

DePasquale gives update on business waiver audit; report expected in October

BY: [JUSTIN SWEITZER](#) SEPTEMBER 9, 2020

Pennsylvania Auditor General Eugene DePasquale is nearing the end of his audit into a controversial business waiver program used by Gov. Tom Wolf's administration to determine what businesses could and couldn't operate during the height of the state's shutdown early on in the pandemic.

The waiver program, which was implemented by the Wolf Administration following the governor's statewide closure of nonessential businesses to limit the spread of the coronavirus, allowed businesses to apply for case-by-case exemptions from Wolf's closure order. But the program was shrouded in secrecy and plagued by inconsistencies, prompting DePasquale to begin an audit back in April.

DePasquale said Wednesday that his office would release a report on their findings by the first week of October, a report that the auditor general said would detail differences between waiver requests made by phone and waivers that were applied for online.

DePasquale offered few details into what his audit has revealed so far, but did note that consistency is one of his primary concerns with how the program is implemented.

"Consistency is a concern," DePasquale said, noting that some businesses within the same industry received waivers while others didn't.

That concern has been echoed by state lawmakers and business leaders alike. Jon O'Brien, the executive director of the Keystone Contractors Association, told *The PLS Reporter* in April that some KCA members reported having their [applications for waivers denied](#) by one staff member only for them to be approved by a different staff member after the application was resubmitted.

The auditor general added that he believes Wolf had a legal right to establish the waiver program, despite the U.S. Department of Homeland Security issuing business closure guidance to state and local lawmakers.

Other states, like Maryland, used guidance from the Cybersecurity and Infrastructure Security Agency to make decisions on business closures.

"Our interpretation was that he wasn't mandated to do so," DePasquale said of following the CISA guidance.

The state's fiscal watchdog said another report could follow the first report that he expects to come out Oct. 6. He said that depends on whether his office concludes the audit before that date.

Wolf's waiver program has created considerable enmity among lawmakers, who believe the process was overly opaque and unfair.

The Department of Community and Economic Development, which oversaw the process, refused to release data on who received the waivers until they were [subpoenaed](#) in April by the Senate Veterans Affairs & Emergency Preparedness Committee. The committee sought data on businesses that applied for waivers, as well as those that had been granted waivers.

Information has also been scant on what criteria were used to make determinations.

DePasquale's office requested much of the same information as the Senate panel that subpoenaed Wolf. According to his office, he has requested the following:

- How the administration developed criteria and guidance used in making waiver decisions
- What guidance or training was provided to DCED staff to implement the waiver program
- What guidance or information was used in the development of the waiver portal and waiver application
- What communications and guidance were provided to businesses during the application process
- What communications from outside sources were made regarding businesses that applied for a waiver
- Details on the processing of waiver requests, including decisions made, in what order they were processed, and data in the DCED database
- The number of waivers initially granted then rescinded
- The number of waivers initially denied then later granted

DePasquale has received criticism from some Republicans, as well as the editorial board of the Pittsburgh Post-Gazette, who suggested that his political connections to Wolf, including Wolf's attendance at a recent fundraiser for DePasquale's congressional campaign, could present the appearance of a conflict of interest.

"It probably wasn't the best idea to have a public official running for Congress to conduct this audit. If Mr. DePasquale absolves Mr. Wolf of blame, Republicans will attack him. If Mr. DePasquale is critical of Mr. Wolf, Democrats will condemn him," the editorial board wrote in a [recent op-ed](#).

DePasquale maintained Wednesday that his political associations are kept separate from his work as auditor general and downplayed concerns over Wolf's political support for him.

"To me, what I do from the campaign side of it is completely unrelated," DePasquale said, noting that he has issued reports critical of Wolf's administration at times. "You can do your job and support someone politically at the same time."