



DEPARTMENT OF LABOR

Bureau of Labor Statistics

Announcing Discontinuation of the DOL Lock-Up Facility for Participating News Media Organizations with Pre-Release Access to Statistical Information

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) plans to discontinue use of the lock-up facility currently available for participating news media organizations to access statistical information prior to official release time. This Federal Register Notice supersedes the previous Notice issued on February 7, 2020, which announced the DOL's intent to eliminate use of electronic devices in the lock-up room. As a result of the COVID-19 pandemic, use of the lock-up facility has been indefinitely suspended since March 20, 2020, and timely and orderly distribution of DOL statistical information has been accomplished at official release time through DOL websites, social media channels, and e-mail subscription lists. This notification announces the permanent discontinuation of the DOL lock-up facility effective June 3, 2020, regardless of whether the current restrictions in place as a result of the COVID-19 pandemic remain necessary as of that date.

FOR FURTHER INFORMATION CONTACT: Michael Trupo, Deputy Assistant Secretary, Office of Public Affairs, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC; 202-693-4676; trupo.michael@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Management and Budget (OMB) is responsible for the development and oversight of Government-wide policies, principles, standards, and guidelines concerning statistical information presentation and dissemination, as well as the timely release of statistical data. OMB has issued a series of Statistical Policy Directives (SPDs) to guide agencies in their dissemination of statistical products to ensure timely and equitable distribution of data to the public. Each of these SPDs describes the fundamental statistical-system principle of equitable and timely dissemination of statistical information to the public. *See, e.g.*, SPD No. 1, Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units (Dec. 2, 2014) (“The objectivity of the information released to the public is maximized by making information available on an equitable, policy-neutral, transparent, timely, and punctual basis”); SPD No. 3, Compilation, Release, and Evaluation of Principal Federal Economic Indicators (Sept. 25, 1985) (emphasizing the importance of releasing Principal Federal Economic Indicators (PFEIs) to the public in a fair and orderly manner); SPD No. 4, Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies (Mar. 7, 2008) (“Statistical agencies must ensure that all users have equitable and timely access to data that are disseminated to the public.”). In short, equitable and timely dissemination of statistical information is a core principle of Federal statistical policy.

Since the mid-1980s, consistent with these SPDs, DOL agencies have provided pre-release data access to news organizations, as a courtesy, under strict embargoes (known as “lock-ups”) for PFEIs. PFEIs are a set of designated economic data series (*e.g.*, the Employment Situation or Consumer Price Index) that have significant commercial value and may affect the movement of commodity and financial markets upon release. DOL, in its discretion, has employed lock-ups for the release of limited non-PFEI data (*i.e.*, Unemployment Insurance

Weekly Claims). Although not required to do so, DOL in 1988 constructed a special lock-up facility to provide pre-release access to news media organizations. DOL took steps to enhance the security of the lock-up facility, including in 1992 and again in 2011-2012. These lock-ups have provided participating media organizations a period of time (typically 30 minutes) to review data prior to the official release time. At the official release time, DOL has opened the communication lines within the facility, allowing the press to transmit their articles or tables of data to the public.

For many years, dissemination through the lock-up process served as one of several effective methods to assist the government in getting information to the public. But today, with increased communication and technology capabilities utilized by the government, the media, and the general public, this particular method is no longer necessary and discontinuation of the lock-up best ensures the equitable and timely dissemination of statistical information consistent with OMB's guidance. Continuing security, resource, and equity concerns also outweigh any benefits of the current process.

DOL's Inspector General has noted concerns with the current press lock-up process, including in reports dated January 2, 2014 (17-14-001-03-315) and March 25, 2016 (17-16-001-01-001) and in every subsequent Semi-Annual OIG Report to Congress. Specifically, DOL Inspector General Report 17-14-001-03-315 states that the lock-up "unintentionally creates an unfair competitive advantage for certain news organizations and their clients":

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 ... 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.

The aforementioned report further recommends that BLS and ETA "... 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." Some media lock-up attendees continue to post online advertisements claiming that their clients are advantaged by their lock-up attendance.¹

To protect the integrity of our data releases and to ensure dissemination of key economic data in an equitable, timely, secure, and cost-effective manner, as of June 3, 2020, DOL will permanently discontinue use of the lock-up facility, regardless of whether the restrictions that are currently in place as a result of the COVID-19 pandemic remain necessary as of that date. Discontinuing use of the lock-up facility eliminates the risk of premature disclosure of the data by the press or as a result of the lock-up embargo process, and eliminates the risk of providing an unfair competitive advantage to lock-up participants and their clients compared to the rest of the public due to the preparation time provided by the media's early access to the data. BLS and ETA will continue to make their data available to the general public immediately upon their 8:30AM Eastern Time release through the Web and other sources.

II. Action

¹ For example, as recently as May 12, 2020, the Associated Press advertised on their event-driven data page that users can "[g]et the lowest-latency delivery of economic release from Washington D.C. lock-ups" and that their "low-latency delivery of economic releases, coupled with [their] machine-readable format of [their] entire text news output, gives firms the data they need to make informed, split-second decisions." *See* Associated Press, *Microseconds Matter*, <https://www.ap.org/discover/event-driven-data> (last visited May 12, 2020). *See also* Dow Jones, *Calendar Live*, <https://professional.dowjones.com/newswires/calendar-live/> (last visited May 12, 2020) (advertising that they can provide "[s]ub-second updates on actual data from government lockups, banks, industry, and trade groups").

As a result of the COVID-19 pandemic, the DOL lock-up facility is currently closed, and will remain closed at least through June 3, 2020. In an effort to protect the integrity of our data and ensure fairness in the dissemination of statistical information, DOL plans to permanently discontinue use of the DOL lock-up facility starting on June 3, 2020. After that date, regardless of any restrictions that may remain in place as a result of the COVID-19 pandemic, DOL will no longer provide credentialed press early access to the economic data under embargo conditions in a lock-up. Instead, data will be released to the general public all at once, through online publication. The purpose of this action is to “ensure that all users have equitable and timely access to data that are disseminated to the public,” as noted in OMB SPD No. 4.

The previously proposed policy change to suspend the use of electronic devices in the lock-up room (see 85 Fed. Reg. 7333), was designed to retain the media’s ability to publish accurate and informed stories shortly after the embargo was lifted. During the suspension of the media lock-up room for the ongoing COVID-19 pandemic, however, the media demonstrated their ability to produce informed and accurate articles within minutes of the electronic release to the BLS website despite not having early access to the data at all.

Furthermore, DOL invests significant personnel and financial resources to administer and staff the lock-up facility, ensure that data products are created and transported to the lock-up facility, and secure the lock-up facility. Discontinuing lock-ups, as opposed to merely eliminating use of electronic devices, will enable DOL to cease these expenditures while also eliminating entirely any possibility of a breach from the lock-up room. As explained in more detail below, the recent COVID-19 experience demonstrates that DOL can eliminate the overhead and risk of lock-up rooms altogether without degrading the quality or timeliness of media coverage.

At the appropriate scheduled times, BLS and ETA will provide access to official news releases on the agency websites. In addition, the agencies will issue releases through social media and to email subscribers. Agencies will continue to respond to questions about the data from the public, including the media, following the releases.

III. Necessity of Action

When DOL first used embargoed data releases in the mid-1980s, media dissemination was an equitable and timely method to get data to the public. Today, technology and the Internet permit the public and interested data users to obtain releases for themselves. However, unlike media organizations in the lock-up facility, Internet users are not allowed to digest data 30 minutes before the official release time. Internet users are also disadvantaged relative to lock-up participants to the extent that Internet postings may lag slightly behind lock-up transmissions. Developments in high-speed algorithmic trading technology have also raised concerns about the possible impact of unequal access to sensitive economic data. As discussed above, DOL's Inspector General has issued multiple reports with findings that the current press lock-up "creates an unfair competitive advantage for certain news organizations and their clients."

It was never the intent of DOL in establishing the lock-up facility to provide a financial windfall to paying clients of credentialed media organizations, or to allow credentialed media organizations to profit off of the privilege of early access to government data. DOL does not wish to facilitate those practices. Although DOL understands that certain high-frequency trading firms may retain some advantage in faster ingestion and downloading of government data even after the lock-up process is discontinued, DOL itself will no longer have any role in facilitating such an advantage.

It is no longer necessary to use the credentialed news media to help the Department disseminate DOL's statistical data widely because the Internet permits the public and interested users to obtain releases for themselves. Discontinuing the lock-up will not disadvantage the lock-up participants; it will merely remove the advantage they currently enjoy. In the time since the OIG recommendations were issued, BLS and ETA have devoted significant resources to introducing improved technologies to ensure data are posted and accessible on their websites immediately following the official release time. When the COVID-19 pandemic required the closure of the media lock-up in March of 2020, these improved technologies allowed BLS and ETA to disseminate the data immediately and widely to the public without incident and without providing early access to lock-up participants. Specifically, the March Employment Situation report, released on April 3, 2020 without a lock-up, demonstrates that the BLS website can serve all interested users in the seconds after release time with little or no degradation in response time and a negligible error rate. The same holds true for the Unemployment Insurance Weekly Claims Reports issued since March 20, 2020. Stories in the press covering the March data were available to the public only slightly later – and, in at least one case, actually earlier -- than they were a month earlier when a lock-up was held. Given this success over the past two months, DOL now believes it can continue to disseminate the data to the public, including the media, in a timely manner. DOL will therefore discontinue the use of the lock-up facility to allow all parties, including the media, commercial entities, and the public, equitable and timely access to our most important statistical data.

IV. Result

By permanently discontinuing the lock-up facility as of June 3, 2020, DOL intends to protect the integrity of its data and enable dissemination of news releases in an equitable, secure,

and cost-effective manner so that all information is available to the public and the media at the official release time.

The Commerce Department's Bureau of Economic Analysis and U.S. Census Bureau are also committed to the secure, timely, and equitable release of all data. As such, for the reasons stated in this notice, both Bureaus will also discontinue embargoed media lock-ups at the Department of Labor's facility and will continue to release their data securely through their websites.

Signed at Washington, DC, this 19th day of May 2020.

William W. Beach,

Commissioner of Labor Statistics.

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