sup> In addition, DEED, DLI, and DOR reviewed applications for fraud indicators—such as suspicious e-mail addresses or high-risk e-mail addresses and bank routing numbers—during the application period and throughout the payment processing period.

To be considered for frontline worker pay, DLI required individuals to complete an online profile, an eligibility quiz, and an application. Applicants provided their name and e-mail address in the profile. In the eligibility quiz, applicants self-certified that they met each eligibility requirement. In the application, applicants were prompted to provide personal information (e.g., name, date of birth, address, and identification number), employer information, and payment information.<sup>13</sup> The application also required applicants to certify that they met each eligibility requirement. Finally, as part of the application, each applicant was required to either (1) complete a knowledge-based assessment to confirm their identity, or (2) take a photo of themselves through a phone camera or live webcam, and submit a separate photo of an identification document, such as a passport, ID card, driver's license, or residence permit. If an applicant was denied, they had a 15-day period to appeal the decision by submitting an appeal form and additional documentation requested by the departments.

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<sup>11</sup> Department of Labor and Industry, *Minnesota Frontline Worker Pay Legislative Report* (issued March 2023), 4, [https://www.dli.mn.gov/sites/default/files/pdf/Minnesota Frontline Worker Pay Legislative Report March 2023\\_updated.pdf](https://www.dli.mn.gov/sites/default/files/pdf/Minnesota%20Frontline%20Worker%20Pay%20Legislative%20Report%20March%202023_updated.pdf), accessed May 11, 2024.

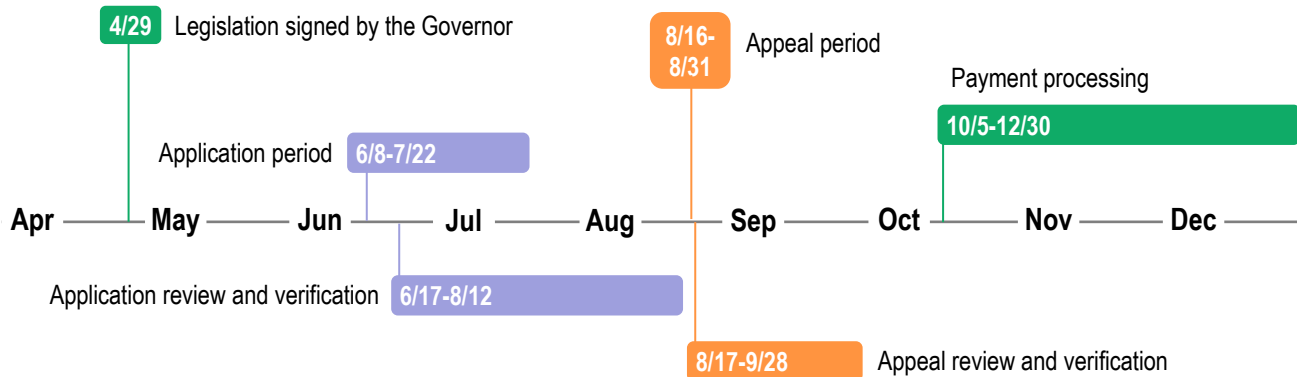
<sup>12</sup> *Ibid.*, 27.

<sup>13</sup> An identification number means an individual's social security number or individual tax identification number, unless noted otherwise in the report.

During the application and appeal periods, DEED, DLI, and DOR performed eligibility reviews of the applications and appeal forms provided by applicants in the system. DEED and DOR reviewed all applications and appeal forms for compliance with the adjusted gross income and unemployment insurance eligibility requirements in law. DLI weekly reviewed a statistical sample of applicants during the application period and targeted samples at the end of the application period. DLI’s statistical sampling procedures involved random selection of applications from applicant files in order to verify whether the applicants worked more than 120 hours from March 15, 2020, through June 30, 2021. DLI’s targeted sampling involved reviewing additional applications beyond those in the statistical sample for questionable employment information and other parameters, such as employers not in Minnesota or applicants who indicated they provided direct COVID-19 patient care but listed a nonhealthcare-related sector on their application.<sup>14</sup>

DLI determined the final eligible applicants, and DOR calculated the payment amount of \$487.45 based on the final eligible pool of 1,025,619 applicants.<sup>15</sup> DOR worked with DLI, Submittable, and U.S. Bank to process payments to applicants via direct deposit into a bank account or debit card. Exhibit 2 details the timeline of the Minnesota Frontline Worker Pay Program.

**Exhibit 2**  
**2022 Minnesota Frontline Worker Pay Program Timeline**



Source: Office of the Legislative Auditor, review of Department of Labor and Industry, *Minnesota Frontline Worker Pay Legislative Report* (issued March 2023).

<sup>14</sup> Department of Labor and Industry, *Minnesota Frontline Worker Pay Legislative Report* (issued March 2023), 4, [https://www.dli.mn.gov/sites/default/files/pdf/Minnesota Frontline Worker Pay Legislative Report March 2023\\_updated.pdf](https://www.dli.mn.gov/sites/default/files/pdf/Minnesota%20Frontline%20Worker%20Pay%20Legislative%20Report%20March%202023_updated.pdf), accessed May 11, 2024.

<sup>15</sup> *Ibid.*, 34.

## Eligibility Verification

The departments of Labor and Industry, Employment and Economic Development, and Revenue made efforts to verify aspects of applicants' eligibility, as detailed below.

### Department of Labor and Industry

DLI's eligibility verification efforts focused on applicants' reported employment. DLI statistically sampled applications to review employment records in the Unemployment Insurance (UI) system and W-2 wage records in the state's tax system.

#### Employment Requirements

An individual is eligible for frontline worker pay if the individual:

- (1) was employed for at least 120 hours in Minnesota in one or more frontline sectors during the time period beginning March 15, 2020, and ending June 30, 2021;
- (2) for the hours worked under clause (1), was not able to telework due to the nature of the individual's work and worked in close proximity to individuals outside of the individual's household.

— *Laws of Minnesota 2022, chapter 50, art. 2, sec. 2, subd. 3(a)(1) and (2)*

If DLI could not find a record of an applicant's employment in the UI system or W-2 wage records, DLI conducted a manual employment verification. Through a manual employment verification, DLI verified with the employer the applicant's dates of employment, whether the applicant was employed in an employer-employee relationship, whether the applicant worked in Minnesota, if the applicant worked in person for at least 120 hours, and whether the work was in close proximity to other people.<sup>16</sup> If DLI could not confirm employment, the applicant was denied a frontline worker payment, and the applicant was given the chance to appeal the decision.

DLI also reviewed employment appeal forms submitted by the applicants. If the documentation showed that an applicant was employed more than 120 hours in Minnesota during the required timeframe, DLI considered the employment

eligibility requirements met.<sup>17</sup> We found issues with DLI's eligibility verification procedures, and we discuss them in detail in findings 1 and 2.

### Department of Employment and Economic Development

DEED's eligibility verification efforts focused on the extent to which an applicant had received UI benefits that exceeded the allowable amount. Minnesota law stated that to be eligible for frontline worker pay, individuals could not receive a UI benefit payment or serve a nonpayable week for more than 20 weeks from March 15, 2020, through June 26, 2021.<sup>18</sup>

<sup>16</sup> Department of Labor and Industry, *Frontline Worker Pay Manual Employment Verification Procedure*, version 1.1, issued June 24, 2022.

<sup>17</sup> Nicole Blissenbach, Commissioner, Department of Labor and Industry, memorandum to Minnesota Frontline Worker Pay Project Team, *Minnesota Frontline Worker Pay determinations*, September 29, 2022.

<sup>18</sup> *Laws of Minnesota 2022, chapter 50, art. 2, sec. 2, subd. 3(a)(4)*. A nonpayable week is the first week that an individual applies for unemployment insurance benefits and is determined to be eligible to receive benefits. The individual does not receive unemployment benefits for the first week, but the individual must request the first week in order to receive benefits for other weeks of unemployment.



Each applicant certified that they did not receive UI benefit payments for more than 20 weeks from March 15, 2020, through June 26, 2021.<sup>19</sup> DEED and MNIT reviewed the identification number provided by the applicant to determine whether the individual associated with the identification number received unemployment benefits and served a nonpayable week for more than 20 weeks in the UI system. If the individual associated with the identification number received benefits or served a nonpayable week for more than 20 weeks, the applicant was denied a frontline worker payment and given the chance to appeal.

An applicant looking to appeal their denial was able to submit an appeal form, and provide an identification number and explanation for why they believed they did not receive more than 20 weeks of UI benefit payments.<sup>20</sup> In these cases, DEED re-ran the identification number provided by the applicant in the UI system to verify the number of weeks of UI benefits paid, reviewed the applicant's explanation, and reviewed the banking information associated with the individual to determine whether the state paid UI benefits to someone other than the owner of the identification number. We did not identify any issues.

## Department of Revenue

DOR's eligibility verification efforts focused on confirming that applicants' adjusted gross income was below the maximum allowed through the program. If the individual provided COVID-19 patient care responsibilities in their occupation, Minnesota law required that an eligible applicant's adjusted gross income for tax years 2020 or 2021 be less than \$350,000 for a married taxpayer filing jointly and \$175,000 for all other filers. If the individual did not provide COVID-19 patient care responsibilities in their occupation, an eligible applicant's adjusted gross income for tax years 2020 or 2021 must have been below \$185,000 for a married taxpayer filing jointly and \$85,000 for all other filers.<sup>21</sup>

DOR used the applicant's identification number to determine whether the taxpayer account associated with the identification number had an adjusted gross income within the requirements prescribed in law. If an individual's application was denied, they were allowed to submit an appeal form with proof of adjusted gross income through submission of an Internal Revenue Service (IRS) return transcript, IRS account transcript, IRS wage and income transcript, or tax form 1040 for tax years 2020 or 2021.<sup>22</sup> DOR reviewed all applications and reviewed all appeal forms to determine whether applicants met the adjusted gross income requirements. We identified an issue related to DOR's review of adjusted gross income and discuss it in detail in findings 1 and 3.

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<sup>19</sup> Department of Labor and Industry, *Minnesota Frontline Worker Pay Legislative Report* (issued March 2023), 45, [https://www.dli.mn.gov/sites/default/files/pdf/Minnesota\\_Frontline\\_Worker\\_Pay\\_Legislative\\_Report\\_March\\_2023\\_updated.pdf](https://www.dli.mn.gov/sites/default/files/pdf/Minnesota_Frontline_Worker_Pay_Legislative_Report_March_2023_updated.pdf), accessed May 11, 2024.

<sup>20</sup> In some cases, applicants may have mistyped their identification number, resulting in denial of a frontline worker payment. The applicants were able to appeal the decision by providing their social security number on their appeal form.

<sup>21</sup> *Laws of Minnesota* 2022, chapter 50, art. 2, sec. 2, subd. 3(b).

<sup>22</sup> Nicole Blissenbach, Commissioner, Department of Labor and Industry, memorandum to Minnesota Frontline Worker Pay Project Team, *Minnesota Frontline Worker Pay determinations*, September 29, 2022.

## Minnesota Legislature

The establishing law gave agencies the discretion to determine eligibility “to the extent possible,” and directed DOR to make frontline worker payments “as soon as practicable.”<sup>23</sup> As a result, agencies told us that in order to implement this program quickly, they relied on self-attestation from the applicants and “erred on the side of the applicant.”

We believe implementing programs quickly and relying on self-attestation to determine eligibility leads to an increased risk of improper payments. Our first two findings highlight indications that the state may have implemented the Minnesota Frontline Worker Pay Program too quickly and with too much discretion in determining eligibility.

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### RECOMMENDATION

**The Legislature should consider the amount of risk the state is willing to accept when establishing programs quickly and with eligibility conditions that rely on self-attestation.**

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## Eligibility Reviews

To verify eligibility for the Minnesota Frontline Worker Pay Program, we conducted our own, independent testing. We randomly sampled 150 applications from the population of applicants who received a frontline worker payment without failing the identity verification process or eligibility requirements. We randomly sampled another 150 applications from the population of applicants who received a frontline worker payment after successfully appealing their initial denial.

We tested all 300 applications against all of the eligibility requirements in law by comparing application information against numerous sources, such as:

- DEED’s Unemployment Insurance system.
- DOR’s tax system.
- Minnesota Secretary of State’s business filing search.
- DLI’s licensing management system.
- Minnesota Department of Health’s public death records.
- Internet searches of both applicant and employer.
- Appeal documentation submitted by the applicant.
- Employer responses to our survey.<sup>24</sup>

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<sup>23</sup> *Laws of Minnesota 2022*, chapter 50, art. 2, sec. 2, subds. 4(d) and 5(b).

<sup>24</sup> We describe the survey methodology in the Appendix.

In addition to our testing of the 300 applications as described above, we also performed targeted eligibility testing of 227 frontline worker payments made to applicants that contained one or more indicators that the individual may be ineligible.<sup>25</sup> These indicators included factors such as individuals who entered non-Minnesota residential and employer addresses on their application, individuals who used the same identification number on more than one application in order to receive multiple frontline worker payments, individuals who self-attested they provided COVID-19 patient care responsibilities but likely did not, and individuals who were deceased before the application process was complete. To conduct these tests, we used some of the same sources of information that we used in our randomly selected sampling above. See Exhibit 3 below for an explanation of the targeted eligibility testing areas and methodologies.

**Exhibit 3**  
**Targeted Eligibility Testing Areas and Methodologies**

Area of Testing	Testing Method and Amount Tested
COVID-19 patient care job responsibilities	Random sample of 60 out of 28,573 applications
Deceased individuals	<ul style="list-style-type: none"> <li>• Key items – 21 applications<sup>a</sup></li> <li>• Random sample of 60 of 269 deceased individuals who died before payments were made to applicants</li> </ul>
Duplicate identification numbers	All 26 applicants who received a payment using a duplicate identification number <sup>b</sup>
Non-Minnesota applicant and employer addresses	Random sample of 60 of 1,393 applications

<sup>a</sup> We compared all 1,025,619 frontline worker applications approved for payment with the Minnesota Department of Health’s public death records. We identified 290 individuals who died before they received a frontline worker payment. We separately tested 21 of those applications as key items. A key item is an application that exhibited unusual characteristics that separated itself from other applications. For example, based on our initial data analysis, one individual was deceased for more than two years prior to the application submission date.

<sup>b</sup> We reviewed all 1,025,619 frontline worker applications approved for payment and identified 26 that used duplicate identification numbers. The duplicate identification numbers identified in this test were the applicants’ social security numbers, the numbers on the applicants’ government-issued identification cards, or the numbers on the applicants’ passports.

Source: Office of the Legislative Auditor.

<sup>25</sup> We tested a total of 850 applications during the audit: 300 applications via random sampling, 227 applications via targeted testing (as described in Exhibit 3), and 323 applications for fraud indicators. We included a total of 840 applications in the statistical projections starting on page 16.

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## FINDING 1

### **The departments of Labor and Industry and Revenue approved frontline worker payments to applicants who were not eligible and to applicants whose eligibility we could not determine.**

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Based on our sample testing and the results from our survey of employers for the 150 applicants who received a frontline worker payment and were not initially denied, we found the following issues with 62 of 150 (41.3 percent) applications, totaling \$30,221.90 in frontline worker payments:<sup>26</sup>

1. **Two applicants were not employed for at least 120 hours in Minnesota in a frontline sector.** One applicant was an independent contractor and one applicant’s employer responded that the applicant did not work for them.<sup>27</sup>
2. **Fourteen applicants were not required to work in person for at least 120 hours and/or did not work in close proximity (within six feet) to individuals outside of their household for at least 120 hours.**<sup>28</sup>
3. **We could not determine the eligibility for 50 applicants,** as follows:
  - a. For 28 applicants, employers did not respond to one or more questions about employment eligibility on our survey.
  - b. For 21 applicants, employers responded with a “Don’t Know” to one or more questions about employment eligibility on our survey.<sup>29</sup>
  - c. For 4 applicants, we could not determine the adjusted gross income due to no tax return on file for tax years 2020 or 2021.<sup>30</sup>

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<sup>26</sup> When determining whether an applicant was eligible, DLI relied on self-attestation, as needed. DLI officials told us they “erred on the side of the applicant” and believed that the applicant was the best source of information regarding meeting certain eligibility requirements, such as working in person and working in close proximity to others. During our testing, we did not rely on self-attestation. Instead, we relied on the employer survey responses to validate—or not—the applicant’s self-attested responses.

<sup>27</sup> The Minnesota Frontline Worker Pay Program application required the applicant to be employed in a frontline sector in Minnesota for at least 120 hours from March 15, 2020, through June 30, 2021. DLI issued frequently asked questions explaining that individuals must have been working as an employee in an employer-employee relationship. Based on this definition, independent contractors were not eligible.

<sup>28</sup> Two of these applicants were the same applicants who were not employed for at least 120 hours in Minnesota in a frontline sector, as stated in the previous paragraph. The Minnesota Frontline Worker Pay Program application required that an individual be employed in a frontline sector in Minnesota from March 15, 2020, through June 30, 2021, without the option to telework, for at least 120 hours. The application also required the applicant to work in close proximity to individuals outside of their household for at least 120 hours during that same timeframe. The Frontline Worker Pay frequently asked questions issued by DLI defined close proximity as within six feet of individuals with whom the applicant did not live. We tested the sampled applications against these requirements.

<sup>29</sup> Three applicants’ employers responded with a “Don’t Know” to at least one survey question, and all three of those applicants’ adjusted gross incomes could not be verified. These applicants are included in both 3b and 3c.

<sup>30</sup> These four applicants are also included within the 27,666 applicants reported as part of Finding 3.

Based on our sample testing and the responses to our survey of the employers of the 150 applicants who received a frontline worker payment after successfully appealing, we found the following issues with 61 of 150 (40.7 percent) applications, totaling \$29,734.45 in frontline worker payments:

1. **Sixteen applicants were not required to work in person for at least 120 hours, did not work in person for at least 120 hours, and/or did not work in close proximity (within six feet) to individuals outside of their household for at least 120 hours.**
2. **We could not determine the eligibility for 48 applicants, as follows:**
  - a. For 28 applicants, employers did not respond to one or more questions about employment eligibility on our survey.
  - b. For 19 applicants, employers responded with a “Don’t Know” to one or more questions about employment eligibility on our survey.<sup>31</sup>
  - c. We could not determine 4 applicants’ adjusted gross incomes.<sup>32</sup>

Based on our targeted testing of 227 applicants (as identified in Exhibit 3) who received a frontline worker payment, we found the following issues with 41 of 227 (18.1 percent) applications, totaling \$19,985.45 in frontline worker payments:

1. **Five of 60 (8.3 percent) applicants tested did not work in an occupation providing COVID-19 patient care responsibilities.** Four of these applicants had an adjusted gross income higher than the allowable maximum for someone in an occupation not providing COVID-19 patient care. The fifth applicant did not have a tax return on file for tax years 2020 or 2021, so we could not determine whether the applicant’s adjusted gross income was below the limits in law. Payments made to these individuals totaled \$2,437.25.
2. **Fifteen of 21 (71.4 percent) applicants tested used the identity of a deceased individual to receive a frontline worker payment.** Payments to these individuals totaled \$7,311.75.
3. **For 20 of 26 (76.9 percent) applications tested, 10 individuals used the same identification number twice in order to receive two frontline worker payments.** Payments to these individuals totaled \$9,749.
4. **For 1 of 60 (1.7 percent) applicants tested who used non-Minnesota residential and employer addresses on their application, we were unable to determine whether the applicant worked in Minnesota.** Payment to this individual totaled \$487.45.

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<sup>31</sup> One applicant’s employer responded with a “Don’t Know” to two survey questions but did not respond to another question. This applicant is included in both 2a and 2b. Another applicant’s employer responded “Don’t Know” to two survey questions but “No” to one survey question. That applicant is also included in 1.

<sup>32</sup> For one of the four applicants, the employer responded with a “Don’t Know” to one survey question. This applicant is included in both 2b and 2c. For two additional applicants, the employers responded to one or more survey questions with a “No” answer. Those applicants are included in 1 and 2c.

Based on the results of our testing documented in findings 1 and 2, we performed three different statistical projections to the entire population of 1,025,609 paid applicants.<sup>33</sup>

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#### Exhibit 4

### OLA Projections of the Percentage of Frontline Worker Payments Made to Eligible and Ineligible Applicants

Projection Scenarios	Eligible Applicants	OLA Could Not Determine Eligibility	Ineligible Applicants
<b>Projection 1:</b>			
Accept Responses on Employer Surveys as Accurate	58.9%	32.0%	9.1%
<b>Projection 2:</b>			
Do Not Accept Any Employer Surveys Responses as Accurate	58.9%	40.9%	0.2%
<b>Projection 3:</b>			
Accept Most Responses on Employer Surveys as Accurate, with One Key Exception <sup>a</sup>	58.9%	38.8%	2.2%

Notes: Of the 300 applicants tested in our sample testing, 30 applicants were deemed ineligible based on the employer survey results. We provide information on confidence intervals and more detailed explanations for these projections below. Percentages may not sum to 100, due to rounding.

<sup>a</sup> Of the 30 applicants who were deemed ineligible based on the employer survey results, 19 were deemed ineligible solely because—according to the employer survey responses—they did not work in close proximity to other individuals for at least 120 hours. This row includes these 19 individuals in the group of applicants for whom we could not determine eligibility. The remaining 11 individuals are considered “ineligible” because they did not meet other eligibility requirements.

Source: Office of the Legislative Auditor.

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**For the first projection**, we combined our sample testing, targeted testing, testing of applications with fraud indicators, and the employer survey results. The results are as follows:

- **We estimated that 58.9 percent of all paid applicants were eligible**, with a 95 percent confidence interval of plus or minus 7 percentage points.<sup>34</sup>

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<sup>33</sup> As a comparison, we also performed a statistical projection using only the 300 observations in our initial sample. That projection produced almost identical results as the first projection, with slightly larger confidence intervals. A total of 1,025,619 applicants received a frontline worker payment. We identified 10 applications as duplicates of another application. Therefore, our projection is to a total of 1,025,609 applications that resulted in frontline worker payments.

<sup>34</sup> A 95 percent confidence interval means that if we drew random samples of the same size repeatedly from the same population of program participants, the true result for the entire population would fall within the measured interval 95 percent of the time.

- **We could not determine the eligibility for an estimated 32.0 percent of all paid applicants**, with a 95 percent confidence interval of plus or minus 7 percentage points.<sup>35</sup>
- **We estimated that 9.1 percent of all frontline worker payments—totaling \$45,544,000—were made to ineligible applicants**, with a 95 percent confidence interval of between \$28,246,000 and \$71,790,000 in payments made to ineligible applicants.<sup>36</sup>

The conclusions above rely heavily on our survey of employers and assume that the employers' answers—rather than the applicants' answers—were correct if they conflicted with the employees' self-attestations that they met the eligibility requirements. However, it is possible that in some of these instances, the employees' self-attestations were correct and the employers' records or memories were incorrect. As a result, we present two other sets of projections—with different assumptions—below.

**For the second projection**, as in the first projection, we combined our sample testing, targeted testing, and testing of applications with fraud indicators. However, in this projection, any applicants who we identified as ineligible based on the employer survey results alone, were included in the group for whom we could not determine eligibility. We took this more conservative approach in this projection, even if the employer indicated the applicant did not meet one or more eligibility requirements.<sup>37</sup> The results are as follows:

- **We estimated that 58.9 percent of all paid applicants were eligible**, with a 95 percent confidence interval of plus or minus 7 percentage points.
- **We could not determine eligibility for an estimated 40.9 percent of paid applicants**, with a 95 percent confidence interval of plus or minus 7 percentage points.
- **We estimated that 0.2 percent of all frontline worker payments—totaling \$908,000—were made to ineligible applicants**, with a 95 percent confidence interval of between \$353,000 and \$2,328,000 in payments made to ineligible applicants.

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<sup>35</sup> Some of the applicants for whom we could not determine eligibility were applicants who (1) indicated they provided COVID-19 patient care but listed a job sector and job title that were not compatible with providing COVID-19 patient care, and (2) did not have a tax return on file for tax years 2020 or 2021. Only 0.14 percent of the applicants in this group did not have a tax return on file.

<sup>36</sup> A portion of the payments made to ineligible applicants is due to applicants who were ineligible based on their adjusted gross income being too high for someone who did not provide COVID-19 patient care. About 1.96 percent of the applicants we estimated to be ineligible were ineligible due to having too high of an adjusted gross income. We estimated that payments to these ineligible applicants totaled about \$895,000.

<sup>37</sup> Of the 300 applicants tested in our sample testing, 30 individuals were deemed ineligible. Of the 30, all were deemed ineligible based solely on the employer survey results. These individuals are included in the “could not determine eligibility” category in this projection.

**For the third projection**, as with the first two projections, we combined our sample testing, targeted testing, and testing of applications with fraud indicators. However, in this projection, we counted as ineligible those applicants who did not meet an eligibility requirement according to the employer survey response, with one important exception. The exception was for those applicants who, according to their employer's survey response, failed to work in close proximity to others for at least 120 hours. We included these individuals in the group of applicants for whom we could not determine eligibility.<sup>38</sup> The results are as follows:

- **We estimated that 58.9 percent of all paid applicants were eligible**, with a 95 percent confidence interval of plus or minus 7 percentage points.
- **We could not determine the eligibility for an estimated 38.8 percent of paid applicants**, with a 95 percent confidence interval of plus or minus 7 percentage points.
- **We estimated that 2.2 percent of all frontline worker payments—totaling \$11,099,000—were made to ineligible applicants**, with a 95 percent confidence interval of between \$4,357,000 and \$27,686,000 in payments made to ineligible applicants.

Our random sample testing of 300 applications identified eligibility concerns that the agencies had not identified for several reasons. For example, DLI relied primarily on applicants' self-attestations of meeting the employment requirements for both the initial applications submitted and the appeal forms submitted. While DLI initially checked every applicant's identification number against the UI system to see whether the applicant worked at least 120 hours in Minnesota, this review did not include verifying whether the applicant worked in person or in close proximity to individuals outside of their household.

If the UI system did not have the needed information for a given applicant, DLI would check to see if a W-2 was on file for the applicant. However, those reviews also did not ensure the applicant worked at least 120 hours in Minnesota, worked in person for a minimum of 120 hours, or worked in close proximity to individuals for a minimum of 120 hours. Finally, DLI officials told us that applicants' self-attestations of meeting these requirements is a better source for verifying these eligibility requirements than information obtained from the applicants' employers. We disagree and believe that verification from someone other than the person benefitting from the payment is a better option for source data. This is especially true given the number of applications we identified with fraud indicators (as discussed in Finding 2) in which the applicants self-certified that they met all eligibility requirements.

Similarly, DOR could not always rely on applicants' tax returns to confirm that applicants met the adjusted gross income (AGI) eligibility requirements. When a 2020 or 2021 tax return was not on file, DOR considered the existence of a W-2 on file as sufficient evidence that the applicant met the income requirements. Applicants who appealed their denial based on an AGI determination were required to submit an appeal

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<sup>38</sup> Of the 300 applicants tested in our sample testing, 30 applicants were deemed ineligible. Of those 30, 19 were deemed ineligible solely because—according to the employer survey responses—they did not work in close proximity to other individuals for at least 120 hours. We included these 19 in the group of applicants for whom we could not determine eligibility, and considered the remaining 11 applicants ineligible because they did not meet other eligibility requirements.



form and an IRS return transcript, IRS account transcript, IRS wage and income transcript, or other documentation that could prove their income eligibility. However, the documentation did not always include their AGI.

Our targeted testing also identified eligibility concerns that the agencies had not identified for several reasons. For example, DLI told us they did not review the Minnesota Department of Health's public death records to verify whether a deceased individual's identity was used on a frontline worker pay application. While DLI's procedures indicate that it performed de-duplication of the frontline worker data set for duplicate applications, the department still approved frontline worker payments to applicants using an identification number more than once.<sup>39</sup> DLI's procedures also indicated the department performed reviews of applications of individuals claiming to work in an occupation providing COVID-19 patient care but not in a healthcare-related job sector.<sup>40</sup> However, the department still approved frontline worker payments to applicants who had an adjusted gross income higher than allowed for individuals who did not work in an occupation providing COVID-19 patient care.

Without internal controls over key eligibility requirements, it is likely that DLI and DOR made frontline worker payments to ineligible applicants.

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## RECOMMENDATIONS

- **The Department of Revenue should recoup payments made to ineligible applicants.**
  - **The departments of Labor and Industry and Revenue should determine whether those applicants whose eligibility could not be determined were actually eligible for a frontline worker payment.**
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## Fraud Indicators

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As part of its eligibility reviews, DLI reviewed applications for fraud indicators, such as high-risk bank routing numbers, high-risk e-mail domains, and duplicate bank accounts.<sup>41</sup>

We performed our own data analysis and research to identify high-risk bank routing numbers, disposable e-mail domains, and payments made to individuals whose applications included other fraud indicators.<sup>42</sup>

Based on our analysis, we randomly selected a sample of 170 applications from the 21,641 applications that used a routing number associated with a peer-to-peer payment

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<sup>39</sup> An identification number in these cases means the applicant's social security number or a government-issued identification number, such as a driver's license number.

<sup>40</sup> Department of Labor and Industry, *Minnesota Frontline Worker Pay Legislative Report* (issued March 2023), 21, [https://www.dli.mn.gov/sites/default/files/pdf/Minnesota Frontline Worker Pay Legislative Report March 2023\\_updated.pdf](https://www.dli.mn.gov/sites/default/files/pdf/Minnesota%20Frontline%20Worker%20Pay%20Legislative%20Report%20March%202023_updated.pdf), accessed May 11, 2024.

<sup>41</sup> *Ibid.*, 28.

<sup>42</sup> Disposable e-mail domains are temporary e-mail addresses that expire after a set amount of time or set number of uses. These can be used for a variety of purposes, including to facilitate fraud.

application, or that used otherwise suspicious routing numbers, to receive their frontline worker payment.<sup>43</sup> In addition, we reviewed the entire population of 1,025,619 paid applicants and identified 22 applications that used disposable applicant e-mail domains. We tested all 22 of these applications.

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## FINDING 2

### The Department of Labor and Industry approved frontline worker payments to individuals whose applications contained fraud indicators without investigating whether the applicants were legitimate.

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Based on our testing of high-risk routing numbers and disposable e-mail domains, we found the following:

1. **DLI approved frontline worker payments to individuals whose application included indicators of fraud.** Eight of 170 samples included fraud indicators, such as suspicious e-mail addresses and first names all starting with the same letter with the same routing number. Based on these results and further data analysis, we expanded testing, as follows:

#### Common Fraud Indicators Identified

- Identical employer names and job titles
- Applications submitted in quick succession
- First names all starting with the same letter with the same routing number
- Unincorporated residential addresses listed for the employer address
- Identification numbers flagged for identity theft in the state's tax system

**— Office of the  
Legislative Auditor**

- a. We expanded testing to include a review of 47 additional applications where the applicants received a payment using the same routing number as six of the eight samples with fraud indicators tested above. We found all 53 applications using that routing number contained fraud indicators, with 44 of the applications having first names that all started with the same letter.<sup>44</sup>
- b. We expanded testing to include a review of 31 applications that listed a specific employer name the exact same way across multiple applications. We found 31 of 31 applications in this grouping contained other fraud indicators, such as using suspicious e-mail addresses, the same job titles on multiple applications, and employer names that did not match the employer names on the W-2s in DOR's tax system.<sup>45</sup>

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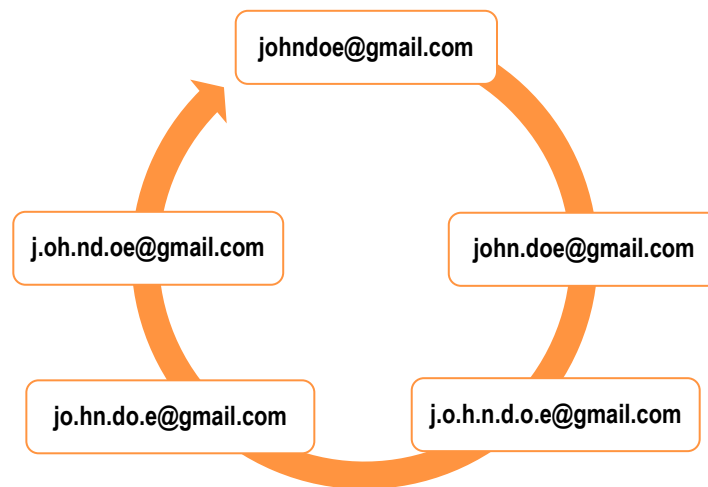
<sup>43</sup> A peer-to-peer payment application is a mobile payment service that allows users to link their bank accounts to an application that facilitates the digital transfer of money between individuals, and provides the recipient instant access to funds as soon as a payment is made to their account. Examples of these applications include Cash App, PayPal, and Venmo.

<sup>44</sup> We identified 954 applications with the same routing number. Of the 954 applications completed, all applicants used the knowledge-based assessment to verify their identity. In addition, 642 applications listed applicant names that began with the same letter in the first name of the applicant, the names continued sequentially, and some applications were submitted within seconds of each other throughout the last 13 days of the application period. For example, we saw the following sequential letters: Ma, Mb, Mc, Md, and so on.

<sup>45</sup> We identified 596 applications completed with this trend. For example, the employer name would be listed as "unknown-business-name" for all 596 applications. In addition, all 596 applications were completed using the knowledge-based assessment to verify the applicant's identity. Of the 596 applications, frontline worker payments were made to 31 of these applicants, totaling \$15,110.95. Our review of these 31 applications showed that all 31 had fraud indicators.

- c. We reviewed the entire population of 21,641 applications for the same e-mail addresses, but broken up in different ways across multiple applications. We found 53 applications that either used this technique, or the e-mail address was flagged as suspicious for other reasons, such as an e-mail address that started the same way across multiple applications. See Exhibit 5 for an illustration of a fraud indicator using similar e-mail addresses.

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**Exhibit 5**
**Illustration of a Fraud Indicator Using Similar E-mail Addresses**


Notes: The illustration above shows that an individual starts with a typical looking e-mail address and then creates similar e-mail addresses with periods placed at different points before the e-mail domain. Google, as the provider of Gmail, does not recognize these as separate e-mail accounts and directs all e-mails received to the same original e-mail address.

Source: Office of the Legislative Auditor, based on Minnesota Frontline Worker Pay Program data and information obtained from Agari Email Security.<sup>46</sup>

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2. **Information in approved applications could not be validated or was not consistent with information reported in other state systems or sources.** We identified 119 of the initial 170 applications tested as having information on the application that could not be validated or was not consistent with information reported in other state systems and sources. Those systems include DOR's tax system, DEED's UI system, and internet searches of individuals and employers. We could not determine whether these were indicators of fraud.
3. **One of 22 frontline worker payments was made to an individual using a disposable e-mail domain and an identity of another individual.** This application included multiple pieces of data that did not agree with the identity of the individual in DOR's tax system, including their address, birthdate, bank account information, employer name, and employer address.

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<sup>46</sup> Agari Email Security, *BEC Actors Exploiting Gmail "Dot Accounts" for Fun and Profit* (February 5, 2019), <https://www.agari.com/blog/bec-actors-exploit-google-dot-feature>, accessed May 7, 2024.

Although these tests were targeted to specific populations, we selected the applications we tested in such a way that we could combine the results with our initial sample of 300 applications using standard statistical techniques. As a result, the estimate of the percentage of applicants that were ineligible presented under Finding 1 incorporates information from these additional tests.

DLI told us that they reviewed high-risk routing numbers in conjunction with other fraud indicators and that the use of a high-risk routing number alone was not sufficient to deny an applicant a frontline worker payment. However, management could have taken further steps to validate whether individuals who completed applications with fraud indicators were who they claimed to be.

For example, rather than rely on the existence of a W-2 in DOR's tax system as satisfaction of the employment requirements, DLI could have worked with DOR to review the employer listed on the W-2, or DLI could have reached out to the employer to confirm employment. Also, rather than rely on whether the individual listed on the application had more than 120 hours of wage hours in DEED's UI system as satisfaction of employment requirements, DLI could have reached out to the employers to confirm employment. Similarly, DLI could have worked with DOR to review whether the applicant's identification number had a fraud or identity theft indicator in DOR's tax system.<sup>47</sup>

Agency officials told us that they felt pressure to remit payments quickly. However, according to the law, the agencies had an additional six months from the end of the payment processing period, December 30, 2022, until the appropriation expired, June 30, 2023.<sup>48</sup> We believe these additional six months would have allowed agencies the time needed to complete a more extensive review of applicant eligibility, including applications with fraud indicators.

Without internal controls over key eligibility requirements, it is likely that DLI and DOR approved frontline worker payments to individuals who were not the same individuals identified on frontline worker pay applications.

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## RECOMMENDATIONS

- **The Department of Revenue should recoup payments made to applicants who received a payment using the identity of another individual.**
  - **The Department of Labor and Industry should thoroughly review all applications with fraud indicators to determine whether frontline worker payments were made to ineligible applicants.**
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<sup>47</sup> A fraud indicator means the individual's identification number (social security number or individual tax identification number) was used for fraudulent purposes, such as filing a tax return and claiming a refund on behalf of another individual. An identity theft indicator could be applied in those same cases, and could also be applied for other reasons, such as a taxpayer who self-reports that their identification number was stolen in a data breach.

<sup>48</sup> *Laws of Minnesota 2022*, chapter 50, art. 2, sec. 2, subd. 11(d).

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**FINDING 3****The Department of Revenue did not verify the adjusted gross income for all applicants.**

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We found that DOR did not check the adjusted gross income for 27,666 (2.7 percent) of the 1,025,619 applicants who received a frontline worker payment. These applicants did not have a tax return on file for tax years 2020 or 2021. As a result, the department instead relied on the applicant's W-2 as the basis for meeting this eligibility requirement.

DOR told us there was no requirement in law that a tax return must be on file, and DOR told us the law did not address certain situations, like tax reciprocity with other states, where individuals live or work in another state and are not required to file a Minnesota tax return. DOR officials pointed out that the law states that DOR should verify applicants' eligibility "to the extent possible"; however, it also states, "To qualify for a payment...an individual's adjusted gross income...must be..." less than the amounts provided in law.<sup>49</sup>

While a W-2 lists an individual's gross income, the W-2 does not include the individual's *adjusted* gross income. In addition, a W-2 does not consider the filing status of the individual or the adjusted gross income of a spouse when filing a tax return jointly. By not checking the adjusted gross income for these applicants, DOR potentially paid individuals who did not qualify for a frontline worker payment.

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**RECOMMENDATION****The Department of Revenue should use additional methods to verify adjusted gross income for those applicants that did not have a tax return on file in Minnesota for tax years 2020 or 2021.**

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<sup>49</sup> *Laws of Minnesota 2022*, chapter 50, art. 2, sec. 2, subds. 3(b)(1) and (2); and 4(d).



OLA

# Third-Party Contracts and Security Testing

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The Department of Labor and Industry (DLI) and Minnesota Information Technology Services (MNIT) entered into a contract with Submittable, which provided an application platform for individuals to use when applying for frontline worker pay. Submittable subcontracted with two companies, Authenticate and Veriff, for identity verification services.

We reviewed DLI's records retention schedule to determine whether it established data retention requirements for its contractor and subcontractors. Second, we reviewed the contract between the state and Submittable to ensure it contained all appropriate provisions, including those regarding data retention and destruction. Third, we reviewed all data retention provisions included in the contracts between the state and Submittable, and between Submittable and the subcontractors. Fourth, we reviewed MNIT's assessments and third-party security assessments of the Submittable application platform and control environment.

We observed that the Submittable application platform was assessed by MNIT and third parties for security flaws and weaknesses, and our review noted no significant issues. On the other hand, we found that DLI's records retention schedule did not address data retention or destruction of third-party data, as noted below.

## Data Retention

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DLI's contractor, Submittable, provided an application platform for individuals to use when applying for frontline worker pay. As part of the application process, individuals were required to verify their identity. Submittable subcontracted with two companies—Authenticate and Veriff—for the identity verification component of the application process. Authenticate provided an identity verification platform that generated a knowledge-based assessment for frontline worker pay applicants to complete. Veriff provided an identity verification platform that allowed individuals to submit a photo of themselves and a photo of a government-issued identity document. Veriff would then perform biometric analysis and conduct various checks of the government-issued identity document, such as validating the photo, the font, and various other security features.<sup>50</sup>

Individuals applying for frontline worker pay had two initial options to confirm their identity: (1) complete and correctly answer four out of five questions on the knowledge-based assessment administered by Authenticate, or (2) submit a photo of themselves and a photo of an identification document through Veriff's platform. If an individual's identity was unable to be verified, an individual was given a second opportunity to verify their identity with the submission of a photo and identification document through Veriff, or manual verification with a representative from DLI.

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<sup>50</sup> Biometric analysis included comparing the photo applicants took of themselves to the photo of the government-issued identification document.

For manual identity verification, DLI met with individuals via video call, or in-person meetings. For identity verifications via video call or in-person meetings, DLI manually verified the individual's identity with identification documents presented by the individual, such as an expired driver's license.<sup>51</sup>

If an individual was denied based on failure to prove their identity, an individual could complete an appeal form and submit another photo of themselves and another photo of a government-issued identification document, complete an appeal form and manual verification with a frontline worker pay representative, or complete an appeal form and correctly answer three out of five questions on the knowledge-based assessment.

DLI partnered with MNIT to identify a contractor and subcontractors that could provide the application software and identity verification services needed for the program. In addition, MNIT was responsible for monitoring the performance of the contractor and subcontractors.

Minnesota law requires all state agencies to "make and preserve all records necessary to a full and accurate knowledge of their official activities."<sup>52</sup> Accordingly, we requested DLI's records retention schedule for records related to their administration of the Minnesota Frontline Worker Pay Program. We also requested a sample of photos and identification documents for 37 applicants from Veriff. Finally, we requested all knowledge-based assessment questions and answers from Authenticate for every individual that completed the knowledge-based assessment.

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#### FINDING 4

- **The Department of Labor and Industry and Minnesota Information Technology Services did not ensure the contractor and subcontractors retained frontline worker pay data in accordance with contract provisions.**
  - **The Department of Labor and Industry and Minnesota Information Technology Services did not ensure the retention of frontline worker pay applicant data was required by the Department of Labor and Industry's records retention schedule or contracts with third parties.**
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Both DLI and Submittable retained all of the frontline worker pay applicant data collected by Submittable. However, neither DLI, Submittable, nor Authenticate retained the knowledge-based assessment questions and answers. In addition, DLI and Submittable did not retain any photos of applicants or their identification documents, and Veriff only retained some of the photos and identification documents for the applications we tested. DLI's records retention schedule did not directly address retention of frontline worker pay applicant data held by Submittable and the

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<sup>51</sup> Department of Labor and Industry, *Minnesota Frontline Worker Pay Legislative Report* (issued March 2023), 36, [https://www.dli.mn.gov/sites/default/files/pdf/Minnesota Frontline Worker Pay Legislative Report March 2023\\_updated.pdf](https://www.dli.mn.gov/sites/default/files/pdf/Minnesota%20Frontline%20Worker%20Pay%20Legislative%20Report%20March%202023_updated.pdf), accessed May 11, 2024.

<sup>52</sup> *Minnesota Statutes 2023*, 15.17, subd. 1.



subcontractors. Further, the contract between the state and Submittable, and the contracts between Submittable and the two subcontractors, did not address data retention consistently, as follows:

- The contract between the state and Submittable only included language required by *Minnesota Statutes 2023*, 16C.05, subd. 5, which mandated the retention of the contractor’s “books, records, documents, and accounting procedures and practices...relevant to this Contract”...for a minimum of six years from the expiration or termination of this Contract.”
- The contract between Submittable and Authenticate did not contain a provision requiring Authenticate to retain the application data it collected.
- The contract between Submittable and Veriff stated that applicant data collected “shall be archived and available...on request basis for up to 3 (three) years.”<sup>53</sup>

When we requested knowledge-based assessment data from Authenticate, we were told that they did not have any data because Submittable had asked them to delete all data approximately two weeks after the state processed frontline worker payments. MNIT told us they had considered retaining the questions and answers generated by the assessments, but that they had deemed retention as unnecessary because they believed that the questions and answers served no purpose for the administration of the Minnesota Frontline Worker Pay Program. MNIT also said that national standards promote reducing the retention of personally identifiable information to the minimum necessary for proper performance of agency functions. DLI told us that it did not review the knowledge-based questions provided to the applicant or the answers the applicant provided to the questions. Instead, DLI relied on Authenticate to verify an applicant’s identity.

When we requested photos of the applicants and photos of the government-issued identification documents from Veriff, they could not locate the documents for 7 of the 37 applicants we selected. For one of these seven applicants, the individual identified in the application had died eight months before the application submission date. Veriff provided two explanations for their inability to produce documents for these applicants.

First, Veriff told us that users had the ability to request that their application data be deleted per the European Union’s General Data Protection Regulation.<sup>54</sup> Veriff did not provide a rationale for their application of the European Union Regulations to an identity verification process that did not involve any European Union person or entity. Further, Veriff had no record of these users asking for their data to be deleted. Veriff indicated that a data deletion request would typically go through Submittable, and not Veriff. We contacted Submittable and requested records of the data deletion requests; they, also, had no record of any data deletion requests by end users.

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<sup>53</sup> Submittable Holdings, Inc., “Service Agreement” contract between Submittable Holdings, Inc. and Veriff OÜ, (Missoula, March 30, 2022), 25.

<sup>54</sup> The European Union’s General Data Protection Regulation is a privacy and security law that imposes data protection obligations onto any organization, so long as they target and collect data on people in the European Union. While Veriff is headquartered in the European Union, this regulation does not apply to individuals residing and applying for frontline worker pay in the United States.

Second, Veriff alternatively explained that the missing records could have been the result of the end users never having submitted a photo of themselves or a photo of an identification document during the identity verification process. This explanation would suggest that Veriff may not have verified the applicants' identities.

Because DLI and MNIT did not retain or require the retention of identity verification data, and Authenticate and Veriff did not retain all of the identity verification data they collected, we were unable to determine whether the individuals applying for frontline worker pay were the individuals they said they were on the application. We also have concerns that the knowledge-based assessment was not sufficient to deter fraudsters, given the number of applications with fraud indicators that used the knowledge-based assessment as a means of verifying the applicant's identity. Finally, since the state and Submittable both retained a copy of all data submitted through the application platform, retention of this data by Submittable presents an unnecessary risk that data could be exposed as a result of a data breach or other unauthorized access to the data.

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## RECOMMENDATIONS

- **The Department of Labor and Industry and Minnesota Information Technology Services should ensure data retention requirements are included in all contracts.**
  - **The Department of Labor and Industry and Minnesota Information Technology Services should ensure data is appropriately retained by all parties in accordance with contract provisions.**
  - **The Department of Labor and Industry and Minnesota Information Technology Services should ensure the state retains data necessary for making program decisions and requires the same data be destroyed by third parties upon completion of their contract obligation.**
  - **The Department of Labor and Industry should include the retention of data collected by contractors and subcontractors in its records retention schedules for its programs.**
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# Appendix: Survey Methodology and Questions

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## Survey Methodology

**Population.** Using a Department of Labor and Industry database, we compiled a listing of 979,813 applicants who received a frontline worker payment through the successful submission of an application, and a listing of 45,784 applicants who received a frontline worker payment after successfully appealing a denied application. From these populations, we drew two separate random samples of 150 individuals, for a total of 300 samples.

**Administration.** We compiled a list of all of the employers listed on all 300 sample applications. We performed validations of the employer names by performing internet searches and searches of the Department of Revenue's tax system to ensure the employer existed. We also validated the accuracy of the employer's address listed on every sample application to ensure all surveys were being sent to the employer listed on the application.

We sent a survey via postal mail to each employer in our samples or called the employer and asked the survey questions via phone. The mailing included an option for the employer to return their response with a postage-paid return envelope, or send their response electronically via a secure method.

**Response.** We received responses for 250 of 300 applications, for an overall response rate of 83.3 percent.<sup>55</sup>

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<sup>55</sup> In Finding 1 and in our survey methodology, we chose to report the response rate based on the number of applicants for whom we received a response from at least one employer listed on each application. We sent surveys and/or conducted surveys via phone call to every employer listed on each application. An applicant could list up to three employers on an application, and if one employer responded with a "Yes" to all questions related to the employment requirements, we determined the employment requirements to be satisfied, regardless of whether or not the other employers did not respond. In addition, if one employer indicated that at least one employment requirement was not met, but the other employers did not respond to the survey, we documented that we could not determine the eligibility for these applicants.

## Survey Questions

Please provide your contact information on the following lines.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Phone number and/or e-mail: \_\_\_\_\_

Please answer the following questions about **John Doe**.

1. For the period of March 15, 2020, through June 30, 2021, indicate whether the individual was an employee or independent contractor.

Employee  Independent Contractor  Don't Know

2. For the period of March 15, 2020, through June 30, 2021, list the position(s) the individual held within your company and a brief description of the job duties performed for each position.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. For the period of March 15, 2020, through June 30, 2021, did the individual's job duties include any direct patient care to individuals with COVID-19?

Yes  No  Don't Know

4. Was the individual **required** to work in-person at any time between March 15, 2020, and June 30, 2021?

Yes  No  Don't Know

5. If the individual was **required** to work in-person at any time between March 15, 2020, and June 30, 2021, did the individual work in-person for at least 120 hours at a worksite in Minnesota?

Yes  No  Don't Know

6. For those required in-person hours in Question 5, did the individual work in close proximity (within six feet) to individuals outside of the individual's household?

Yes  No  Don't Know

Additional Comments (if needed): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



June 7, 2024

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

Dear Legislative Auditor Randall,

Thank you for the opportunity to review and respond to the Office of the Legislative Auditor's (OLA's) program evaluation of the Frontline Worker Pay (FWP) Program. The Department of Labor and Industry (DLI) appreciates the opportunity to work with OLA in its evaluation of this incredibly important, one-time program. We also appreciate the revisions you made to this report after DLI provided additional information showing that certain flagged applicants were, in fact, eligible. We believe that if provided more time for feedback, even more of the flagged applications would be deemed eligible. However, we understand that, much like the FWP Program itself, the review of applications through this audit could not proceed indefinitely.

The state agencies charged with building and implementing the FWP Program worked together to execute a complex program in the manner intended and directed by the Legislature. Every staff member who contributed understood the significance, purpose, and urgency of the program. It was a first-of-its-kind program designed to provide direct recognition to frontline workers for their service and sacrifice during the COVID-19 pandemic. The legislation was long-awaited and the result of considerable legislative compromise. In fact, this program had near-unanimous support from the Minnesota Legislature (only six total "no" votes in the Minnesota House and Senate). Everyone involved expected this program to be executed quickly and with low barriers for applicants to ensure that no frontline worker was left unrecognized. The state delivered in this regard.

The FWP Program has received awards for setting up an online application portal, processing over 1.2 million applications, and distributing direct payments to approximately 1,025,000 applicants. From the date the application opened, it took less than five months to process payments to more than 97 percent of eligible applicants, with 100 percent of payments processed by December 30, 2022. DLI applauds the Legislature for passing this legislation and thanks them for their trust and the opportunity to be part of such an incredible program.

DLI believes that many of the findings in the OLA report are not supported by the language or intent of the legislation or the data collected throughout the program. The overarching theme of the OLA's findings is that they take issue with the program itself, rather than the way the state implemented the program. Following are DLI's responses to each of the Findings and Recommendations in your report directed to DLI, and then general comments offered to the whole of the audit report.

**Recommendation:** *The Legislature should consider the amount of risk the state is willing to accept when establishing programs quickly and with eligibility conditions that rely on self-attestation.*

**Response:** While this is not a recommendation directed at DLI, we felt that DLI's involvement throughout the legislative process was relevant to the recommendation and warranted a response. DLI agrees that it is important for the Legislature to consider risk while developing legislation for programs like the FWP Program. However, DLI believes that the Legislature fully considered this risk for the FWP Program and chose to proceed knowing that some risk existed. As evidenced by hours of committee testimony and discussion, legislators expected this program to be executed quickly and with low barriers for applicants to ensure that no frontline worker was left unrecognized.

***The Legislature was fully informed of DLI's plans for program implementation, and appropriately balanced the need for payments to quickly reach frontline workers with the need to prevent payments to ineligible applicants.***

During the conference committee discussion of the FWP Program legislation, I testified in my role as Deputy Commissioner that DLI would not automatically reach out to employers to verify employment or work conditions for applicants. I noted that employer verifications would be too onerous and resource intensive to administer efficiently and effectively, especially with the incredibly high volume of applications that were anticipated.<sup>1</sup> This testimony made it clear that not only did the legislation not require employer verification of eligibility, but that the resources available and timing desired would not allow for it. This risk was clearly communicated and understood.

***The Legislature recognized that some eligibility criteria were not independently verifiable by the state, thereby requiring applicant self-certification.***

My testimony also addressed eligibility criteria that were independently verifiable by state agencies and other eligibility criteria that would not be independently verifiable, namely the inability to telework and the requirement that the applicant have worked in close proximity to individuals outside the person's home. My testimony made clear that the legislation, as written, allowed for DLI to rely on applicant self-certification for certain criteria. The relevant language reads: "As part of the application, an individual must certify to the commissioner of labor and industry that the individual meets the eligibility requirements in subdivision 3."<sup>2</sup> Additionally, the Legislature understood that components of the legislation were not independently verifiable as evidenced by the charge to the departments to verify eligibility "to the extent possible."<sup>3</sup> The Legislature voted to enact the law, affirming DLI's plan to administer the program as written and communicated.

**Finding 1.** *The departments of Labor and Industry and Revenue approved frontline worker payments to applicants who were not eligible and to applicants whose eligibility we could not determine.*

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<sup>1</sup> Minnesota Legislature Conference Committee on S.F. 2677, April 28, 2022.

<https://www.youtube.com/live/7QvB59uCpiE?si=lccfgv1z2bosmP6J&t=7558>, 2:05, Testimony of Nicole Blissenbach.

<sup>2</sup> *Laws of Minnesota 2022*, chapter 50, art. 1, sec. 2, subd. 4(a).

<sup>3</sup> *Id.* at subd. 4(d).

**Recommendation 2:** *The departments of Labor and Industry and Revenue should determine whether those individuals whose eligibility could not be confirmed were actually eligible for a frontline worker payment.*

**Response:** DLI disagrees with the extent of this finding and the approach utilized by the OLA. The report improperly concludes that in order to be determined eligible for FWP, an applicant's eligibility needed to be verified by the applicant's employer. To that end, when an employer did not respond or responded with "Don't Know" to the survey distributed by the OLA, the OLA concluded that the applicant's eligibility could not be confirmed. This conclusion ignores that each applicant certified they satisfied the eligibility criteria, and the OLA was presented with no evidence to contradict that certification. The FWP legislation did not contemplate employer verification of eligibility, as conducted by OLA. Rather, the legislation intentionally provided eligibility criteria that were independently verifiable by the state agencies and for all other eligibility criteria, recognized self-certification as a verification. There was specific testimony throughout the legislative process by advocates and bill authors that the law should not require employer verification of the eligibility of workers for the payments. OLA ignores this history when it insists that DLI should have read into the law implicit employer verification requirements.

***The FWP Program law did not make payment contingent on an employer's verification of the applicant's eligibility.***

As stated above, during the conference committee discussion of the FWP Program legislation, I testified that DLI would not automatically reach out to employers to verify employment or work conditions for applicants, noting that this would be too onerous to efficiently and effectively administer, especially considering the incredibly high volume of anticipated applications.<sup>4</sup> My testimony also addressed other eligibility criteria that would and would not be verifiable and clarified DLI's plans for administering the program, including the reliance on applicant self-certification for certain criteria, as specifically required in the language. The Legislature voted to enact the law, affirming DLI's plan to administer the program as appropriate to achieve the goal of the program: to quickly provide long-overdue recognition to employees who worked on the frontlines during the COVID-19 pandemic.

Even beyond the non-responses to the OLA survey, given the language in the FWP Program law and the legislative history, DLI does not believe it could have denied payment to an applicant if the employer and the applicant disagreed about the eligibility criterion of working in close proximity to individuals outside the applicant's household or inability to telework. Neither DLI nor its sister agencies were given a procedure that would allow a FWP applicant due process in a dispute with an employer about whether they were unable to telework or had come into close proximity with other persons for the number of hours required in the law. Given that this program came years after the start of the COVID-19 peacetime emergency, it is hard to imagine how such a dispute process would have been possible - what evidence could the employee and employer present other than testimony about work duties and the employee's lived experience? Employer verification of eligibility was not included in the FWP Program law, and it was made clear to the Legislature prior to passing this legislation that, given the language of the bill, timing and resources, DLI would not be contacting employers but

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<sup>4</sup> Minnesota Legislature Conference Committee on S.F. 2677, April 28, 2022.

<https://www.youtube.com/live/7QvB59uCpiE?si=lccfqv1z2bosmP6J&t=7558>, 2:05, Testimony of Nicole Blissenbach.

would instead be relying on self-certification for eligibility criteria that were not independently verifiable by state data systems.

OLA relied heavily upon an employer survey for verification of the FWP criteria, but this was not included in the legislation, which specifically called for an application that contained a certification to the commissioner of labor and industry that the applicant met the eligibility requirements. Employer verification was discussed at the time, and the Legislature specifically chose to rely on employee self-certification of the criteria. Additionally, leaving verification of eligibility in the employer's hands could create an adversarial process in which employers decline to verify for unrelated reasons.

***The employer survey methodology used by the OLA is not reliable and should not be used as a basis to determine that an applicant was ineligible for payment.***

DLI disagrees that the employer survey methodology utilized by OLA is in accordance with generally accepted government auditing standards. Four key elements of the survey methodology are particularly concerning:

1. The survey did not follow standard practices for ensuring representative and reliable data.
2. The survey methodology included no criteria around who at the employer could serve as a representative and respond to the survey.
3. The survey was not targeted to the applicants' supervisors, so there was no assurance of knowledge of the applicant's work environment, leading to sampling error in the survey data.
4. The surveys were completed up to four years after the work was performed leading to recall bias.

Employers may have also been mistakenly motivated in their responses to avoid liability for workers' compensation or unemployment benefit insurance claims related to their employees' exposure to COVID-19. The employers were not statutorily required to complete the survey, and the number of "Don't Know" responses is indicative of the responding employers' lack of motivation to research accurate responses. Further, employers were not required to base their response(s) on any documentation of the employees' work assignment or provide any documentation for the basis of their response. Therefore, survey responses were likely based on memory or incomplete knowledge of the employees' work assignment, leading to recall and random response biases in the data.

It appears from the report that OLA did not include a letter or instructions with the survey to indicate who could respond to the survey, address liability concerns, or define terms used in the survey instrument.<sup>5</sup> In the absence of those directions, the resulting data is likely to have large margins of error. DLI disagrees with the assumption that an unspecified representative of an employer has more reliable knowledge of the employees' working conditions (with no requirement to base the response on documentation or evidence) than employees themselves. DLI questions the reliability of these data and OLA's decision to use unreliable data to project a rate across the population of all applicants.

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<sup>5</sup> Employers who answered the question of whether applicants were required to work in close proximity (within six feet) of individuals outside of their household would have benefitted from instruction that masking, plastic barriers, or personal protective equipment is not relevant to the question.



Additionally, DLI reviewed the applications for which OLA asserted that eligibility could not be determined, and we were able to verify their employment through the unemployment insurance (UI) wage detail system, where the employer listed on the FWP application matched the employer reported in UI with sufficient hours to meet the 120-hour criterion. The job titles are positions where they very credibly met other FWP criteria, including nurses, teachers, janitors, lab techs, and daycare employees. These represent many of the same occupations that provided testimony and support for the creation of this program and the need to recognize the workers on the frontlines of the COVID-19 pandemic.

Even if DLI had been provided with the authority, resources, and time (which it was not) to conduct employer verification checks through a survey or different instrument, nothing in the FWP Program law would have allowed DLI to deny payment to an applicant based on an employer's lack of response or a response of "Don't Know." We disagree with the OLA's finding regarding these applicants and the inclusion of these responses in calculations for rate projections.

***OLA's projection scenario of 0.2% payments to ineligible applicants is the most accurate and defensible scenario because it does not rely on employer survey results alone in determining that an applicant is ineligible for payment.***

The report outlines three possible projection scenarios. For the reasons described in detail above, we believe that the projections in the category "OLA could not determine eligibility," in each of the scenarios should be categorized as eligible applicants. Even if DLI had sought employer verification of eligibility, DLI would not have been able to deny applications based on an employer's lack of response or a response of "Don't Know" given the recognition of self-certification for eligibility for the FWP Program law and the lack of process for eligibility disputes between employers and employees. Of the various projections included in the report, we strongly believe that the only defensible projection given the language and intent of the law is the version in which OLA does not accept employer responses as accurate over employee self-certification. This is the only projection that recognizes the FWP legislation direction to the responsible agencies to determine eligibility "to the extent possible" and the provision of self-certification of eligibility criteria where verification by the state was not possible. In that projection scenario, OLA projected that 0.2% of payments were made to ineligible applicants. We believe that to be an incredibly defensible result for a program of this scale and speed, recognizing that a program of this size and complexity will inevitably have some occurrences of payments to ineligible applicants.

***Finding 2.*** *The Department of Labor and Industry approved frontline worker payments to individuals whose applications contained fraud indicators without investigating whether the applicants were legitimate.*

***Recommendation 2:*** *The Department of Labor and Industry should thoroughly review all applications with fraud indicators to determine whether frontline worker payments were made to ineligible applicants.*

**Response:** DLI disagrees with this finding and asserts that it implemented an extensive fraud prevention program that deterred, identified, and prevented payments to fraudulent applicants. The goal was to reduce incidents of fraud by developing protocols that made fraud attempts difficult and fraud success unlikely, while providing administrative ease for legitimate applicants. Fraud prevention occurred in the design of the application, the appeals process, and the identity verification process, as well as through active review of potential fraud indicators. DLI's approach balanced the considerations of fraud prevention and timely payments, while not creating insurmountable obstacles for eligible employees to receive the payments. DLI used a number of fraud indicators to detect and eliminate fraud in the program. We were cautioned at many levels by our counterparts at DEED and DOR that one fraud indicator was not enough to prove fraudulent activity. This is why

we identified a number of fraud indicators and used them together to identify fraudulent applications. Throughout the process we saw examples of how relying on a single fraud indicator would have denied payments to eligible applicants.

***The OLA report confirms the success of DLI's fraud prevention efforts, finding an incredibly small percentage of applications with a fraud indicator.***

In the course of the 16-month audit, the OLA identified 140 applications with an OLA-identified fraud indicator. While I agree that the goal should be to eliminate all fraud, in a program that processed over a million direct payments to eligible applicants, this represents less than a fraction of one percent. This incredibly small number of applications identified in the report is further evidence that the fraud prevention program DLI created and implemented was successful at preventing fraud. This is especially true given that the OLA has access to and used data in their audit that DLI did not have access to for the purpose of this program. The FWP legislation did not provide DLI with additional access to data from other state agencies to administer this legislation.

OLA used their access to Department of Health death records, DOR general tax, and other data sources to conduct their audit and indicate in their report that we should have done the same. OLA indicated that in our review of potential fraud indicators that we, "could have worked with DOR to review the employer listed on the W-2 or DLI could have reached out to the employer to confirm employment." If that was intended, the Legislature could have given DLI access to those data, which it did not.

DLI is incredibly proud of the fraud prevention strategies developed and implemented for the FWP Program. Frontline worker applications, appeals and payment information were reviewed proactively to identify incidents of fraud throughout the application, appeals and payment processing timeframes. The FWP database was queried for potential fraud indicators. Data sources that were used to identify potential fraud indicators included: applications submitted by applicants; appeal forms submitted; knowledge-based authentication (KBA) information and results; identity verification (IDV) information and results; and UI Wage Detail records. Fraud indicators included: high-risk email domains; suspicious patterns in email addresses; high-risk bank routing numbers; UI imposter or hijacked codes; duplicate bank accounts; unusual address patterns within applications and appeals; duplicate prepaid debit card addresses; out-of-state prepaid debit card addresses; KBA address matching the employer address listed on the application; the volume of submissions arriving in a short amount of time; and suspicious patterns in the application data. Records with a combination of potential fraud indicators were routed to DLI lead workers for review.

We are extremely confident in the fraud prevention strategies implemented. The report suggests that additional review time may have resulted in the identification of additional fraud. That may or may not be true, but either way, DLI did not have much or any additional time for eligibility determinations. Payment processing was complete on December 30, 2022, and the appropriation for administration of the program ended in June of 2023. The duties related to the program extended far beyond the last payment processing date. The FWP team at DLI continued to respond to a high volume of FWP applicant calls for months after payment and continues to take inquiries to this day. DLI was also charged with additional program wrap up responsibilities including final data transfers and the drafting and publishing of a legislative report. We knew the work would not end with the final payment and it was necessary to include program wrap up time in the process. We took the time necessary to implement the comprehensive fraud prevention program, and as evidenced by the findings in this report, the program implemented was largely successful in deterring and preventing fraud.

**Finding 4.** *The Department of Labor and Industry and Minnesota Information Technology Services did not ensure that the contractor and subcontractors retained all frontline worker pay data in accordance with contract provisions. The Department of Labor and Industry and Minnesota Information Technology Services did not ensure the retention of frontline worker pay applicant data was required by the Department of Labor and Industry's records retention schedule or contracts with third parties.*

**Recommendation 1:** *The Department of Labor and Industry and Minnesota Information Technology Services should ensure data retention requirements are included in all contracts.*

**Recommendation 2:** *The Department of Labor and Industry and Minnesota Information Technology Services should ensure data is appropriately retained in accordance with contract provisions.*

**Recommendation 3:** *The Department of Labor and Industry and Minnesota Information Technology Services should ensure the state retains data necessary for making program decisions and requires the same data be destroyed by third parties upon completion of their contract obligation.*

**Recommendation 4:** *The Department of Labor and Industry should include the retention of data collected by contractors and subcontractors in its records retention schedules for its programs.*

**Response:** DLI disagrees with this finding. Data retention requirements were included in all contracts associated with this program, and DLI ensured that the record retention schedules were comprehensive. While we acknowledge that identity verification quiz questions were not retained, all of the data used to generate those quizzes was retained as was the results of the verifications. The identity verification subcontractors retained all data necessary for making program decisions by retaining the results of the photo ID verification and the quiz. We understand that not all data that led to the results of the identity verification were retained, but that data would not have been helpful in determining program eligibility. DLI contends that we maintained all data needed for the administration of the program.

Additionally, the OLA report incorrectly states that DLI relied solely on subcontractors to verify identity. DLI relied on Authenticate to verify identity based on the generated quiz taken by the applicant. DLI retained the data used to generate the quiz, such as name, address, and SSN/ITIN, as well as the result. DLI then used this data as part of additional identity verification processes. DLI also conducted manual identity verification, as well as considerable analysis comparing the names and SSNs provided to the subcontractors, as part of our internal identity verification and fraud prevention processes.

**FWP was a successful, first of its kind program that efficiently delivered timely recognition to more than one million applicants.**

The FWP program was designed to be as inclusive as possible, and carefully structured so that it did not place hurdles that were too tall in the path of deserving frontline workers. DLI is proud of its work implementing a first-of-its-kind program that developed a program, opened an application and processed payments to 97 percent of recipients in fewer than five months.

Much of the criticism in the OLA report was based on the FWP Program as it was written, not the program as it was run. DLI made clear to the Legislature that some of the program's eligibility criteria were not verifiable using information in the hands of the state, and that agencies would need to rely on self-certification as the primary eligibility verification for those criteria. It was also made very clear that DLI could not conduct employer verification for each applicant. That is why the legislation included self-certification along with other items that were verifiable. Employer certification was considered by the Legislature, but they decided against including that in the law, opting in favor of self-certification. The report ignores the reference to self-certification in the FWP

law and failed to acknowledge the legislative intent in their report analysis and methodology, reading into the law responsibilities that DLI and its sister agencies were not tasked with by the Legislature.

As detailed above, the OLA report does not acknowledge the considerable limitations to the employer survey as it was conducted, making the results unreliable. We strongly disagree that employer verification is a source of truth in which to validate an employee's self-certification against, as well as OLA's decision to include non-response or a "Don't Know" response as employment that was not verified. Even if DLI had been provided with the authority, resources, and time (which it was not) to conduct employer verification checks through a survey or different instrument, nothing in the FWP Program law would have allowed DLI to deny payment to an applicant based on an employer's lack of response or a response of "Don't Know." In those instances, we would have to rely on the employee self-certification process as outlined in the law.

Additionally, the Legislature did not give DLI any additional data sharing authority. DLI did not have access to Department of Revenue or Department of Health records to verify applications. If the Legislature intended for DLI to conduct verifications using those sources as OLA implies, they would have given DLI access to those data in the legislation.

The Frontline Worker Pay program involved collaboration across multiple state agencies to quickly distribute payments to Minnesota workers recognizing their work on the frontlines during the COVID-19 peacetime emergency. The fraud that the agencies detected and prevented was extensive, and the OLA audit found a fraction of a percent of recipients to potentially be ineligible. DLI provided exceptional support to FWP applicants, fielding over 215,000 inquiries in a 5-month time period. Overall, DLI and partner agencies ran an incredibly successful program and achieved the goals set out for us by the Legislature by quickly and efficiently building and executing the FWP program.

Once again, we appreciate the opportunity to review the report and respond to the findings and recommendations contained in the report.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicole Blissenbach". The signature is fluid and cursive, with a large initial "N" and "B".

Nicole Blissenbach  
Commissioner



June 6, 2024

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

Dear Ms. Randall:

On behalf of the Department of Revenue, thank you for the opportunity to respond to the audit report examining Minnesota's Frontline Worker Pay program. We appreciate the work of the Office of the Legislative Auditor and the important role it plays in improving government; however, we respectfully disagree with some of the conclusions raised in this report regarding Revenue.

The COVID-19 pandemic created an unprecedented peacetime state of emergency in Minnesota. This novel virus was the third-leading cause of death in Minnesota in 2020 and 2021, and created high risks for frontline workers supporting the health and welfare of all Minnesotans. Successful legislation to recognize and compensate frontline workers, who ensured our state continued functioning during the height of the pandemic, did not emerge until 2022.

The Frontline Worker Pay program legislation directed the Department of Revenue to verify "to the extent possible" adjusted gross income (AGI) of Frontline Worker Pay program applicants. These words reflect the legislature's intent to send Frontline Worker payments as soon as practicable. Revenue takes its legal responsibilities seriously and, for the Frontline Worker Pay program, we followed the law. We verified adjusted gross income (AGI) to the extent possible for 97.3 percent of all payment recipients. For the limited instances where this was not possible, we used an alternative mechanism that relied on the applicant's attestation, along with confirmation that the applicant received income from employment in Minnesota. We chose not to penalize applicants by denying all applications where we could not verify AGI. We also chose this route to minimize delays in recognizing these workers.

A tax return is the only way to verify AGI, however, the Frontline Worker Pay program legislation did not require applicants have a Minnesota tax return on file. For these applicants, we relied on the applicant's attestation and confirmed, using W-2 information, that they received income from employment in Minnesota.

There are valid reasons why a Frontline Worker Pay applicant would not file a Minnesota tax return, including not earning enough income to require a filing or reciprocity agreements with other states. Revenue recommends that for any future programs where tax return data is a critical source of verification, the legislature require a tax return be filed by a certain date to determine that eligibility.

With respect to the three possible projections of the percentage of Frontline Worker payments made to ineligible applicants, we agree that calculating an accurate projection in this environment is a challenge. The three projections vary widely, and while it is difficult to draw any meaningful conclusion from them, we can conclude that Revenue's impact in any ineligible applicant receiving a payment is minimal given that we accurately verified AGI for 97.3 percent of all payment recipients. Revenue takes the reporting and investigation of potential illegal activities very seriously. We will investigate instances of potential fraud and will recoup any payment proven to be fraudulent to the extent permitted by law.

Again, we appreciate the opportunity to provide feedback on this report.

Sincerely,



Paul Marquart  
Commissioner



Minnesota IT Services  
658 Cedar Street  
St. Paul, MN 55155

June 6, 2024

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

Dear Ms. Randall,

On behalf of Minnesota IT Services (MNIT), we appreciate the opportunity to respond to the audit report on the Frontline Worker Pay Program. In order to meet the ambitious timelines for implementation included in the legislation, DLI partnered with MNIT to contract with a software provider, Submittable, who had successfully deployed similar payments to frontline workers in other states.

MNIT's role in the administration of this program was to serve as the contract oversight authority for the software provider. Applicant data falls under the authority of DLI. Given our shared involvement, MNIT would like to take this opportunity to comment on several concerns we have with the findings.

The audit report states DLI and MNIT did not ensure Submittable and their subcontractors retained frontline worker pay data in accordance with the DLI records retention schedule and contract provisions, specifically questions and answers used for identity verification in a process known as knowledge-based authentication. This is a method of identity verification that seeks to prove the identity of someone by asking questions only the subject would know.

In light of findings in previous OLA audits, national standards, MNIT security standards, and the Official Records Act, MNIT seeks to minimize the retention of sensitive security data that is not an official transaction. MNIT does not agree with the auditor that knowledge-based authentication questions and answers are an official record under the Minnesota Official Records Act as this data is not necessary for a full and accurate knowledge of DLI's official activities. Only data that document an entity's official transactions must be kept as an official record. As such, the knowledge-based authentication questions and answers would therefore not be subject to a records retention schedule as the audit finds. Further, lengthy retention of this data creates a significant security risk to customers.

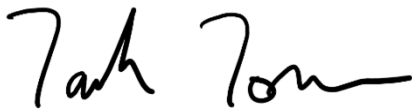
As mentioned, national standards promote reducing the retention of personally identifiable information to the minimum necessary. Per NIST 800-122, Section 4.2.1 Minimizing the Use, Collection, and Retention of PII:

*“The practice of minimizing the use, collection, and retention of PII is a basic privacy principle. By limiting PII collections to the least amount necessary to conduct its mission, the organization may limit potential negative consequences in the event of a data breach involving PII. Organizations should consider the total amount of PII used, collected, and maintained, as well as the types and categories of PII used, collected, and maintained. This general concept is often abbreviated as the —minimum necessary principle. PII collections should only be made where such collections are essential to meet the authorized business purpose and mission of the organization. **If the PII serves no current business purpose, then the PII should no longer be used or collected.**” [Emphasis added.]*

In light of persistent and evolving cybersecurity threats, protecting personally identifiable information (PII) is a high priority for MNIT. Any disclosure of PII whether through vendors or state systems creates liabilities for state agencies. As such, MNIT regularly uses the minimum necessary principle when it comes to data, especially PII, when there is no business or statutory reason to retain the data. This is in alignment with MNIT’s Data Protection and Categorization Standard.

Thank you again for your office’s input and feedback on the implementation of the Frontline Worker Pay Program. MNIT appreciates the perspective that the Office of the Legislative Auditor provides and welcomes the opportunity to incorporate that feedback in future implementation efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Tarek Tomes". The signature is fluid and cursive, with the first name "Tarek" being more prominent than the last name "Tomes".

Tarek Tomes

Commissioner and State Chief Information Officer

CC:

*Equal Opportunity Employer*



June 6, 2024

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

Sent via email: [Judy.Randall@state.mn.us](mailto:Judy.Randall@state.mn.us)

Dear Ms. Randall,

On behalf of the Minnesota Department of Employment and Economic Development (DEED), I would like to thank you for the opportunity to respond to this program evaluation. The Frontline Worker Program was an unprecedented effort that supported over 1 million Minnesota workers who worked on the frontlines during the COVID-19 peacetime emergency. It was a critical recognition of the work that they did to support Minnesotans under difficult circumstances.

DEED was honored to support the delivery of Frontline Worker Pay to Minnesota workers, and we appreciated the efforts of your staff in their evaluation of this program.

Yours sincerely,



Matt Varilek  
Commissioner



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