

U.S. Department of Labor

Office of Inspector General—Office of Audit

**EMPLOYMENT AND TRAINING
ADMINISTRATION**



CONTROLS OVER THE RELEASE OF THE UI WEEKLY CLAIMS REPORT NEED IMPROVEMENT

Date Issued: January 2, 2014
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**U.S. Department of Labor
Office of Inspector General
Office of Audit**

BRIEFLY...

Highlights of Report Number 17-14-001-03-315, issued to the Assistant Secretary for Employment and Training.

WHY READ THE REPORT

Within the U.S. Department of Labor (DOL), the Employment and Training Administration's (ETA) Office of Unemployment Insurance (OUI) is responsible for producing the UI Weekly Claims Report (Claims Report) from data collected and reported by the states. This data is used by the government and the private sector as an economic indicator to describe and predict the state of the nation's economy. Although no federal legislation or regulation requires ETA to embargo or release the Claims Report, ETA has elected to publish the Claims Report, and because the information contained in the Claims Report has the potential to move financial markets, ETA instituted policies to protect it via an embargo to ensure that no one individual or company would be advantaged by having access to it before the general public. ETA also allows pre-release access via a press lock-up to improve the accuracy and public understanding of the data when it's first released. However, specialized computer equipment and the advent of algorithmic trading now allow market activity to be initiated from inside government lock-ups immediately upon the lifting of the embargo.

WHY OIG CONDUCTED THE AUDIT

ETA officials reported to the Office of Inspector General that ETA released the Claims Report one day early on August 8, 2012. The audit objective was to answer the following question:

Does ETA adequately protect the Weekly UI Claims Report to ensure no one can gain an advantage by having access to the report before the general public?

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:
<http://www.oig.dol.gov/public/reports/oa/2014/17-14-001-03-315.pdf>.

January 2, 2014

CONTROLS OVER THE RELEASE OF THE UI WEEKLY CLAIMS REPORT NEED IMPROVEMENT

WHAT OIG FOUND

Although ETA corrected control deficiencies identified after it released the Claims Report prematurely, we found the policies and procedures ETA followed to protect the Claims Report during the embargo were either not documented in writing or, when written, were not designed to minimize the risk of unauthorized use or disclosure. ETA's reliance on institutional knowledge of current control practices is not an adequate replacement for properly documented procedures, as this knowledge may be lost if experienced individuals leave the agency or are otherwise unavailable.

In addition, our audit found that as ETA currently operates an optional press lock-up to provide news organizations pre-release access to the embargoed Claims Report, it unintentionally creates an unfair competitive advantage for certain news organizations and their clients. This is because even if news organizations adhere to the terms and conditions of the lock-up, their early access to the data positions them to potentially communicate this information to their clients, allowing them to trade on this data faster than the Department can post the information to its website and faster than the general public can access it once the embargo is lifted.

WHAT OIG RECOMMENDED

We made six recommendations to the Acting Assistant Secretary for Employment and Training to improve the controls over the release of the Claims Report that included eliminating the competitive advantages provided to news organizations inside the lock-up, or, absent a viable solution, consider discontinuing the use of the press lock-up. We made the same recommendation to the Commissioner of the Bureau of Labor Statistics since it also utilizes a lock-up to disseminate embargoed data (see Appendix D).

Agency officials generally agreed with our recommendations.

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



January 2, 2014

Inspector General's Report

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Employment and Training Administration (ETA) officials filed an incident report with the OIG that its Office of Unemployment Insurance (OUI) inadvertently violated an embargo of its Unemployment Insurance (UI) Weekly Claims Report (Claims Report) by posting the report to its website one day early. In response, we conducted an audit to answer the following question:

Objective - Does ETA adequately protect the Weekly UI Claims Report to ensure no one can gain an advantage by having access to the report before the general public?

OUI produces the UI Weekly Claims Report (Claims Report) from data collected and reported by the states to measure emerging unemployment claims (initial claims) and the number of persons claiming unemployment benefits (continued claims). This data is used by the government and the private sector as an economic indicator to describe and predict the state of the nation's economy. Although no federal legislation or regulation requires ETA to embargo or release the Claims Report, because the information contained in the Claims Report has the potential to move financial markets, ETA has elected to publish the Claims Report, and because the information contained in the Claims Report has the potential to move financial markets, ETA instituted policies to protect the Claims Report via an embargo to ensure that no one individual or company would be advantaged by having access to it before the general public. The embargo is typically lifted every Thursday at 8:30 AM (Eastern Time) when ETA officially releases the report to the public.

On August 8, 2012, ETA inadvertently released the Claims Report on the agency's public website one day early. The Department of Labor's (DOL) Office of Public Affairs (OPA) learned of this incident when it received calls the next morning from press and financial organizations that the report was available before the scheduled release time. ETA investigated the claim and confirmed that the Claims Report was released prematurely.

Results

In summary, our audit confirmed that in response to the premature data release, ETA took immediate action and developed new procedures for testing the file delivery system used to post the Claims Report to ETA's website, which was the cause of the early release. These new procedures significantly reduce the risk of this type of inadvertent disclosure by requiring the file delivery system to be tested at least two days before the Claims Report release date. However, we found that the policies and procedures ETA followed to protect the Claims Report during the embargo were either not documented in writing or, when written, were not designed to minimize the risk of unauthorized use or disclosure. This included: confidentiality agreements that did not define unauthorized use, were not required to be signed, and provided no consequences for non-compliance; e-mailing the embargoed Claims Report to OPA without protecting it through the use of encryption; and unclear and incomplete procedures for posting the Claims Report to the ETA website.

Finally, we found as ETA currently operates an optional press lock-up to provide pre-release access to news organizations, it unintentionally creates an unfair competitive advantage for certain news organizations and their clients.

A detailed discussion of our findings and recommendations follows:

ETA corrected control deficiencies that led to a premature release of the Claims Report.

ETA's lack of written policies and procedures for testing its file delivery system contributed to the premature release of embargoed data in August 2012 when the agency inadvertently posted the Claims Report on its website one day early. Specifically, ETA deviated from its normal practice and loaded the Claims Report into a queue (to be posted to the ETA website) the day before its scheduled release. That same evening, a programmer who was unaware the embargoed Claims Report was in the queue, tested the delivery system with a test file and inadvertently posted the embargoed report as well.

This deviation from ETA's normal practice occurred because the ETA-OUI Reports Team Lead was on vacation and ETA was holding its press lock-ups at the Department of Commerce while the DOL News Room was being renovated. During this press release, only one Reports Team member was available, and he had to attend the Thursday morning press lock-up at the Department of Commerce. Since he would not be able to follow the normal practice of loading the Claims Report on Thursday morning, he loaded it the night before so it would be automatically posted to the web while he was returning from the press lock-up.

In response to this incident, ETA took immediate action and developed written testing procedures to address the causes of the early release. These new procedures require testing of the file delivery system to be done at least two days prior to the Claims Report

release date. The Reports Team member conducting the test must ensure the test process does not conflict with Reports Team activities or weekly postings. Additionally, any deviation from the testing and posting procedures requires the Reports Team Lead to notify the ETA-OUI Administrator and Deputy Administrator. These new procedures significantly reduce the risk of this type of inadvertent disclosure occurring again.

Policies and procedures for releasing the Claims Report were not adequately documented.

To protect the Claims Report from unauthorized use or disclosure during the embargo, ETA implemented policies and procedures around the release of the report. However, a number of the policies and procedures ETA followed during the Claims Report release process were not documented in writing. ETA officials stated that written policies and procedures were not necessary because everyone involved had been trained, performed these tasks every week, and knew what they were doing.

The Government Accountability Office's Standards for Internal Control in the Federal Government state that internal controls need to be clearly documented, and control activities should be effective and efficient in accomplishing the agency's control objectives.

The release process for the Claims Report begins every Thursday afternoon when the Reports Team creates the template for the following week's press release. Unemployment data is collected electronically from the states and maintained in a database. On the following Tuesday, the Reports Team tabulates the state UI data and applies seasonal adjustments. ETA-OUI management reviews the Claims Report and ETA usually finalizes it by close-of-business on that Tuesday.

On Wednesday, the Reports Team briefs the OUI Administrator using hard copy materials. In addition, the Reports Team provides the embargoed Claims Report via encrypted e-mail to the Council of Economic Advisors, Federal Reserve Bank, the Office of the Chief Economist, and the Assistant Secretary for Employment and Training. Prior to close-of-business Wednesday, the Reports Team prepares hard copy documents and compact discs for the press lock-up in a physically secured room.

On Thursday morning, a member of the Reports Team (usually the Lead) collects the hard copies and discs and attends the press lock-up conducted by OPA. Another Reports Team member remains in ETA's office to load files for posting the press release to the ETA website and then e-mails the press release to OPA at 8:15 AM for loading onto the main DOL website.

During this entire weekly process, ETA followed a number of practices to protect the Claims Report, such as limiting pre-release access, working on the Claims Report in a physically secure office, and isolating the data from the ETA network. However, ETA's written documentation of this process and its data security practices only addressed securely e-mailing the embargoed Claims Report to pre-release recipients and posting

the press release to ETA's website. ETA had no written policies or procedures for data collection, data handling, or report compilation and review. In addition, ETA officials stated that in the event of a security breach, they would immediately release the embargoed data to the public, but this policy was not documented in writing.

This lack of documented controls regarding the weekly release process increased ETA's risk of unauthorized use or disclosure of the Claims Report, such as the premature release that occurred in August 2012. Also, institutional knowledge of current control practices will be lost if experienced individuals leave the agency or are otherwise unavailable and ETA's policies and procedures are not adequately documented.

Confidentiality policy was not designed to adequately protect the Claims Report against unauthorized use or disclosure.

ETA had a written confidentiality policy to protect the embargoed Claims Report from unauthorized use and disclosure. It stated that all authorized personnel with access to the Claims Report should sign a non-disclosure affidavit and keep the embargoed report confidential and secure until its public release.

We identified several weaknesses in this policy that increased the risk of unauthorized use or disclosure to the Claims Report:

- The policy stated – but did not actually require – that authorized personnel with pre-release access should sign a non-disclosure affidavit and agree to keep the Claims Report confidential and secure until its public release. The policy should *require* that the non-disclosure affidavit be signed. As presently written, it only suggests that it *should* be signed.
- Although the policy purports to prevent unauthorized use and disclosure, it did not specially define unauthorized use. The non-disclosure affidavit stated that the Claims Report could be used to profit in financial markets, but did not actually contain language to prevent individuals from using the report for that purpose. Instead, the affidavit focused entirely on preventing “unauthorized disclosure.” Thus, the affidavit would not preclude an individual from using the Claims Report to profit without actually disclosing it.
- The non-disclosure affidavit allowed for disclosure “by direction or with consent of the proper authority,” but the policy did not define who a “proper authority” was.
- The policy did not identify any consequences of non-compliance.
- The policy did not require annual recertification or refresher training that would serve as a reminder to authorized personnel of their responsibilities to protect the Claims Report.

Additionally, ETA was unable to provide signed affidavits for 4 of 50 individuals who had potential access to the embargoed Claims Report. ETA officials stated that the 4 missing affidavits were signed by the individuals at one point but may have been lost in an office move. Furthermore, ETA did not periodically review affidavits on file to ensure its records were accurate and current.

Procedures for e-mailing the Claims Report were not designed to adequately protect against unauthorized use or disclosure.

ETA drafted procedures for e-mailing the embargoed Claims Report to the Federal Reserve Bank, Council of Economic Advisors, and other pre-release recipients in an encrypted file; however, ETA could not finalize these procedures because the Department's firewall blocked e-mail attachments encrypted with the Department's encryption software. ETA was using a less robust method of encryption as a workaround because the firewall allowed those files to pass through. ETA officials said that they were working with Departmental information technology officials to resolve the issue.

We identified additional weaknesses in these procedures that increased the risk of unauthorized use or disclosure to the Claims Report:

- In order to e-mail the embargoed Claims Report to authorized personnel, the report was moved to a networked computer via a thumb drive, encrypted, and then e-mailed. However, because the data on the thumb drive was not encrypted, there was a risk of unauthorized disclosure if the thumb drive was lost or misplaced during this process. No technical constraints prevented ETA from encrypting the Claims Report prior to moving it to the networked computer.
- The policy did not require that all e-mails containing embargoed data be sent in encrypted form. On Thursday mornings, ETA e-mailed a copy of the embargoed Claims Report to OPA for posting on the main DOL website, but this activity was not covered in ETA's procedures. ETA's practice was to send the embargoed Claims Report in an unencrypted e-mail even though the embargo had not yet been lifted.

Procedures for posting the Claims Report were not designed to adequately protect against unauthorized use or disclosure.

ETA had written procedures in place for testing and posting the Claims Report to ETA's web site, including contingency procedures for manually posting the report should the automated process not function properly. However, we identified several weaknesses in these procedures that increased the risk of unauthorized use or disclosure of the Claims Report:

- The requirement to ensure that testing of the Claims Report web posting process did not conflict with the actual weekly posting of the Claims Report was not listed

as a procedural step, increasing the risk that someone unfamiliar with the process would skip this critical step.

- The “Comments” sections of the testing and posting procedures both stated that “it is critical to clear directories as required” to prevent files from being posted to the public website unintentionally. However, the procedures did not describe which directories would need to be cleared or when this action would be required.
- The posting procedures differed from actual practice. Specifically, if the Claims Report had not been posted by the automated process, there was a second method of posting which involved hitting a “deploy” button. If that failed as well, there were procedures to post the file manually. However, the procedures as written did not cover the “deploy” button method of posting.
- The Troubleshooting section stated that if the file was not displayed on the ETA web site, one should contact OUI Operations for support. This contradicted the actual procedure steps, which stated that if the file had not posted correctly, one should use the manual posting procedures.

The weaknesses in ETA’s written policies and procedures occurred because ETA did not design them in a clear and comprehensive manner to ensure there would be no unauthorized use or disclosure of the Claims Report. In addition, ETA did not periodically review its affidavits, and therefore, was unaware that some were missing. Until ETA documents and strengthens its policies and procedures for its embargoed data reporting process and periodically reviewing its affidavits, ETA runs an increased risk of future incidents of unauthorized use or disclosure.

Allowing pre-release access to embargoed data provides a competitive advantage to certain news organizations and their clients.

As part of ETA’s reporting process for the Claims Report, ETA allows pre-release access to approved news organizations via a press lock-up. This pre-release access as ETA has currently implemented — which is not required — unintentionally creates an unfair competitive advantage for certain news organizations and their clients. Although no federal legislation or regulation required ETA to embargo or release the Claims Report, ETA has elected to publish the Claims Report, and because the data contained in the report was a “leading economic indicator” with the potential to move financial and monetary markets, ETA instituted policies to protect the Claims Report via an embargo to ensure that no one individual or company would be advantaged by having access to it before the general public. According to ETA, the data in the Claims Report is “a valuable commodity” which is “used by the Government and the private sector to describe and predict the state of the economy.” As part of its release process, ETA allowed pre-release access to approved news organizations thirty minutes prior to the official release time via a press lock-up run by OPA. Pre-release access is only granted for the purpose of fostering improved public understanding of the data when

they are first released and the accuracy of any initial news reports or commentary about the information.

The Claims Report is not the only report that is released via a press lock-up. Press lock-ups are also used by other federal agencies to release principal federal economic indicators such as the Bureau of Labor Statistics (BLS) Employment Situation Report and Consumer Price Index.

DOL conducted its first press lock-ups in the mid-1980s when news organizations used landline telephones to call in their news stories regarding economic data released by the Department. Since then, the Department has struggled to ensure an equitable and timely release of its economic data to the public due to significant changes in technology and markets. Specifically, specialized computer equipment and the advent of algorithmic trading now allow market activity to be initiated from inside government lock-ups immediately upon the lifting of the embargo.

According to OPA's Senior Advisor of Communications and Public Affairs in Congressional testimony,¹ "The rapid speed at which markets can integrate information has strengthened the financial incentive to violate the terms of pre-release access for the purpose of providing non-public data to paid subscribers ... Algorithmic trading introduces new security variables into a lock-up system not originally designed to guard against market-moving distributions that could be caused by the release of government data to certain traders just seconds before the rest of the general public. A few years ago, a few seconds here or there would not have had much of an impact. Today, fractions of a second can equate to millions or even billions of dollars in market movements."

Responding to concerns in 2011 that embargoed DOL-generated economic data may have been transmitted by news organizations prior to the lifting of the embargo, DOL entered into an agreement with Sandia National Laboratories to conduct a security assessment of DOL's press lock-up facility. To address the deficiencies identified during that assessment, DOL implemented a new credentialing policy and began requiring news organizations to utilize DOL equipment or purchase equipment via a secure supply chain. DOL also began using its own telecommunication staff to oversee work performed by non-DOL personnel in communications closets, and began requiring reporters to surrender personal items prior to entering the lock-up facility. In November 2012, Sandia concluded that the new security controls were sufficient defense against early release of the data during the embargo. However, the review by Sandia and the subsequent actions taken by the Department did not address an inherent vulnerability in conducting the press lock-ups. Specifically, even if news organizations adhere to the terms and conditions of the lock-up, their early access to the data positions them to potentially communicate this information to their clients allowing them to trade on this data faster than the Department can post the information to its website and the general public can access it once the embargo is lifted.

¹ Congressional testimony was provided before the House Committee on Oversight and Government Reform on June 6, 2012, regarding the integrity of DOL's release of important national economic data to the American people.

News organizations that wanted to attend the press lock-up were required to sign an agreement and had to be approved by OPA before being allowed to participate. Due to the limited amount of space for journalists in the press lock-up and the Department's goal in advancing the purpose of pre-release access, OPA will only approve news organizations that are primarily journalistic enterprises who prepare – and publish, broadcast, and/or post on the internet – time-sensitive summaries and analysis of DOL data, which are likely to contribute significantly to public understanding through the dissemination of original news, analysis, and/or opinion. OPA has denied organizations access to the lock-up when OPA determined the organizations were not primarily journalistic.

Some approved news organizations provide news, analysis, and raw data feeds to paid subscribers. One of the news organizations that participates in the DOL press lock-up advertised that it could provide ultra-low latency² feeds of machine readable news and economic data designed for algorithmic trading applications and identified DOL and other federal agencies in its advertised list of data sources. Another news organization that participates in the DOL press lock-up advertised that it could send data directly from government lock-ups so that privileged embargoed releases would be available immediately at release time. This same advertisement stated that ultra-fast data delivery is ensured by low latency technology infrastructure and direct access to government lock-ups. Because these news organizations have pre-release access, they are able to pre-load the data from the Claims Report for their data feeds/applications, allowing their clients to get this information faster than the general public, which has to wait to download the data after it gets posted to the DOL or ETA websites. As such, several news organizations that participate in the DOL press lock-up are able to profit from their presence in the lock-up by selling, to traders, high speed data feeds of economic data formatted for computerized algorithmic trading.

OPA officials stated that news organizations in the press lock-up may have a competitive advantage because they have the ability to get their information out to their clients as soon as the embargo is lifted at 8:30 AM. In contrast, individuals and companies without pre-release access have to wait for the information to be posted to the ETA or DOL websites. Although both ETA and OPA begin to upload information to the public websites at 8:30 AM, the process can sometimes take up to five minutes to complete. Thus, those news organizations with pre-release access can get the data to their clients faster, enabling them to make market trading decisions sooner. Since mere fractions of a second can create significant competitive advantages, an inequity results by allowing pre-release access to select news organizations, and, derivatively, to their clients. The Wall Street Journal recently reported some clients of these news organizations have paid \$375,000 a year to subscribe to their data feeds.³

² Latency refers to the time delay between the transmission of data and its subsequent receipt. The lower the latency, the faster the data is transmitted.

³ The Wall Street Journal, Monday, August 12, 2013, "Deutsche Borse's News Service for Traders Draws Scrutiny of Investigators" These data feeds include economic data released by DOL and other federal agencies as well as other sources.

While ETA is not a statistical agency and there is no federal legislation or regulation that specifically applies to the release of the Claims Report, OMB has issued guidance related to dissemination of statistical products released by federal statistical agencies. OMB Statistical Policy Directive (SPD) No. 4, states that statistical agencies must ensure that all users have equitable and timely access to data that are disseminated to the general public. Furthermore, there is no requirement in OMB statistical directives that agencies provide pre-release access to news organizations.

Moreover, even if ETA and OPA were able to post the data on their websites precisely at 8:30 AM, the approved news organizations that are in the press lock-up, and their clients, would still have a competitive trading advantage because the news organizations in the lock-up are able to pre-load the data so it is ready to be transmitted to their clients precisely at 8:30 AM. In contrast, those outside the lock-up would first have to download the data at 8:30 AM before they could use it. Even if this “latency period” only took fractions of seconds, the trading advantage could be quite significant, as noted above.⁴ In addition to the trading advantage, approved news organizations that are in the press lock-up have a competitive advantage over individuals and other organizations not permitted in the lock-up because they are in position to market their data services for profit.

With recent technological advances, government lock-ups have evolved to become as much about the speed at which valuable economic data can be distributed to investors after the embargo is lifted as it is about the accuracy of the initial reporting and commentary about the data. With respect to DOL’s lock-up, the intended purpose remains ensuring the accuracy of the initial commentary about DOL-generated economic data and that is the only reason pre-release access is provided to news organizations. However, serving that purpose must be weighed against the inequitable trading advantage that a lock-up potentially creates.

The Department’s Senior Advisor of Communications and Public Affairs stated OPA’s mission is to protect the information until the embargo is lifted — what happens after that is not a concern of the Department and would be more properly addressed by the Securities and Exchange Commission or other market regulators. However, we do not believe it is acceptable for DOL to continue a process that facilitates inequities in the U.S. securities markets by giving a competitive advantage to news organizations present in the press lock-up and their clients. As the lock-up and lifting of the embargo presently work, this competitive advantage can be gained without violating the rules of the lock-up.

Continuing the press lock-up also adds the risk that a news organization with pre-release access could break the embargo and use or disseminate the information prior to

⁴ We have communicated with BLS, which uses similar lock-up procedures, and officials confirmed that this inherent advantage for those in the lock-up would exist even if data were posted on DOL’s websites simultaneously with the lifting of the embargo in the lock-up.

the official release time. According to an article in the Wall Street Journal,⁵ federal law enforcement authorities are conducting a probe into how media companies transmit government data to investors, focusing on the Commerce, Labor, and Treasury Departments. For years the Federal Bureau of Investigation has observed suspicious trading activity in the fractions of seconds before the government releases economic data, such as employment numbers. The Wall Street Journal article went on to state: “In recent years, sophisticated investors have created software programs that automatically execute trades once fed market-moving data. Media firms, meantime, have earned new revenue by zapping the data from the government directly to clients.”

While allowing pre-release access to the Claims Report might foster improved public understanding of the data, it can also enable news organizations and their clients to financially benefit from that early access and increase the risk that companies will break the embargo and use or release data early for profit.

In order for ETA to ensure an equitable release of the Claims Report, it must eliminate any competitive advantages provided to news organizations in the lock-up and/or their clients. One potential solution could still allow ETA to utilize the press lock-up to provide pre-release access to news organization to write their news stories, and ask questions related to data; however, news organizations would not be able to release their stories or data until a sufficient amount of time after the Department has posted the data to its website. This would prevent news organizations and their clients from benefitting financially from pre-release access to DOL economic data. Or, since there is no federal legislation or regulation requiring ETA to embargo or release the Claims Report, ETA could discontinue its use of the press lock-ups for issuing the Claims Report and simply release it to the Department’s website. ETA could provide time for news organizations to ask questions related to the data after it is posted. This would have the added benefit of eliminating the risk that news organizations in the lock-up could break the embargo. There is precedent for this as the Conference Board, a research group that publishes market-moving economic data, announced it was ending its practice of providing the news media early access to its information because of concerns that doing so was creating an unlevel playing field in financial markets.

Recommendations

We recommend that the Acting Assistant Secretary for Employment and Training:

1. In consultation with OMB and other federal agencies who provide pre-release access via press lock-ups, develop and implement a strategy to achieve an equitable release of the Claims Report and eliminate any competitive advantage that news organizations inside the lock-up and their clients may have; or, absent

⁵ The Wall Street Journal, Wednesday, April 10, 2013, “A Probe on Data Releases Is Revived”

a viable solution, consider discontinuing the use of the press lock-up to provide news organizations pre-release access to the Claims Report.⁶

2. Develop written policies and procedures for its Claims Report release process, including practices for data collection, report compilation and review, data security/handling, and breach handling.
3. Ensure policies and procedures require embargoed data be encrypted prior to being removed from the physically secure office or e-mailed in electronic format.
4. Strengthen ETA's confidentiality policy to cover unauthorized use, require affidavits be signed by all personnel with pre-release access, define "proper authority," identify consequences of non-compliance, and require annual recertification or refresher training.
5. Develop policies and procedures to periodically review affidavits on file to ensure all individuals with potential access to embargoed data have signed an affidavit and ETA's records are accurate and current.
6. Strengthen procedures for testing and posting the Claims Report to address issues with the current procedures identified in this report.

Management's Response

The Acting Assistant Secretary of ETA agreed with all of the recommendations to improve the operating procedures associated with the release of the Claims Report. Furthermore, both the Acting Assistant Secretary of ETA and the Commissioner of the Bureau of Labor Statistics agreed that it is appropriate to consider ending the press lock-up for the Claims Report. The response noted that the Department had begun exploring the value of the press lock-up for the Claims Report prior to the release of this report and intends to continue its consideration of how best to disseminate the Claims Report to the public and to news organizations.

The Acting Assistant Secretary of ETA and the Commissioner of the Bureau of Labor Statistics also said that the report includes findings and recommendations that go beyond the audit of the original incident. Furthermore, they indicated they regretted that the report addressed the lock-up without attempting what they described as a "careful analysis" of the lock-up issue. Finally, the response noted at length the steps the Department has taken to strengthen security over the press lock-up.

⁶ While the scope of this report was ETA, BLS uses similar lock-up procedures. The OIG issued a memorandum to BLS recommending it also address this issue as it relates to lock-ups conducted for pre-release access to BLS data. See Appendix D.

OIG's Response

We performed our audit work in accordance with Government Auditing Standards, which included analyzing all of the issues necessary to address our audit objective. Specifically, we identified the press lock-up issue as a potential risk to the Department in that the press lock-up, as currently operated, is potentially defeating the purpose of ETA's embargo. We would be remiss to not bring this matter to management's attention. It is now the responsibility of Departmental management to conduct a careful analysis to evaluate this risk and determine what actions it needs to take to address our recommendations. We also reviewed actions taken by the Department to strengthen security over the press lock-up, and did not take issue with these improvements to the security of the lock-up. However, none of the actions addressed the significant issue we identified that the press lock-up facilitates high-speed computerized trading in a manner that provides a competitive advantage to news organizations and their clients.

Management's response is located in Appendix E.

We appreciate the cooperation and courtesies that ETA and OPA personnel extended to the Office of Inspector General during this audit. OIG personnel who made major contributions to this report are listed in Appendix F.



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Appendices

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Appendix A**Background**

The federal-state UI Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own. Within DOL, ETA's OUI is responsible for providing oversight and guidance for the UI Program, and each state/jurisdiction administers a separate UI program within guidelines established by federal law.

OUI produces the Claims Report from data collected and reported by the states to measure emerging unemployment (initial claims) and the number of persons claiming unemployment benefits (continued claims). These data are used by government and the private sector as economic indicators to describe and predict the state of the nation's economy. Because the Claims Report has the potential to move financial markets, ETA protects the Claims Report through an embargo to ensure that no one individual or company would be advantaged by having access to it before the general public. The embargo is typically lifted every Thursday at 8:30 AM (Eastern Time) when ETA officially releases the report to the public.

Several authorized personnel from DOL, the Council of Economic Advisors and the Federal Reserve Bank receive the embargoed Claims Report one day prior to its official release. In addition, news organizations approved by OPA are provided early access to the Claims Report via a "press lock-up" thirty minutes before its release. This early access is intended to serve the general public by facilitating the news media's ability to analyze and ask questions about the data as they prepare their news stories. Press lock-ups are also used by other federal agencies to release principal federal economic indicators such as the BLS Employment Situation Report and Consumer Price Index. OPA is responsible for coordinating and monitoring all DOL press lock-ups.

In running the press lock-up, the Department has adopted the requirements of OMB SPD No. 4 which provides guidance on the purposes of pre-release data. SPD No. 4 states: "The purpose of pre-release access is to foster improved public understanding of the data when they are first released and the accuracy of any initial commentary about the information." The Department embraces the goal of maximizing the public's access to informed discussions about the data when they are released by providing pre-release access for the press to final statistical products.

On August 8, 2012, ETA violated its embargo of the Claims Report by inadvertently releasing it on the agency's public website one day early. OPA learned of this incident when it received calls the next morning from press and financial organizations that the report was available before the scheduled release time. ETA investigated the claim, confirmed that the Claims Report was released prematurely, and filed an incident report in accordance with DOL policy. The OIG initiated this audit based on the incident.

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Appendix B

Objective, Scope, Methodology, and Criteria

Objective

Does ETA adequately protect the Weekly UI Claims Report to ensure no one can gain an advantage by having access to the report before the general public?

Scope

The audit covered ETA's controls over the embargoed Claims Report at ETA's National Office and DOL's press lock-up room in Washington, D.C.

We conducted fieldwork at the ETA and OPA offices in Washington, D.C.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Methodology

To achieve our objective, we reviewed applicable federal and ETA criteria that covered the protection of the embargoed Claims Report; interviewed ETA and OPA officials to obtain a general understanding of how the Claims Report was compiled and released and how the embargoed report was protected; reviewed non-disclosure affidavits signed by individuals with potential access to the Claims Report to ensure they were appropriately authorized for that access; and interviewed an Office of Management and Budget (OMB) official to understand how OMB's statistical policy directives applied to the Claims Report.

We examined ETA's controls over the embargoed Claims Report by reviewing applicable federal and ETA criteria that covered the protection of the embargoed Claims Report; interviewing ETA and OPA officials to obtain a general understanding of how the Claims Report was compiled and released, and how the embargoed report was protected; reviewing non-disclosure affidavits signed by individuals with potential access to the Claims Report to ensure they were appropriately authorized for that access; and interviewing an OMB official to understand how OMB's statistical policy directives applied to the Claims Report.

Criteria

No federal criteria govern the embargo of the Claims Report or require ETA to release the report to the public. ETA viewed the Claims Report as an administrative by-product of the UI system; however, because the data was a “leading economic indicator” that had the potential to move financial and monetary markets, ETA embargoed the report intending that no one individual or company would be advantaged by having access to the data before any other.

OMB SPD No. 3, which provides guidance for the compilation, release, and evaluation of principle federal economic indicators, does not apply because the Claims Report has not been designated as a principal federal economic indicator by OMB.

OMB does not have a specific definition for principle federal economic indicator. However, OMB SPD No. 3, states in part:

Statistical series that are widely watched and heavily relied upon by government and the private sector as indicators of the current condition and direction of the economy must meet high standards of accuracy and reliability. Because such data series have significant commercial value, may affect the movement of commodity and financial markets, or may be taken as a measure of the impact of government policies, public release must be prompt and according to an established, publicly available schedule.

OMB SPD No. 4, which provides guidance on the release and dissemination of statistical products by federal statistical agencies, does not apply because neither ETA nor OUI meet the definition of a federal statistical agency or unit.

OMB SPD No. 4 defines a statistical agency as “...an organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes. Statistical purpose means the description, estimation, or analysis of the characteristics of groups, customarily without identifying the persons, organizations, or individual data observations that comprise such groups, as well as researching, developing, implementing, maintaining, or evaluating methods, administrative or technical procedures, or information resources that support such purposes.”

Appendix C

Acronyms and Abbreviations

BLS	Bureau of Labor Statistics
DOL	Department of Labor
ETA	Employment and Training Administration
OIG	Office of Inspector General
OUI	Office of Unemployment Insurance
OPA	Office of Public Affairs
OMB	Office of Management and Budget
SPD	Statistical Policy Directive
UI	Unemployment Insurance

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Appendix D

Memorandum to BLS

U.S. Department of Labor

Office of Inspector General
Washington, DC 20210



January 2, 2014

MEMORANDUM FOR: ERICA L. GROSHEN
Commissioner
Bureau of Labor Statistics

FROM: 
ELLIOT P. LEWIS
Assistant Inspector General
for Audit

SUBJECT: Pre-Release Access to Bureau of Labor
Statistics Economic Data

We issued the attached audit report, "Controls Over the Release of the UI Weekly Claims Report Need Improvement," Report No. 17-14-001-03-315, to the Employment and Training Administration (ETA) on January 2, 2014.

Our audit found that the optional press lock-up operated by ETA to provide news organizations pre-release access to the embargoed Unemployment Insurance Weekly Claims Report unintentionally creates an unfair competitive advantage for certain news organizations and their clients. Although news organizations adhere to the terms and conditions of the lock-up, their early access to the data positions them to potentially communicate this information to their clients who trade on this data faster than the Department can post the information to its website and the general public can access it once the embargo is lifted.

Pre-release access of DOL-generated economic data is intended to serve the general public by ensuring that news reports about the data are accurate. To that end, the media are given access to the data in advance of the public release to facilitate their ability to analyze and ask questions about the data as they prepare their news stories. However, the intended purpose of ensuring accurate news reports must be weighed against the inequitable trading advantage that a lock-up can potentially create. Several news organizations that participate in the DOL press lock-up are able to profit from their presence in the lock-up by selling, to traders, high speed data feeds of economic data formatted for computerized algorithmic trading. Because these news organizations have pre-release access, they are able to pre-load the data from the Claims Report for their data feeds/applications, allowing their clients to get this information faster than the general public, which has to wait to download the data after it gets posted to the Department of Labor websites.

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In our report, we recommend that ETA, in consultation with OMB and other federal agencies who provide pre-release access via press lock-ups, develop and implement a strategy to achieve an equitable release of the Claims Report and eliminate any competitive advantage that news organizations inside the lock-up and their clients may have; or, absent a viable solution, consider discontinuing the use of the press lock-up to provide news organizations pre-release access to the Claims Report. (Recommendation #1)

The Bureau of Labor Statistics (BLS) also uses a press-lock up to provide pre-release access to Principal Federal Economic Indicators it publishes, such as the Employment Situation Report and the Consumer Price Index, as do other federal. Accordingly, we recommend that BLS also work with OMB, which provides guidance on pre-release access to final statistical products and other federal agencies who provide pre-release access via press lock-ups, to implement a strategy designed to eliminate any competitive advantage that news organizations present in the lock-up and/or their clients may have; or, absent a viable solution, consider discontinuing the use of the press lock-up that provides news organizations pre-release access.

If you or your staff has any questions, please call Tracy M. Katz, Audit Director, at (202) 693-5161.

Attachment

cc: Edward C. Hugler
Deputy Assistant Secretary for Operations
Office of the Assistant Secretary for Administration and Management

John Galvin
Deputy Commissioner
Bureau of Labor Statistics

Daniel J. Lacey
Associate Commissioner for Administration
Bureau of Labor Statistics

Patrick Seburn
Division of Management Services
Bureau of Labor Statistics

Appendix E

Agency Response to Draft Report

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



DEC 13 2013

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

FROM: ERIC M. SELEZNOW
Acting Assistant Secretary
Employment and Training Administration

ERICA L. GROSHEN
Commissioner
Bureau of Labor Statistics

SUBJECT: Audit of Controls Over the Release of the UI Weekly Claims
Need Improvement, Draft Audit Report No. 17-13-002-03-315

Thank you for the opportunity to comment on your final draft report on controls associated with the release of the Unemployment Insurance (UI) weekly claims report. The Employment and Training Administration (ETA) appreciates the Office of Inspector General (OIG) conducting this audit at the request of former Assistant Secretary of Labor for ETA Jane Oates. Because the report includes findings and recommendations that go beyond an audit of the original incident, the Department's response is organized in two segments: a response to the primary findings and recommendations related to the release of the UI weekly claims report, and a response reflecting the shared position of ETA and the Bureau of Labor Statistics (BLS) to the findings and recommendations related to press lock-ups.

Recommendations 2-6: Release of the UI Weekly Claims Report

ETA appreciates the OIG's review of the operating procedures associated with release of the UI weekly claims report and concurs with the findings and recommendations – specifically recommendations 2 – 6. Implementation of the recommendations will further strengthen the security of the embargoed data. ETA has already taken steps to fully address recommendations 2, 3, 4, 5, and 6 and we will be happy to share the revised procedures and processes with the OIG.

Recommendation 1: Press Lock-up Issues

OIG's audit and recommendations depart from the objective of the original referral, which was initiated in response to the unintended public release on ETA's website of the Weekly UI Claims Report on August 8, 2012. Instead, the OIG defined the scope of the audit as the broader issue of whether ETA "adequately protect[s] the Weekly UI Claims Report to ensure no one can gain an advantage by having access to the report before the general public." The

audit report properly addressed the premature data release and the steps ETA took to reduce the risk of a recurrence. However, it also focused on the complex policy question of whether technological advances provide an unfair advantage to the news organizations (including their subscribers) that participate in the Department's press lock-ups used by the Department and other federal agencies for the release of statistical data. The first recommendation in the report states that "[i]n consultation with the Office of Management and Budget (OMB), BLS and other federal agencies who provide pre-release access via press lock-ups, develop and implement a strategy to achieve an equitable release of the Claims Report and eliminate any competitive advantage that news organizations inside the lock-up and their clients may have; or discontinue the use of the press lock-up to provide news organizations pre-release access to the Claims Report."

The Department agrees that issues surrounding the continued efficacy of the lock-up in light of both its underlying purposes and technological changes should be addressed. However, only through careful study of the actual practices within and outcomes of the lock-up, including current security measures, real or threatened data breaches, competitive advantages achieved by those who participate in the lock-up, and the continuing journalistic values served by the lock-up, will the Department and other federal agencies, including OMB, be able to make informed decisions about this important issue. We regret that the OIG Report addressed the lock-up without attempting such a careful analysis.

Historically, the use of press lock-ups has been to promote accurate reporting of economic data and the role of the Department has been to ensure the data is secure until the embargo on the data is lifted. As the report notes, the Department has taken significant steps to improve its capacity to secure the data.

In April of 2011, the Department engaged Sandia National Laboratories to identify potential vulnerabilities in its print media lock-up facility, provide mitigation options for vulnerabilities identified, and assist in mitigation verification regarding any changes the Department decided to make to the lock-up. Sandia provided the Department a report and series of recommendations in August of 2011. Based on these recommendations, the Department made a number of significant security enhancements to mitigate the premature release of embargoed data.

Technology Changes

The Department's policy permits credentialed news organizations to use a Department-owned system or provide their own computer equipment, though supply-chain safeguards prevent news organization staff from physically handling the desktop computers they have purchased for use in the lock-up facility. Production desktops are stored in locked boxes on-site; news organization staff access is limited to the monitor, mouse, keyboard, and external DVD drive. These combined measures enforce configuration management—a foundational element of information assurance policy.

News organization communication lines now terminate in a telecommunications vault, and news organization Wide Area Network (WAN) equipment has been moved to a secure location

in the Department data center (where no physical access is granted to news organization staff or contractors). All Local Area Network (LAN) equipment is now owned and controlled by the Department and located in a secured closet in the media lock-up facility. News organizations connect to their telecommunication lines through the Department's infrastructure.

The Department increased its control over access to the Internet during the embargo period by installing physically and logically secured media converters located in a LAN closet, which is unavailable to media organization staff and contractors. The "black-boxes" previously used to perform this function now control telephones only.

Physical Changes

The print media lock-up facility was gutted and rebuilt with RF shielding in order to mitigate the potential use of transmitting devices inside the lock-up. Locked boxes – accessible to Department staff only – are installed at each news organization work station to secure news organization equipment.

Department installed lockers and a metal detector in the hallway outside the media lock-up facility and now require media organization employees to deposit their personal belongings in a locker and submit to screening before entering the facility. The only items news organization staff is permitted to bring in the room are notebooks.

According to Sandia's final acceptance testing of the enhancements, the Department made significant strides in improving the security posture of the media lock-up facility and implemented risk mitigation controls judged to be sufficient defense against identified threats.

Policy Changes

The Department's Office of Public Affairs (OPA), which administers lock-ups, also re-evaluated its criteria for granting press credentials to the lock-up facilities, consistent with one of Sandia's recommendations. A committee of career employees reviewed credentials and issued new press badges based on whether organizations are primarily journalistic enterprises and publish time-sensitive reports that contribute significantly to the public understanding of economic and employment data. The committee established procedures that require every entrant into the lock-up facility to sign an embargo agreement, which includes provisions for expulsion or temporary suspension of news organizations and their personnel if the career staff believes a violation has taken place.

The Department's lock-up facility is a model for the government and the Department is committed to continuous improvements that protect the integrity of federal data. Having said that, OPA acknowledges that press lock-ups can never be totally secure and operate on the honor system.

Recommendation 1 in the report suggests that ETA should consult with OMB and other federal agencies that provide pre-release access to economic data via press lock-ups to develop and implement a strategy to achieve an equitable release of the UI weekly claims report so as to eliminate the potential for any competitive advantage by the news organizations participating in

the lock-up. The footnote to this recommendation notes that the OIG has sent a memorandum to BLS recommending similar actions with regard to their press lock-ups.

We agree with the OIG that it is appropriate to consider ending the UI weekly claims press lock-up. In fact, well before the release of the OIG's report, the Department began exploring the value of the press lock-up for the UI weekly claims report and intends to continue its consideration of how best to disseminate the report 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.

In addition, the Department will circulate the OIG Report to OMB and other federal agencies that provide pre-release access to Principal Federal Economic Indicators via press lock-ups as soon as the OIG publishes the Report in order to consider the OIG's parallel recommendation to BLS about continued use of the lock up. We will then consult with OMB and the statistical agencies to discuss the serious issues raised in the OIG's recommendation and consider options for moving forward.

Thank you for the opportunity to provide these comments.

Appendix F

Acknowledgements

Key contributors to this report were: Tracy Katz (Audit Director), Steve Sovich (Audit Manager), Brian Devaney, Grover Fowler, Jr., Rodelito Homoroc, Christine Allen, and David Hutner.

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