


## OPA's RESPONSE

U.S. Department of Labor

Office of Public Affairs  
Washington, D.C. 20210

MAR 10 2016

MEMORANDUM FOR: ELLIOT P. LEWIS  
Assistant Inspector General for AuditFROM: STEPHEN BARR   
Senior Managing Director  
Office of Public AffairsSUBJECT: Management Response to Office of Inspector General Draft Report  
No. 17-16-001-01-001, *The Department Remains Vulnerable to  
Premature Release of Embargoed Economic Data*

This response addresses Office of Inspector General (OIG) Draft Report Number 17-16-001-01-001, "*The Department Remains Vulnerable to Premature Release of Embargoed Economic Data.*" The Office of Public Affairs (OPA), the Bureau of Labor Statistics (BLS), and the Office of the Assistant Secretary for Administration and Management (OASAM) appreciate the opportunity to review and provide comments.

As you know, management has worked closely with your staff over the past year as they have investigated the September 2014 early-release incident and reviewed lock-up room processes. As the Draft Report briefly references, many of the current processes stem from a 2011-2012 security review commissioned by the Department that resulted in a recommendation that news organizations in the lock-up room only be allowed to use equipment and transmission devices supplied and installed by the Department. News organizations at that time objected to the plan, alleging that it would be a violation of their First Amendment rights and amounted to unjustified interference by the government into such areas as the use of proprietary software in their publishing and information dissemination systems. To reconcile these interests, news organizations were permitted to retain the use of their proprietary software, agreed to use only hardware and equipment purchased through a secure supply chain, and agreed to enhanced security practices.

While we appreciate OIG's efforts to improve lock-up room operations and take added steps to protect the integrity of embargoed data, management continues to have concerns with several of the OIG's conclusions and assertions in the Draft report. Our primary concerns include:

- On page 3 of the Draft Report, the OIG states that the September 2014 incident was the result of a confluence of events, including equipment failure and human error (IT staff intervention), and the use of data-queuing software by a news organization. The Draft Report gives great prominence to the purported risk presented by this software, but also notes that the use of data-queuing software, on its own, would not result in a premature release.<sup>1</sup> Management agrees that, on its own, data-queuing software cannot cause a premature release, and maintains that the OIG's continued assertion of significant risk is overstated.

<sup>1</sup> "Had either condition been an isolated occurrence, the data would not have been released prematurely." (pg 3)

OPA and BLS also object to the statements that management did not express concerns with the use of data-queuing software. As noted on page 7 of the Draft Report, DOL made sure to account for the use of such software in the network configuration and design while implementing the security enhancements discussed above. The Department was acutely aware of the primary concerns of the news organizations (i.e., the speed at which they are able to transmit data after the embargo ends), and worked to design a system that addressed those concerns, while providing security against unintended premature release – *barring manual intervention* (i.e., an intentional effort to by-pass security controls).

- On page 7, the OIG refers to two incidents that occurred in 2008 and asserts that a major contributing factor was data-queuing software. The report also notes that both premature releases were caused by “a customized Ethernet cable that was able to bypass the network cut-off devices that the Department had installed to prohibit data transmissions prior to the end of the embargo period.” The Department has two concerns with the OIG referencing the 2008 incidents: 1) the Department is unaware of any evidence that supports or suggests data-queuing played a role in either incident; and 2) as referenced above, the Department’s 2011-2012 security review resulted in significant changes to the lock-up room’s configuration and the access available to news organizations, making it very difficult for news organizations to introduce hardware or cables that can bypass DOL security controls. Saying that all three incidents are related— other than the fact there was a premature release of information – particularly without providing evidence, is simply wrong.
- On page 9 of the Draft Report, the OIG states that, “[g]iven the lack of direction in the [Office of Management and Budget (OMB)] guidance on responding to premature releases of Principal Federal Economic Indicators, we believe the Department should follow the guidance established in OMB Statistical Policy Directive [(SPD)] No. 4 for all its lock-ups because the goal of an equitable and timely release of embargoed statistical data will benefit the general public far more than taking no action at all.” The Department disagrees with this “recommendation” because it is not feasible or appropriate for us to implement it. OMB specifically states in the scope section of SPD No. 4 that, “the Directive excludes coverage of the Principal Federal Economic Indicators addressed in Statistical Policy Directive No. 3, *Compilation, Release, and Evaluation of Principal Federal Economic Indicators*, which have their own established release and evaluation procedures.” It is inappropriate for a Department’s OIG to insist that the Department should apply requirements that OMB has specifically stated do not apply to PFEIs, such as PPI. Not only has OMB indicated that SPD No. 4 does not apply to PFEIs, OMB has directed that SPD No. 3 is to be the sole authority for PFEIs. BLS cannot go against established OMB directives. It is also important to note that, were we to do so, in a future audit we could be found to not have followed explicit, existing OMB guidance. The OIG’s statement is also misleading when it implies that without adopting SPD No. 4 for all its lock-ups, the Department would take “no action at all” to release the statistical data when a premature release occurs. In fact, the Department has, and will, take action to determine if a premature release has occurred and what steps should be

taken following each incident, including the release of the data, as soon as it is appropriate to do so. Moreover, including this “recommendation” in the Results section of the report without a corresponding recommendation in the OIG Recommendations section is inappropriate. For reasons of feasibility and appropriateness identified above, the Department requests that this “recommendation” in the Results section be removed from the report.

Management would also like to provide (and in some cases reiterate) technical comments that should assist in clarifying the purpose of and participants in the lock-up room.

- Pages 1 and 2 of the Draft Report note that the Department provides “select” news organizations with pre-release access to embargoed data under lock-up conditions. Management is concerned the word “select” may be misunderstood by general readers. The Department credentials news organizations and we accept all who submit applications and show they are primarily a journalistic enterprise, so we recommend replacing “select” with “credentialed.”
- Page 2 of the Draft Report refers to BLS’ role in the lock-up room, but does not note that the Employment and Training Administration (ETA) also prepares embargoed data reports that are released through lock-up procedures.

Finally, management is concerned with the description on page 9 of our ability to detect if an embargo has been broken, and would recommend a portion of that section of the Report be redacted for security purposes.<sup>2</sup>

The following are management’s responses to the five Draft Report recommendations:

**Recommendation 1: Prohibit the use of software that queues data for transmission without human interaction and develop sanctions for non-compliance.**

**Management Response:** For the reasons outlined above, management neither concurs nor disagrees with this recommendation. However, OPA will undertake discussions with news organizations on their use of proprietary software, including software to queue data for transmission. The discussions will include whether to apply sanctions in instances, such as those of September 2014, when the news organizations may feel that they are not completely at fault for a premature release. BLS and ETA will join in these discussions, as necessary, and DOL will continue to explore the OIG’s previous recommendation that press lock-ups be ended.

**Recommendation 2: Develop and implement policies and procedures for troubleshooting and controlling changes to network equipment supporting the lock-up to ensure all changes are documented, authorized, and tested prior to a lock-up.**

**Management Response:** Management concurs with the intent of this recommendation but would like to clarify that there have always been processes in place to address change requests to

<sup>2</sup> Specifically, Management would recommend redacting the paragraph that begins, “The first step” and the first half of the sentence in the following paragraph (through “network”).

news organization equipment. Once a change request is made, it is discussed with technical staff in the Office of the Chief Information Officer (OCIO) and implemented by the Department, as appropriate. News organizations are able to validate equipment changes during one of the twice monthly maintenance windows facilitated by the Department.

As a result of the September 2014 incident, Management also prohibited network equipment or connection troubleshooting during a lock-up.

We will update internal guidance to better reflect these processes.

**Recommendation 3: Develop and implement policies and procedures for a collaborative and structured training program to ensure all staff with lock-up responsibilities receive annual training covering the fundamental purpose of the lock-up and the importance of protecting embargoed data.**

**Management Response:** Management concurs with this recommendation. OPA and BLS have held conversations to discuss a framework for this training and intend to roll-out a structured, reoccurring program in FY 16 Q3.

**Recommendation 4: Develop and implement policies and procedures to ensure it can identify and respond appropriately if an embargo is broken, including the establishment of clearly defined roles and responsibilities for staff responding to a premature release.**

**Management Response:** Management concurs with this recommendation. BLS, starting in February, has ensured that a senior management official is in the print media lock-up to make on-the-spot decisions in the event an embargo is broken. OPA will hold discussions with ETA to more clearly define roles and responsibilities inside the lock-up.

**Recommendation 5: Obtain an authority to operate the lock-up room system to ensure appropriate information security controls are in place to protect embargoed data from premature release.**

**Management Response:** Management concurs with this recommendation and has begun the process to obtain an ATO, with an anticipated completion date of FY 16 Q3. However, management believes it is extremely unlikely that an ATO would have prevented the September 2014 incident from occurring. Further, management – in consultation with staff in IT security – determined in 2012 that an ATO was not required for the lock-up room given the detailed security review that had recently been completed and because the underlying infrastructure was and remains standalone. The Department's decision to obtain an ATO now is in lieu of engaging an independent security organization for a new or additional assessment.

Thank you again for the opportunity to comment on this Draft Report. Please be assured that Management is committed to safeguarding sensitive economic data and protecting the integrity of the economic data that is used by the government, private industry, academia and others who focus on economic and labor trends and policies.

As the Department has previously indicated,<sup>3</sup> we are exploring the value of press lock-ups and how best to disseminate economic data to the public and to news organizations. The Department routinely explores opportunities to improve its data releases and ways to better explain the data and make it more user-friendly. We will also continue seeking ways to improve the presentation of the data. As part of our effort to respond to your recommendations, I will ask BLS to circulate this OIG report to other federal agencies that provide pre-release access to Principal Federal Economic Indicators via press lock-ups.

Please feel free to contact me if you have any questions. Thank you for the opportunity to provide comments.

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<sup>3</sup> Controls Over the Release of the UI Weekly Claims Report Need Improvement, Employment and Training Administration, Report Number 17-14-001-03-315, January 2, 2014;  
<http://www.oig.dol.gov/public/reports/oa/2014/17-14-001-03-315.pdf>