
**Thomas P. DiNapoli
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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

DEPARTMENT OF LABOR

**USE OF NEW HIRES
DATABASE**

Report 2006-S-86

AUDIT OBJECTIVE

The objective of the audit was to determine whether the Department of Labor (Department) effectively utilized the State Directory of New Hires database to identify and collect unemployment insurance overpayments.

AUDIT RESULTS - SUMMARY

The Department has a New Hires Cross-Match Program (Program) to detect those who are earning wages and receiving unemployment insurance benefits at the same time. As part of the Program, the Department matches its Unemployment Insurance database with the State Directory of New Hires, administered by the Department of Taxation and Finance (Tax and Finance). This match, referred to as the new hire match, identifies those individuals who are earning wages while collecting unemployment insurance and establishes unemployment insurance overpayments to be recovered from such individuals.

We found that the Department has effectively utilized the State Directory of New Hires to identify and establish unemployment insurance overpayments. To further enhance its effectiveness, we recommended that the Department formalize its policies and procedures for the Program, and obtain access to the Federal new hire database as an additional source of information.

This report dated June 5, 2007, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The Federal government has a New Hire Reporting Program, which is part of the Personal Responsibility and Work Opportunity Act of 1996. One of its goals is to reduce fraud in unemployment insurance and welfare programs by creating specific reporting obligations for all employers. It requires employers to submit certain information) (e.g., new employee's name, address, Social Security number, and employer information) on all new employees to a State Directory of New Hires not later than 20 days after the date the employer hires the employee (the first day compensated services are performed by the employee).

The New York State Directory is administered by Tax and Finance and used by the Department for the Program. The Program is designed to detect those who do not notify the Department that they are working while continuing to receive unemployment insurance benefits at the same time. The Department's Troy office handles all cases south of Newburgh, including New York City. The Department has six regional offices to handle the remaining cases.

The Department also administers the New York State Unemployment Insurance program. It provides immediate, short-term financial payments for eligible individuals who are out of work through no fault of their own. Participants are not allowed to receive unemployment payments once they return to work and they are required to accurately report the number of days worked for each week they are requesting benefit payments.

The Department uses a process called the new hire match to identify and recoup overpayments made to those who start to earn wages again while still collecting

unemployment insurance payments. Each week the Department receives from Tax and Finance a list of individuals who have been recently hired. The Department uses an automated program to match this list to a database of individuals who are currently collecting unemployment insurance. Matching names are then forwarded to their respective Department regional office for further investigation. Each regional office then sends a letter to the employer who reported the person as being newly hired, asking for additional information regarding start dates and employee work dates.

If a determination is made that the person was working during the time he or she was collecting unemployment insurance, an overpayment notice is sent to the person. This notice serves to identify the amount of the overpayment, and also provides repayment instructions. Once an overpayment notice has been sent, the Department automatically files a copy of it with its Collections Unit.

In addition to establishing overpayments, the Department assesses penalties to recipients who collected unemployment insurance payments while also working. The penalty is a forfeiture of future benefits at double the number of weeks that contain false certification. The penalty expires after two years.

The Department also utilizes a process called a Quarterly Wage Cross-Match. This match is done each quarter and is similar to the new hire match. However, instead of matching the names of new hires to the unemployment insurance database, the Department matches unemployment insurance beneficiaries to a database of employees reported as receiving wages. This enables the Department to catch those who are not reported to the State

Directory (e.g., employers of chain stores who report their new hires in another state).

AUDIT FINDINGS AND RECOMMENDATIONS

Recovery of Unemployment Insurance Overpayments

The purpose of the Department's Program is to recover unemployment insurance payments from those who earn wages identified by the new hire match. We found that the Department's Program for identifying and collecting unemployment insurance overpayments using the State Directory for newly hired employees is effective. During the first six months of 2006, the Department identified \$3 million of overpayments pertaining to 3,718 of the 5,644 cases.

We reviewed a sample of 205 cases: 155 cases totaling \$143,736 in identified overpayments and 50 cases where there were not overpayments. We also reviewed three prosecution cases from Albany totaling \$13,414 and 408 penalty days. Our review examined the file for each case to ensure that there was a letter sent to the employer, and based on the employer's response, another letter was sent to the employee. We then determined if there was an overpayment or not, and checked to see if the collection process had begun. We found no exceptions.

Policies and Procedures Handbook

While the new hire procedures the Department uses to collect unemployment insurance overpayments are effective, they are not formally documented. We found that the Department has a collection of emails and an outline of certain steps (of which only the first two are covered in more complete detail), but there is no formal policies and procedures handbook available for staff to use. We

believe that formal policies and procedures would be beneficial to management and staff, and would ensure uniformity in the event of staff turnover.

Using the Federal New Hire Database

While the Department currently relies on the State Directory to identify people who collect unemployment insurance and earn wages, there is also a database maintained by the Federal government. However, the Department has not been using it to check for new hires collecting unemployment insurance. The Department recently received access to the database and started working with programmers so new hire cross matches can be done. We recommend they complete this process as soon as possible.

Recommendations

1. Develop formal policies and procedures that would serve as a guideline to management and staff responsible for weekly processing of new hire information.
2. Complete the programming that will enable cross matches with the Federal new hire database to be performed.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited the effectiveness of the Department's New Hire Program during the period January 1, 2004 to December 31, 2006. We reviewed pertinent legislation that authorizes and provides for oversight of the Program. We examined files and interviewed officials at the Department's offices in Troy, Albany and Syracuse, and reviewed the Department's new hire policies and procedures.

For our audit, we focused on cases completed during the period January 1, 2006 through June 30, 2006. During the first six months of 2006, 5,644 cases were identified as those possibly collecting unemployment insurance while also working. Cases in this six month period would have had enough time to be completely through the process if a person had been working while collecting unemployment insurance. We determined that 1,382 of the cases did not involve unemployment insurance overpayments. We then selected a sample of 155 unemployment insurance overpayment cases to test; 100 in New York City, 30 in Syracuse, and 25 in Albany. We also tested 50 New York City cases that were not overpayment cases and three overpayment cases under prosecution in Albany County. We then matched information in the Department's database to documentation in hard copy files maintained by the Department. We did not audit Tax and Finance's database.

We also reviewed Federal and State laws which authorize the Program, examined data and procedural documents which were submitted by the Department and then compared them to actual observed practices and information contained within the actual files of the selected random sample of unemployment insurance cases.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Office of Operations. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be

considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed according to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A. Department officials indicated that they are in the process of implementing Recommendation 1, and have already implemented Recommendation 2.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Department shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include William Challice, Richard Sturm, Todd Seeberger, Lynn Freeman, Kathleen Garceau, Matt Luther, Taryn Davila-Webster, Sunny Jeong, Mark Breunig and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



New York State Department of Labor
Elliot Spitzer, Governor
M. Patricia Smith, Commissioner

April 11, 2007

Mr. William Challice
Office of the State Comptroller
Division of State Services
State Audit Bureau
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Challice:

This correspondence is to transmit the New York State Department of Labor's (NYSDOL) formal response to the Office of the State Comptroller (OSC) draft audit report addressing the Department of Labor's (Department) "Use of New Hires Database" (2006-S-86).

The draft report concludes that the Department has effectively utilized the State Directory of New Hires information and the report notes that the Department is working to establish a system for utilizing the National Directory of New Hires database. This Department is in general agreement with the information contained in the draft report.

There is, however, one statement in the draft report that needs to be expounded upon. The draft report states that the purpose of the Department's New Hires Crossmatch Program is to recover unemployment insurance payments from individuals who were working while collecting benefits. While this is an important element of the program, an equally important purpose is to identify, as quickly as possible, individuals who are in the process of collecting benefits to which they are not entitled and to stop future invalid benefit requests submitted by these individuals from being processed and paid.

The status of the recommendations is as follows:

Recommendation 1.

Develop formal policies and procedures that would serve as a guideline to management and staff responsible for the weekly processing of new hire information.

W. Averell Harriman State Office Campus, Albany, NY 12240
IG@labor.state.ny.us

Status:

An initial procedures manual was developed for New Hires Crossmatch Program in early 2006. These procedures cover the basic elements of the program but they will be expanded and updated as needed.

Recommendation 2.

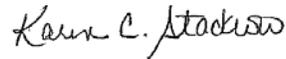
Complete the programming that will enable cross matches with the Federal new hire database to be performed.

Status

The programming has now been completed and the Department is receiving and investigating cases that are identified as a result of crossmatch with the National Directory of New Hires.

Thank you for the opportunity to respond to the draft report. If you have any questions or would like any clarification, please contact me at (518) 457-9016.

Sincerely,



Karen Stackrow
Director of Internal Audit

cc: M. Patricia Smith
M. Musolino
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