

LIMITED-SCOPE AUDIT PROPOSAL

Evaluating the Adequacy of the Department of Commerce's Pre-Employment Screening

SOURCE

This audit proposal was requested by Senator Mike Thompson, Senator Caryn Tyson, Representative Shannon Francis, Representative Jason Probst, Representative Sean Tarwater, and Representative Kristey Williams.

BACKGROUND

In 2020, the Department of Commerce hired Jonathan Clayton, who had previously pleaded guilty to felonies. Commerce initially hired Mr. Clayton as a regional project manager. Then, in the wake of COVID-19, Commerce chose Mr. Clayton to be the director of economic recovery. This meant Mr. Clayton oversaw Commerce economic recovery programs funded by more than \$100 million federal dollars from the American Rescue Plan Act (ARPA). However, in 2018, Mr. Clayton pleaded guilty to felony charges in Pennsylvania after being accused of stealing more than \$200,000 from a Pennsylvania business. Mr. Clayton was found deceased in August 2024 and, following reporting on his past misconduct, his work at Commerce and for local associations is under scrutiny.

According to the Department of Administration, state agencies aren't generally allowed to do national criminal history background checks on prospective employees. That's because the federal law regarding how the FBI may share criminal history information with states requires states to authorize background checks for specific positions. State law doesn't currently authorize background checks for any Commerce positions, except for candidates for the boxing commission. However, agencies may do other kinds of pre-employment screening, like checking references, doing online searches, or doing social media checks.

Legislators have expressed concern that the Department of Commerce doesn't adequately screen prospective staff who would oversee financial matters.

AUDIT OBJECTIVES AND TENTATIVE METHODOLOGY

The audit objective listed below is the question we would answer through our audit work. The steps listed for the objective convey the type of work we would do. These may change as we learn more about the audit issues.

Objective 1: Did the Department of Commerce use an adequate pre-employment screening process for select staff who oversee financial matters? Our tentative

methodology would include the following:

- Review state law and work with the Department of Administration to identify what kinds of pre-employment screening agencies like Commerce should do as part of the hiring process.

- Work with Department of Commerce staff to understand their process for screening prospective hires.
- Review a few selected recent Commerce hires who oversee financial matters, including Mr. Clayton, to evaluate whether Commerce's screening activities aligned with Department of Administration guidance.
- Talk to Commerce staff about possible issues or shortcomings with their background check process.

ESTIMATED RESOURCES

We estimate this audit would require **100 staff hours** to complete.