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Technology, Data & Media

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February 21, 2020

William W. Beach, Commissioner  
United States Bureau of Labor Statistics  
2 Massachusetts Avenue, NE  
Washington, DC 20212-0001

**Re: Changes to Department of Labor Media Lockup Effective March 1, 2020**

Dear Commissioner Beach:

On behalf of the Software & Information Industry Association (SIIA) and our members, I am writing to express concern over the recently proposed changes to the Department of Labor (“DOL”) Lock-up (“Lock-up”) procedures to be effective on March 1, 2020. Lock-up procedures govern how news organizations transmit economic data to the public, and the proposed changes would bar the use of electronic equipment by Lock-up attendees to prepare their news reports hindering their ability to inform the public accurately, fairly and quickly about the country’s most important economic news. We urge DOL to waive its March 1 deadline and instead subject this controversial proposal to the public comment and expert review required by the Administrative Procedure Act (APA).

By way of introduction, SIIA is the principal trade association of the software and digital information industries, representing more than 800 leading companies that develop and market software and electronic content. Our members include leading technology companies that provide the backbone of the Internet, as well as electronic publishers who provide the public with a wide variety of information products and services covering nearly every subject matter imaginable, including data and reports based on government data and information.

**Executive Summary**

For background, historically market moving government information has generally been analyzed and disseminated via a Lock-up where reporters are permitted access to embargoed data to write context rich, accurate stories putting the new economic information in context. When the embargo is lifted, stories and data are disseminated simultaneously via multiple, redundant secure lines – avoiding the single point of failure and extraordinary vulnerability of the DOL website. On January 16, 2020 – without prior notice or consultation – the Bureau of Labor Statistics (BLS) announced that as of March 1, 2020, it would effectively end the traditional media Lock-up.

Unfortunately this move is not without precedent. In 2012 – also without prior notice or consultation – DOL announced as a fait accompli the effective end of the Lock-up. At the time industry stakeholders, including SIIA, criticized the DOL proposal for its potential to reduce



news accuracy, undermine the First Amendment, increase market volatility and vulnerability, and dramatically increase cyber risk<sup>1</sup>. As a result of these advocacy efforts, Congress demanded that DOL engage in a process with the media to clarify DOL's concerns and devise narrowly tailored solutions to address them. Thanks to this Congressional oversight, the deadline was waived, discussions were held, problems defined, and targeted solutions devised.

With the January 16 announcement, DOL is attempting once again to end the Lock-up without following the public stakeholder engagement process required by the APA. While we want to emphasize that the arguments in favor of preserving the Lock-up cited above are as relevant today as in 2012, we would like to highlight that the cybersecurity risks of ending the established procedures are even greater.

***The Proposed Changes to the Lock-up Procedure Would Increase Cybersecurity Risks***

In the January 16 announcement, DOL cites the security of economic data and timely public access as reasons for the proposed changes to the Lock-up procedure; however, in actuality the changes they are proposing could have precisely the opposite effect, weakening the security of information and compromising speed of public access. Under existing procedures, once the embargo is lifted media organizations reporting on financial news are allowed to transmit data from the Lock-up room through their own highly-secure dedicated lines that have been installed under supervision of DOL. These organizations have invested significant sums of money into their dedicated lines that entirely avoid the Internet and its inherent vulnerabilities to transmit critical data once the reporting embargo is lifted. The proposed changes would eliminate the use of these lines, forcing the data to instead be transmitted over the unsecured open internet, from the DOL website. Given the widespread growing capacity and motivation of malevolent foreign actors to injure the United States by lessening public confidence in government information and sowing confusion in the financial markets; the proposed changes put a heavy burden on the DOL to safeguard the single channel of communication it intends to create. And recent reports – from both the DOL and external assessors – raise concern that the DOL is not capable of meeting that burden.

In November 2019 the DOL's Office of Inspector General (OIG) concluded a review of the department's web security. The OIG report issued to the DOL Office of the Chief Information Officer, aptly entitled *Stronger Controls Needed Over Web Application Security*, found that "[the] DOL did not design and implement control activities to provide oversight of its publicly accessible web applications."<sup>2</sup> In December 2019, KPMG concurred with the OIG findings on the inadequacy of DOL security procedures while conducting the information security report for the Federal Information Security Modernization Act ("FISMA"). The report, entitled *Implementation of Security Tools Hindered by Insufficient Planning*, found several deficiencies in

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<sup>1</sup> See attached letter from SIIA, May 7, 2012

<sup>2</sup> <https://www.oig.dol.gov/public/reports/oa/2020/23-20-001-07-725.pdf>



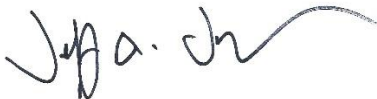
the DOL system, including a failure to conduct annual assessments of 3<sup>rd</sup> party Cloud services and to implement software (security) patches.<sup>3</sup> Taken together, these reports point to the inability of the DOL to ensure the availability, integrity, and confidentiality of public-facing web applications.

The inadequate security measures of the DOL were exposed in February 2019 when, during the release of employment numbers, the DOL website was down for the critical first 30 seconds of the release. Thankfully, because of the existing lock-up procedures, data and stories were reliably and expeditiously delivered to the public via private media outlets transmitting data and stories through their dedicated secure lines instead of relying on the vulnerable single point of failure of the DOL website. Under the DOL proposed changes to the lock-up, there would be no back-up to this kind of a failure of the DOL website.

**Conclusion**

For these reasons, SIIA and our members have significant concerns about the proposed changes to the Lock-up procedure, and would urge DOL to waive its March 1 deadline and instead subject this controversial proposal to the public comment and expert review required by the APA. I would be happy to discuss these matters further with you at your convenience.

Sincerely,



Jeff Joseph  
President, SIIA

CC:

DOL Secretary, Eugene Scalia: [scalia.eugene@dol.gov](mailto:scalia.eugene@dol.gov)

DOL Counselor to the Secretary, Andrew Kilberg: [kilberg.andrew.g@dol.gov](mailto:kilberg.andrew.g@dol.gov)

Solicitor of Labor, Kate O'Scannlain: [Kate.OScannlain.Public@DOL.gov](mailto:Kate.OScannlain.Public@DOL.gov)

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<sup>3</sup> [https://www.oversight.gov/sites/default/files/oig-reports/23\\_20\\_002\\_07\\_725%20FY19%20DOL%20FISMA%20Report\\_0.pdf](https://www.oversight.gov/sites/default/files/oig-reports/23_20_002_07_725%20FY19%20DOL%20FISMA%20Report_0.pdf) (p