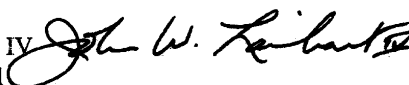


Office of Inspector General
U.S. House of Representatives
Washington, DC 20515-9990

MEMORANDUM

TO: Scot M. Faulkner
Chief Administrative Officer

FROM: John W. Lainhart IV 
Inspector General

DATE: August 11, 1995

SUBJECT: Audit Report - Improved Controls Could Prevent Abuse Of The House Restaurant System Unemployment Compensation Program (Report No. 95-CAO-26)

This is our final report on the performance audit of the House Restaurant System Unemployment Compensation Program. The objective of this audit was to determine the accuracy of HRS' unemployment compensation liability due the Department of Labor by determining if: (1) controls were in place to prevent Federal employees from collecting wages and unemployment compensation benefits to which they were not entitled; and (2) unemployment compensation payments to laid-off and terminated HRS employees met Federal and local requirements. In this report, we identified problems and made recommendations for corrective actions.

In response to our August 4, 1995 draft report, your office concurred with our findings and recommendations. The formal management response provided by your office is incorporated in this final report and included in its entirety as an appendix. The corrective actions taken and planned by your office are appropriate and, when fully implemented, should adequately respond to the recommendations. Further, the milestone dates provided for implementing corrective actions appear reasonable.

We appreciate your office's positive response and concurrence with the recommendations, and the courtesy and cooperation extended to us by your staff. If you have any questions or require additional information regarding this report, please call me or G. Kenneth Eichelman at (202) 226-1250.

cc: Speaker of the House
Majority Leader of the House
Minority Leader of the House
Chairman, Committee on House Oversight
Ranking Minority Member, Committee on House Oversight
Members, Committee on House Oversight

Improved Controls Could Prevent Abuse Of The House Restaurant System Unemployment Compensation Program

Report No. 95-CAO-26

August 11, 1995

RESULTS IN BRIEF

CONCLUSIONS

The House Restaurant System (HRS) did not establish adequate internal controls over its Unemployment Compensation Program to prevent abuse and ensure good program management. Specifically, HRS did not develop, implement, and document program management controls including the: (1) review of quarterly statements received from the Department of Labor (DOL); (2) comparison of District of Columbia Department of Employment Service quarterly charge summaries to payroll records; and (3) performance of periodic internal reviews of unemployment compensation program activities. As a result, (1) \$332,687 in benefits may have been paid to 142 employees who were apparently abusing the unemployment compensation program; (2) \$91,429 in benefit calculation errors were not detected; (3) \$49,342 in payments were not credited by DOL; and (4) \$7,905 in charges from two states were unresolved. The total improper charges amounted to \$481,363. In addition, the employees who were called to work on an as-needed basis may not have been entitled to receive unemployment compensation benefits. These contract employees received an additional \$200,557 of benefits.

RECOMMENDATIONS

We recommend that the Chief Administrative Officer (CAO): (1) resolve the adjustments identified in this report with DOL; (2) reimburse DOL for the outstanding unemployment compensation liability; (3) develop, implement, and document detailed procedures for program management; (4) ensure that critical unemployment compensation program management activities are regularly performed; (5) conduct periodic internal reviews of unemployment compensation program activities; and (6) request DOL to make a ruling to determine whether employees called to work on an as-needed basis are eligible to receive unemployment compensation benefits.

MANAGEMENT RESPONSE

In the formal response to the draft report, dated August 4, 1995, and at the exit conference, the Director of Internal Controls and Continuous Improvement, on behalf of the CAO, agreed with the findings and recommendations in this report. The planned actions include resolving the adjustments identified with DOL, taking actions to pay outstanding unemployment compensation owed to DOL, implementing internal controls to detect abuse of unemployment compensation

benefits, and requesting a determination on the contract employees' eligibility for unemployment compensation.

OFFICE OF INSPECTOR GENERAL COMMENTS

The CAO's actions are responsive and should, when fully implemented, satisfy the intent of our recommendations.

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I. INTRODUCTION

Background

The mission of the U.S. House of Representatives Restaurant System (HRS) is to provide Members, their staffs, House employees, and Congressional visitors a high quality of food at reasonable prices with courteous and friendly service. To promote the highest quality of service possible, HRS is committed to providing its employees with a safe and efficient working environment.

Created in 1940, HRS was managed by the Architect of the Capitol until transferred to the Committee on House Administration (Committee) in 1971. The Committee allowed the Architect of the Capitol to continue the day-to-day operations until the food service function was contracted out in 1987. In 1992 the Committee delegated management of HRS to the Director of Non-legislative and Financial Services. With the 104th Congress, the newly established Chief Administrative Officer (CAO) assumed all of the duties and functions previously vested with the Director of Non-legislative and Financial Services, including the management of HRS.

HRS managed the food and vending facilities on premises for the period prior to January 3, 1987 and during the period August 9, 1991 through July 4, 1994. (From January 1987 to August 1991 the food services were contracted out to Service America Corporation.) On July 5, 1994, HRS contracted out to Marriott/Thompson, Inc. all of its food services functions with the exception of the Ford Cafeteria and Carry Out which was originally contracted to Skenteris, Inc. in January 1993 with a renewal in September 1994. HRS operates the vending machines in all House buildings and is responsible for contract oversight. HRS closes some of its facilities for Congressional recesses and temporarily lays off some of its employees. These layoffs range from three days to as long as two months. During lay-off periods, employees may be eligible for unemployment compensation benefits.

Title 5 U.S.C., Chapter 85 provides for a permanent program of unemployment compensation for unemployed Federal civilian employees (UCFE). The statute authorizes the Secretary of Labor, on behalf of the United States, to enter into an agreement with a state, or with an agency administering the unemployment compensation law of a state. These agreements must provide that unemployment compensation will be subject to the same conditions as non-Federal employees within that state if the employees' Federal service and Federal wages had been included as employment and wages under that state law. The Department of Labor (DOL) has an agreement with the District of Columbia to process unemployment compensation claims for all Federal employees whose work locations are in the District. Therefore, all individuals who receive unemployment compensation based upon HRS employment are subject to the rules of the District of Columbia Department of Employment Services (DCDES). These rules require individuals to notify DCDES when they return to full-time employment.

Unemployment compensation benefits are calculated using the wages paid during the base period which is the first four of the five quarters prior to the quarter in which the claim is filed. HRS' liability as the base-period employer began in July 1992. As a result of the contract with Marriott/Thompson, Inc., HRS' liability as a base-period employer began to be phased out for unemployment compensation claims filed during the second quarter of Fiscal Year (FY) 1995. After the fourth quarter of FY 1995, Marriott/Thompson, Inc. will assume full base-period employer liability for unemployment compensation claims filed by former HRS employees who were retained by Marriott/Thompson, Inc.

The UCFE program operates on a reimbursable basis. DCDES provides DOL and HRS Quarterly Charge Summaries which list the individuals collecting unemployment compensation, the amount collected, and the amount charged to HRS as an employer during the base period. DOL reimburses DCDES and sends to HRS Quarterly Statements of Expenditures of Federal Funds for Reimbursable Unemployment Compensation Benefits Paid to UCFE Claimants. HRS, in turn, is to reimburse DOL within 30 days.

Objective, Scope, And Methodology

The Acting Director of Non-legislative and Financial Services requested, on November 16, 1994, an audit of certain aspects of HRS internal controls over the unemployment compensation program. The objective of this audit was to determine the accuracy of HRS' unemployment compensation liability due DOL by determining if: (1) controls were in place to prevent Federal employees from collecting wages and unemployment compensation benefits to which they were not entitled; and (2) unemployment compensation payments to laid-off and terminated HRS employees met Federal and local requirements.

The audit included a detailed review of the HRS unemployment compensation liability for the period July 1, 1992 through March 31, 1995. We identified possible irregularities through review of selected documentation from HRS, DOL, Architect of the Capitol, Office of Finance, and DCDES. In performing our audit, we used unemployment compensation payment information from the DCDES database, HRS payroll database, and Marriott/Thompson, Inc. payroll reports. We did not audit the DCDES or payroll systems to determine the accuracy of these systems, as these were beyond the scope of this audit. However, we sent out confirmation letters to verify the DCDES payments made to HRS employees, and from the responses received it would appear that the DCDES data is reliable. Also, the very nature of payroll systems encourages employees to identify and report errors that affect their pay checks. Our preliminary assessment of the internal control structure was conducted through a review of pertinent policies and procedures, interviews with staff, and review of management reports and the flow of transactions.

Audit procedures were developed to test compliance with DOL and DCDES unemployment compensation requirements. The procedures included use of computer matching between DCDES unemployment compensation benefits and payroll records and recalculation of unemployment compensation benefit amounts paid to employees.

This audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. The audit work was conducted during the period

March 1, 1995 through June 25, 1995.

Internal Controls

We reviewed internal controls related to HRS' management of the unemployment compensation program. We found significant weaknesses in the internal controls established by HRS as discussed in Finding A.

Prior Audit Coverage

No prior audits were conducted on the management of unemployment compensation benefits charged to HRS.

II. FINDINGS AND RECOMMENDATIONS

Finding A: Internal Control Procedures Over The Management Of The Unemployment Compensation Program Are Needed

HRS lacked the internal controls needed to properly manage the unemployment compensation program. Such controls are necessary to recognize the unemployment compensation liability and ensure that only valid charges are assessed against HRS. As a result, HRS did not detect potential abuse of unemployment compensation by employees and errors by DCDES and DOL. Our review of DOL billings identified a total of \$481,363 in improper charges for unemployment compensation benefits. (A summary of the adjusted unemployment compensation liability is provided as a table at the end of this finding.) This lack of control existed because management never developed, implemented, and documented the procedures necessary to properly manage this program.

The Secretary of Labor was designated by 5 U.S.C. 8501-8509, as the authority responsible for interpretation of the UCFE law (including the determination of what constitutes Federal Service and wages for UCFE purposes), promulgation of regulations to implement and carry out the purposes of the law, and administration of the program, including the payment of benefits. DOL prescribes UCFE Program Instructions to all Federal agencies administering the UCFE program. Under the Program, the House reimburses DOL which reimburses DCDES for unemployment compensation paid to HRS employees.

Procedures for the review of Quarterly Statements of unemployment compensation benefits are needed

Chapter X of the UCFE Program Instructions states that benefits under the UCFE program are to be paid in accordance with the State's unemployment compensation law. In addition, Chapter IX, Paragraph 5 establishes a 2-year period from the time that the error occurred for the Federal entity to make adjustments. State agencies are to correct improper charges made to Federal agencies by increasing or decreasing the agency's charges on subsequent reports.

HRS management did not review DOL Quarterly Statements. As a result, HRS management not only left DOL unemployment compensation billings unpaid, but was unaware that these quarterly billings overstated the HRS liability. Specifically, senior management was unaware that payments had not been made for the period July 1, 1992 (fourth quarter FY 1992) through December 31, 1993 (first quarter FY 1994). In a letter dated January 5, 1994, DOL advised HRS' Acting Administrative Officer that an unpaid liability existed. This letter contained an unemployment compensation bill, dated September 1993, for \$351,716 owed to DOL. In May the HRS Administrative Officer began to track all unemployment compensation bills and correspondence. By April 8, 1994, DCDES reported on its Quarterly Charge Summaries \$130,000 in additional claims through March 31, 1994. On November 8, 1994, HRS management realized that a serious situation existed and requested assistance from the Office of Inspector General. According to DOL records, HRS' total unemployment compensation liability, as of March 31, 1995, is \$1,023,702. However, this liability was not adjusted for \$49,342 in payments previously made by the Architect of the Capitol on February 13, 1990, and, as discussed below, improper charges of \$7,905 from other states.

Although unemployment compensation is administered by the state where an individual was employed, charges to HRS included \$2,488 from Virginia, \$38,862 from Michigan, and \$1,560 from Florida. However, prior to the audit, DOL's billings showed adjustments of \$35,005 -- leaving a balance of \$7,905 in unresolved charges. Of these unresolved charges, \$287 was incurred from Virginia during the second and third quarters of FY 1992, and \$7,618 was incurred from Michigan during the third quarter of FY 1994. HRS may not be able to make an adjustment for the \$287 from Virginia because of the 2-year time frame limitation. In order to detect and adjust improper charges within the 2-year time period, HRS management needs to review DOL Quarterly Statements in a timely manner.

Quarterly Charge Summaries were not compared to payroll records

UCFE Program Instructions state that the Quarterly Detailed Listings can aid the Federal agency in its review of the UCFE bill. Chapter IX, Paragraph 6 provides that the Federal agency should check the quarterly detailed list of charges from the State Employment Security Agency (SESA) against its payroll records to ensure that claimants are not concurrently employed by the Federal agency and collecting UCFE benefits. Once unqualified candidates are identified, the UCFE Program Instructions state, "the Federal agency should send a written account of the pertinent information to the SESA for investigation and action."

During the audit period, DCDES paid and charged HRS \$332,687 for unemployment compensation benefits paid to ineligible employees. These payments went undetected because HRS did not compare DCDES Quarterly Charge Summaries to payroll records until May 1994. As a result, although employees were entitled to collect unemployment compensation benefits during lay-off periods, 142 employees (72 percent) continued to collect unemployment compensation benefits after they were recalled to work. However, comparisons of Quarterly Charge Summaries and payroll records would have identified these employees as collecting unemployment compensation benefits during periods of employment with HRS.

HRS employees appear to have abused the system by not notifying DCDES when they returned to full-time employment and by continuing to receive unemployment compensation benefits. Each employee is required to certify biweekly to DCDES their employment status. Payments continue until the employee informs DCDES of employment or until all benefits are exhausted. Based on DCDES automated records, which show the certification receipt date, HRS employees apparently certified to being unemployed when, in fact, they were working.

Review of UCFE activities needs to be performed

Chapter VIII, Paragraph 3a of the UCFE Program Instructions states that in order to safeguard its funds, a Federal agency is responsible for appealing determinations which it believes are erroneous. Errors may exist in the SESA's finding of fact, interpretation of the information supplied by the Federal agency, interpretation of the state unemployment compensation law, or interpretation of the Federal law and regulations applicable to the UCFE program. Furthermore, Chapter VI, Paragraph 2b provides that the Federal agency should establish formal controls to ensure completion and return of the appropriate UCFE Form(s).

HRS did not verify the accuracy of UCFE statements relative to employee minimum earnings requirements and benefit calculations. As a result, HRS was overcharged a total of \$91,429 in unemployment compensation benefits paid to current and former employees who were either ineligible for benefits or overpaid.

In order to determine if HRS employees met earnings requirements as established in Paragraph 1960 of the D.C. Unemployment Compensation Act, we reviewed the 20 individuals who had the least amount of HRS earnings during the audit period. This review disclosed that 16 of the 20 individuals did not meet basic eligibility requirements, but still collected approximately \$28,332 in unemployment compensation benefits.

In addition, a review of benefit calculations for 142 individuals who were working and collecting unemployment benefits concurrently revealed that adjustments for reported severance pay, earnings, pensions, and child support were not made. As a result, \$63,097 in unemployment compensation overpayments were made by DCDES and charged to HRS.

In order to ensure that UCFE activities are performed efficiently and consistently, HRS needs to make periodic reviews. Such reviews would identify problem areas in the administration of unemployment insurance and any improper billings by DCDES. Reviewing and comparing Monetary Determinations from DCDES with wage information would help to detect ineligible candidates applying for unemployment compensation benefits. If any ineligible employees are found, HRS management should challenge benefits computations by filing a Notice of Appeal Form to prevent unnecessary charges. Furthermore, according to DCDES, HRS did not always complete and return DCDES's Request for Wage and Separation Information (ES-931) forms used for making Monetary Determinations. However, this could not be verified because HRS lacked documentation in its personnel and UCFE Program files related to unemployment compensation claims. In addition, the individuals who managed the unemployment compensation program operations in the past were no longer working for the House and, therefore, were unavailable for verification.

Summary Table Of Adjusted Liability

Total Liability per DOL bills as of March 31, 1995	\$ 1,023,702
Amount paid by Architect of the Capitol on February 13, 1990	(49,342)

Unresolved Charges for other States*	(7,905)
Benefits paid to which employees were not entitled because of continued employment	(332,687)
Benefits paid to employees not meeting earnings eligibility requirements	(28,332)
Excess benefits paid without adjustments for reported severance, earnings, pension, and child support amounts	(63,097)
ADJUSTED LIABILITY	\$ 542,339

* \$7,618 charged to HRS by Michigan and \$287 charged to HRS by Virginia

Recommendations

We recommend that the Chief Administrative Officer:

1. Resolve the audit adjustments identified in this report with DOL.
2. Reimburse DOL the outstanding unemployment compensation liability for the period July 1, 1992 through March 31, 1995.
3. Develop, implement, and document detailed procedures which clarify responsibility on the management and control of the unemployment compensation administration.
4. Ensure that the following activities pertaining to unemployment compensation administration are performed regularly:
 - a. Compare DCDES Quarterly Charge Summaries to payroll records to ensure that claimants are not concurrently employed by HRS and collecting unemployment compensation benefits and that HRS is charged for only HRS employees.
 - b. Reconcile Quarterly Statements provided by DOL to DCDES Quarterly Charge Summaries to confirm that DOL billings are accurate.
 - c. Promptly pay the appropriate amount of the quarterly billings to DOL for the reimbursable benefits paid to UCFE claimants.
 - d. Complete and return correct wage and separation information to DCDES in a timely manner.
 - e. Review and compare Monetary Determinations to wage information to ensure claimants are eligible for unemployment compensation benefits.
 - f. Take appropriate action in the proper timeframe to resolve any discrepancies regarding DOL billings and DCDES determinations.
 - g. Maintain records for the proper administration of unemployment compensation

claims which include UCFE form files and logs, and pertinent correspondence regarding appeals and other significant matters.

5. Assign responsibility for conducting periodic internal reviews of UCFE activities to personnel who do not have record-keeping responsibilities.

Management Response

During the exit conference, the Director of Internal Controls and Continuous Improvement, on behalf of the CAO, agreed with the finding and recommendations. In response to the recommendations, the adjusted liability amount will be paid to DOL by September 1, 1995. The CAO will enter into discussions with DOL regarding the adjustments identified in this report by October 1, 1995. Furthermore, HRS will establish controls by December 31, 1995 to ensure only valid unemployment compensation charges are incurred by HRS. In addition, HRS will coordinate with Marriott/Thompson, Inc. to allow access to payroll records to identify potential abuse by reemployed workers.

Office of Inspector General Comments

The planned actions discussed during the exit conference are responsive to the issues we identified and, when fully implemented, should satisfy the intent of our recommendations.

Finding B: Contract Employees May Not Be Entitled To Unemployment Compensation Benefits

HRS contract employees may not be entitled to unemployment compensation benefits. As a result, the adjusted unemployment compensation liability of \$542,339 may be overstated by an additional \$200,557. This condition exists because these employees may not have performed Federal civilian service and earned Federal wages in the base period.

According to the DOL's regulations at 20 CFR 609.3, one of the qualifications an individual needs to meet in order to receive unemployment compensation benefits is that the employee has to have "Federal civilian service" and "Federal wages" in the base period under applicable state law. Federal civilian service is defined as service performed in the employ of any Federal agency, except service performed by an individual excluded by regulations of the Office of Personnel Management from civil service retirement coverage because the individual is paid on a contract or fee basis. Since these HRS contract employees did not receive any Federal benefits (retirement benefits, health insurance, life insurance, etc.), they may not be entitled to unemployment compensation from HRS.

Our review of personnel records indicated that there were two types of employees working for HRS: (1) HRS employees who worked either part-time or full-time on a set schedule; and (2) employees who were called in on an as-needed basis, referred to as "contract employees." According to HRS management, contract employees were primarily banquet waiters who served at certain events. These contract employees were paid a set fee depending on whether they worked during breakfast, lunch, or dinner. In addition, many of the contract employees were employed elsewhere. For payroll purposes, HRS identified contract employees by a 3-digit number and part-time and full-time employees by their social security numbers. Although employee personnel records revealed that contract employees did not receive any Federal benefits, DCDES records indicated that 31 of the contract employees received unemployment compensation benefits that were subsequently charged to HRS.

We discussed the eligibility of contract employees to receive unemployment compensation with the Chief of Federal Programs, DOL. He said that DOL has an eight-point test (see Exhibit) for determining whether an employee is entitled to unemployment compensation benefits. Since contract employees do not meet a significant number of the qualifying points for UCFE eligibility purposes, a determination by DOL is needed. Determinations are made on a case-by-case basis by DOL in a "formal coverage ruling."

Recommendations

We recommend that the Chief Administrative Officer:

1. Seek a formal coverage ruling from the Assistant Secretary for Employment and Training, DOL, to determine whether HRS contract employees are eligible to receive unemployment compensation benefits under Title 5 of the U.S. Code.
2. Request, in the event that a favorable formal coverage ruling is received from DOL, a reduction of \$200,557 for previously billed unemployment compensation paid to HRS contract employees.

Management Response

During the exit conference, the Director of Internal Controls and Continuous Improvement, on behalf of the CAO, agreed with the finding and recommendations. HRS will request a determination for the contract employees by October 1, 1995 and, if a favorable ruling is obtained, will request refund of unemployment compensation paid.

Office of Inspector General Comments

The planned actions discussed during the exit conference are responsive to the issues we identified and, when fully implemented, should satisfy the intent of our recommendations.

Indices Of Employer-Employee Relationship Used In UCFE Coverage Rulings

The following information is necessary to determine if an individual performs "Federal Service" for UCFE qualifying purposes:

1. Under what statutory or regulatory authority was the individual hired?
2. What type of documentation did the claimant provide the SESA (e.g., SF 50, contract of hire, copy of agreement, etc.)?
3. Did the individual accrue annual and sick leave?
4. Were there any deductions taken for Federal and State taxes?
5. Was the individual eligible for health and life insurance?
6. Was the individual eligible for civil service or FERS retirement?
7. What was the funding source for salary payments for the individual?
8. What was the employer-employee relationship of the individual (e.g., conditions of work, degree of independence, location of the job, etc.)?


There are no set number of YES answers that will automatically determine if a worker performs "Federal Service" for UCFE eligibility purposes. The key elements concern the employer-employee relationship, and the degree of independence over working conditions under the control of the employee.

Generally, if the employer sets the major conditions of employment (e.g., hours of work, provides the location of the work, owns the means of production of the work, the authority to hire and fire, etc.), the individual is an employee of the employer for UCFE coverage purposes.

Office of the
Chief Administrative Officer
U.S. House of Representatives
Washington, DC 20515-6860

MEMORANDUM

TO: Robert B. Frey III
Deputy Inspector General

FROM: Thomas J. Simon 
Director of Internal Controls and Continuous Improvement

DATE: August 4, 1995

SUBJECT: Draft Audit Report - House Restaurant System Unemployment
Compensation Program

Thank you for the opportunity to comment on your draft report. We deeply appreciate your efforts and are in agreement with the findings and recommendations. The representations of our comments during the exit interview accurately describe our intended actions. If there are any questions or additional information required regarding this reply, please contact me at (202) 226-1854.